



muswellbrook  
shire council

Muswellbrook Shire Council

# ORDINARY COUNCIL MEETING

BUSINESS PAPER

TUESDAY 25 JULY 2023



**MUSWELLBROOK SHIRE COUNCIL**

P.O Box 122  
MUSWELLBROOK  
19 July, 2023

Councillors,

You are hereby requested to attend the Ordinary Council Meeting to be held in the Memorial Hall, 30 Ogilvie Street, Denman NSW 2328 on **Tuesday 25 July 2023** commencing at 6:00 pm.

Derek Finnigan  
**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.





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

**Ordinary Council Meeting held in 27 June, 2023**

**RECOMMENDATION**

The Minutes of the Ordinary Council Meeting held on **27 June, 2023**, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

- 6. Disclosure of any Pecuniary or Non-Pecuniary Interests**
- 7. Mayoral Minute**

Nil

- 8. Public Participation**



## 9. Business Arising

### 9.1. Blue Flame Restaurant

**Attachments:** Nil

**Responsible Officer:** Derek Finnigan - General Manager

**Author:** Matthew Lysaught (Director Property & Place)

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#### PURPOSE

To provide a response to the 'Question for Next Meeting' raised by Cr Bowditch at the 27 June 2023 Ordinary Council Meeting.

#### OFFICER'S RECOMMENDATION

Council NOTES the information contained in the report.

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

#### BACKGROUND

At the 27 June 2023 Ordinary Council Meeting, Councillor Bowditch asked the following 'Questions for Next Meeting':

##### 15.4 Blue Flame Restaurant

Cr Bowditch inquired whether a timeline can be provided for the return of the Blue Flame restaurant at Loxton House.

#### CONSULTATION

Director Property and Place

General Manager

#### REPORT

The first-floor design of Loxton House refurbishment remains unchanged from the original development approval, however, the structural works completed removed most of the internal layout of both the ground floor and lower ground floor of non-heritage structure.

In June 2023 Council confirmed with new and returning tenants the ground floor layout and updated the design, and in the last two weeks the lower ground layout has been confirmed with Blue Flame.

Council is preparing to lodge a development modification which will take five weeks because the supporting documentation from both the heritage architect and planning consultant is required. The refurbishment would be unlikely to be more than three months, but the unknowns are development modification approval as it is almost certain to require referral to the Heritage Council and time for procurement and award of construction contract. Combined it is estimated these could take to six to nine months. In total 10 to 13 months is the estimated timeline.

Meanwhile Council has out for quotation the fit-out of the restaurant for the lower ground floor in the Donald Horne Building. This procurement is expected to take three to six weeks and fit-out works another estimated six weeks. Blue Flame Restaurant will be occupying the Donald Horne Building after these works until the Loxton House refurbishment is complete.



### **FINANCIAL IMPLICATIONS**

The Loxton House refurbishment work and the Donald Horne Building restaurant works have separate budget allocations.



## 9.2. Luscombe Lane and Tommy Gill Chair

<b>Attachments:</b>	Nil
<b>Responsible Officer:</b>	Derek Finnigan – General Manager
<b>Author:</b>	Matthew Lysaught (Director Property & Place)

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### PURPOSE

To provide a response to the 'Questions for Next Meeting' raised by Cr McNeill at the 25 May 2023 and 27 June 2023 Ordinary Council Meetings.

### OFFICER'S RECOMMENDATION

The information contained in this report be noted.

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

### REPORT

#### Luscombe Lane Identification

At the Ordinary Council Meeting held on 27 June 2023 Cr McNeill inquired whether an update on the progress of identification and enhancement of Luscombe Lane could be provided.

While there is no current design and cost estimate for Luscombe Lane identification, previous discussions have included reproduction of imagery along or adjacent to the Luscombe Chambers building and name floor tiles like those that demarcate Campbells Corner heritage building structures.

Notwithstanding any further design, street name blade signs will be installed at the beginning and end of Luscombe Lane. A contractor has been engaged to produce the name blades and Council's Works team will install. The style of the name blades is based on the footpath tiles and the poles the name blades will be affixed to will be coloured black and similar in shape to those used at the transport interchange at the Muswellbrook Railway Station.

#### Tommy Gill Chair/Pavilion

At the Ordinary Council Meeting held on 27 June 2023 Cr McNeill also inquired whether an update could be provided on the progress of the Tommy Gill memorial chair at the Victoria Park Cricket Oval.

At the 24 January 2023 Ordinary Council Meeting, Council resolved to allocate the remaining 2023 Large and Small Capital Grants budget of \$19,904 to the Tommy Gill Chair installation.

The below hip roof pavilion similar to the below style reported has been ordered together with tables and chairs but instead a four-seat configuration. It is expected that the slab will be poured before the end of July 2023.



### **FINANCIAL IMPLICATIONS**

The work for Luscombe Lane will be funded from existing CBD operational budgets and the capital budget for the Tommy Gill Chair/Pavilion has been carried over to this financial year.





## 10. Business

### 10.1. Planning and Environment

#### 10.1.1. DA 2017-18 - Muswellbrook District Worker's Club - Modification

- Attachments:**
1. A. DA 2017-18 Statement of Environmental Effects [10.1.1.1 - 27 pages]
  2. B. DA 2017\_18 s4 55 Assessment report [10.1.1.2 - 12 pages]
  3. C. DA 2017 18 Recommended Conditions of Consent [10.1.1.3 - 23 pages]
  4. D. DA 2017-18 - Proposed Plans Car Park Plan [10.1.1.4 - 1 page]
  5. E. DA 2017-18 - Proposed Plans Elevations [10.1.1.5 - 1 page]
  6. F. DA 2017-18 - Proposed Plans Floor Plan [10.1.1.6 - 1 page]
  7. G. DA 2017-18 - Traffic and Parking Advice [10.1.1.7 - 13 pages]
  8. H. DA 2017-18 Geotechnical Report [10.1.1.8 - 36 pages]

**Responsible Officer:** Sharon Pope - Director - Planning & Environment

**Author:** Hamish McTaggart (Development Co-Ordinator)

**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:** Not Applicable

Not applicable

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#### APPLICATION DETAILS

**Applicant:** Chain & Associates Pty Ltd

**Owner:** Muswellbrook District Workers Club

**Proposal:** Section 4.55(1A) Modification to modify outdoor gaming area and car parking arrangement

**Location:** Lot 100 DP 1282301 & Lot 61 DP 733294  
15 –31 & 33 – 39 Sydney Street Muswellbrook

**Permissibility:** The proposed development and land use of 'registered club' is permissible with consent in the E3 Productivity Support zone.

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## PURPOSE

This report has been prepared to assist Council in the determination of the modification of DA 2017/18.

This application seeks to modify the outdoor gaming area layout, off-street car parking layout and requirements related to the approved development.

This Section 4.55 Modification is being reported to Council for determination given Council's previous decisions regarding car parking requirements related to the development application.

## OFFICER'S RECOMMENDATION

Council approves the Section 4.55 (1A) request for DA 2017/18, involving alterations and additions to the Muswellbrook District Workers Club (Lot 100 DP 1282301 & Lot 61 DP 733294), to modify the outdoor gaming area and car parking arrangement subject to the recommended amended conditions in Attachment C.

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

## DESCRIPTION OF PROPOSAL

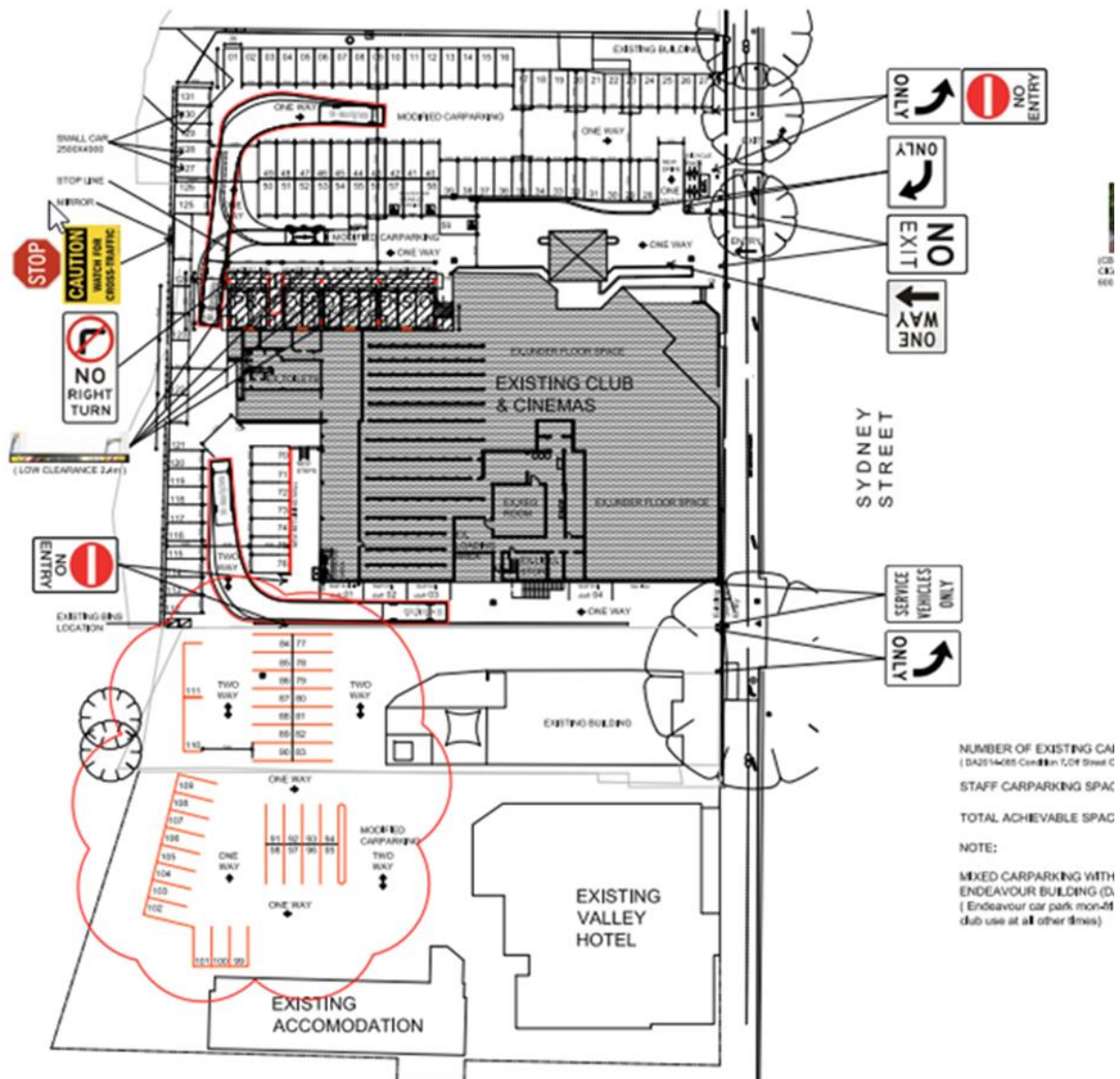
This Section 4.55 (1A) modification relates to an approved development involving a redevelopment of the Muswellbrook District Workers Club, approved by Council on 25 July 2017. Except for associated car parking, other works related to this re-development have largely been completed.

This Section 4.55 (1A) modification seeks to amend the proposed development by:

- enclosing the Club's outdoor gaming area with alternative weather protection; and
- changing the off-street car parking to:
  - Incorporate land at the rear of the Valley Hotel into the car park area.
  - Redesign the layout of car parking to provide improved circulation behind the property at 29 Sydney Street.
  - Provide a total of 131 off-street car parking spaces for use by the Workers Club.

The accompanying information advises that additional spaces would be retained for use by the Valley Motel.

The proposed off-street car parking layout has been included below and in Attachment D:



## ASSESSMENT SUMMARY

The proposal has been assessed against the relevant matters prescribed by s4.55(1A) and s4.15 of the Environmental Planning and Assessment Act 1979. A copy of the Development Assessment Report is provided in Attachment B. Staff recommend that the modification application be approved subject to conditions of consent provided in Attachment C.

The Statement of Environmental Effects for the project is provided in Attachment A.

Council Officers are satisfied that the proposed development as modified would remain 'substantially the same' as the development for which development consent was previously granted in accordance with the provisions of Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*. In forming this view Council Officers have noted:

- The relevant land use remains the same as that previously approved.
- There would be no increase to the total licensed floor area because of the proposed modification.
- The proposed alterations to the car park area would give effect to requirements imposed by Council as conditions of consent related to the construction of off-street car parking.



To inform technical considerations related to the modification of the car park area the applicant has prepared and submitted:

- Supplementary Traffic and Parking Advice prepared by a traffic engineer (Attachment G).
- Geotechnical Investigation Report (Attachment H) – this report considers the stability of the Muscle Creek bank adjacent the car park and makes recommendations relevant to its final engineering and construction. An updated Controlled Activity Permit will need to be obtained from the Department of Planning and Environment - Water for the final car park construction, as the work involved is within 40m of a water body.
- Stormwater management plan.
- Structural engineering advice and recommendations related to the load capacity of a retaining wall adjoining the car park area.

Under the proposed modification, the total number of Workers Club off-street car parks would be achieved through a reliance on off-street car parking at the rear of the Valley Hotel. The proponent would be required to consolidate the Valley Hotel and Workers Club Lots into a single Lot.

The proposed modifications to the car park layout are consistent with the objectives of *Muswellbrook Development Control Plan 2009 - Section 13 - off-street car parking*.

The proposed development was referred to Council's Heritage Advisor who raised no issues with the proposed development and made recommendations related to the carrying out of any extensive excavations (should they be required in the vicinity of the Valley Hotel). These recommendations have been incorporated into the recommended conditions of consent.

The proposed development was referred to Council Roads and Drainage Engineers who did not object to the total rate of off-street car parking proposed.

## **COMMUNITY CONSULTATION**

The proposed development was publicly notified in accordance with Council's Community Participation Plan between 9 September 2022 and 29 September 2022.

No submissions were received in relation to the application.

## **LEGAL IMPLICATIONS**

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

## **CONCLUSION**

An assessment of the proposed modification has been completed in accordance with Section 4.55 and 4.15 of the *Environmental Planning and Assessment Act 1979*. Council Officers recommend that Council approve the Modification subject to the modified conditions of consent.



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## STATEMENT OF ENVIRONMENTAL EFFECTS

PROPOSED MODIFICATION OF DA No.18/2017

MODIFICATION OF CLUB BUILDING AND CAR PARK AREA

No.15-29 SYDNEY ST, MUSWELLBROOK

**AUGUST 2022**

**cityscape planning + projects**

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Glenbrook NSW 2773

This submission has been prepared by:



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**Vince Hardy** BTP, RPIA  
URBAN PLANNING CONSULTANT



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This report is provided to accompany a Development Application to be lodged on the subject land and is to be used for that purpose solely and for the client exclusively. No liability is extended for any other use or to any other party. Whilst the report is derived in part from our knowledge and expertise, it is based on the conditions prevailing at the time of the Report and upon the information provided by the client.

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## 1.0 INTRODUCTION

*Cityscape* has been engaged to prepare a Statement of Environmental Effects (SEE) to accompany a proposed modification of development consent to be submitted on the subject site.

The SEE has been prepared pursuant to Section 4.55(1A) of the *Environmental Planning & Assessment (EP&A) Act 1979*, and Section 24 of the *Environmental Planning & Assessment Regulation, 2021*.

The purpose of this SEE is to:

- Describe the proposed modified development and its context
- Assess the development proposal against applicable planning instruments, standards and controls
- Assess the potential environmental impacts and mitigation measures

It has been compiled, through on ground investigations, research, analysis and discuss all accompanying plans and the reports that were lodged as part of the original Development Application (DA).

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## 2.0 THE SUBJECT SITE

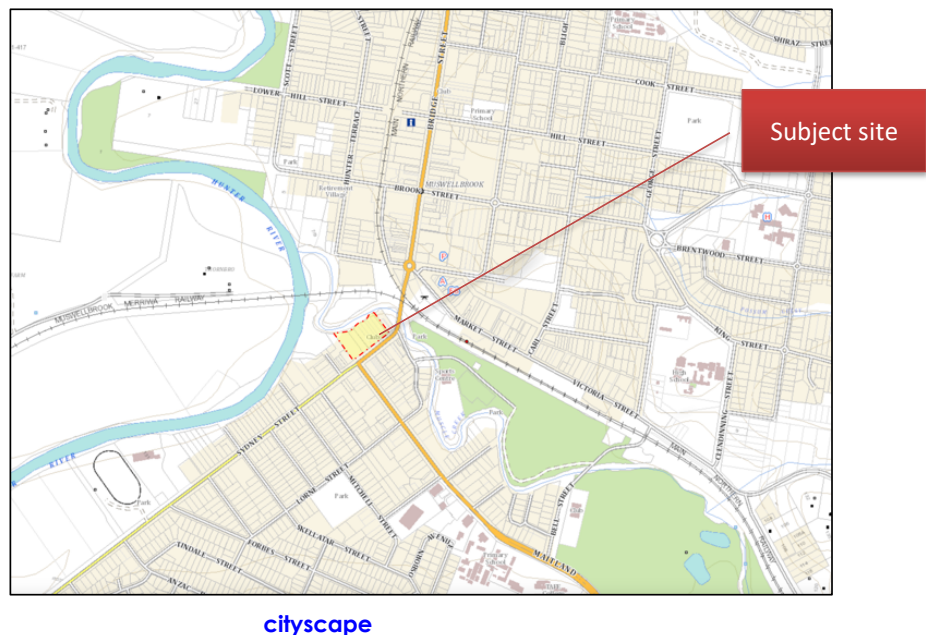
The subject site is a large irregular shaped parcel of land located on the northern side of Sydney St, opposite its intersection with Buddens Lane.

The site is known as 15-29 Sydney St, Muswellbrook but is comprised of 6 x lots with the following real property description:

Lot:	1	DP:	69766
Lot:	1	DP:	970101
Lot:	2	DP:	966900
Lot:	3	DP:	112100
Lot:	A & B	DP:	156819
Lot:	1	DP:	87825
Lot:	1	DP:	797354
Lot:	61	DP:	733294

Figure 1 demonstrates the location of the site, Figure 2 and 3 provide a cadastral plan and aerial photo of the site.

**FIGURE 1: LOCATION OF SITE**



[illegible]

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## 3.0 THE SUBJECT DA

The subject Development Application, to which modification is being sought, is **DA18/2017**, was approved by Muswellbrook Shire Council on 25 July 2017.

This consent granted development approval to the alterations and additions to the Registered Club including the following:

### **SITE PLANNING ALTERATIONS**

- Modified and new car parking layout
- Proposed extension to club building at the eastern section

### **STAGE 1 WORKS**

- New air lock for entry area
- New reception area
- Modified eating and restaurant
- Extended high level eatery area
- Modified kitchen
- New toilets
- New bar

### **STAGE 2 WORKS**

- New outdoor gaming area
- Modified gaming lounge
- Modified toilets
- New TAB and sports lounge
- New smoking terrace

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- 
- New snooker table area

Those works have been completed. Accordingly, the development consent has been secured.

As a condition of that approval it was required to prepare a Traffic Management Plan (TMP) as deferred commencement condition. That TMP was subsequently approved by Council and provided a total of **121 car parking spaces**.

A subsequent application to modify that development consent (DA 2017/18.1) sought to introduce a Stage 2A which related just to the new gaming area and outdoor gaming area at the south-eastern corner of the club building.

This modification was approved by Muswellbrook Shire Council on 10 December 2020.

## 4.0 PROPOSED MODIFICATION

The proposed modification seeks to reconfigure the approved built form and car parking areas. These modifications are described in further detail below:

### 4.1 RECONFIGURED BUILDING

Modified roof area to outdoor gaming room at the Bartley St frontage and south east corner of the building by pulling the roof line back from out building edge.

This also includes corresponding changes to elevations below that roof line, which involve a reduction in the extend of louvers from the approved plans, with the approved lovers being replaced with rendered and painted walls to match the existing building.

### 4.2 RECONFIGURED CAR PARKING

The modified development now seeks to reconfigure the approved carparking plan by:

- By reducing car parking spaces by on the Endeavour Site (i.e. Lot 1 DP 69766)
- Extending the club car park into the lot to the immediate south of the site and providing a total of 19 spaces on that lot.
- Increasing the total parking spaces available for the club from 121 to 131.

## 5.0 STATUTORY ASSESSMENT

Section 4.55(1A) of the EP& A Act provides for Councils to modify a development consent notice, subject to its consideration of a number of matters. The relevant sections of the EP & A Act and consideration of those relevant matters is provided over page:

### 4.55 Modifications of consents – generally

#### *(1A) Modifications involving minimal environmental impact*

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

*(a) it is satisfied that the proposed modification is of minimal environmental impact, and* <sup>[17]</sup><sub>(SEP)</sub>

The proposed modification proposes no changes to the land use, traffic volumes, building footprint or operational arrangements.

Further, no new paved area are required to accommodate the modified car parking areas area already paved and operate as car parking areas.

As such the modified development has no potential cause anything beyond a minimal environmental impact.

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

The proposed modification seeks to provide relatively simple and modest changes to the approved built form which will all occur to the roof form at a small section of the club building,

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corresponding changes to the elevations below that roof a modified car parking layout.

No changes to the maximum building height, broader spatial arrangements of buildings or land use of the development proposal is sought.

Therefore, the modified development proposal can be considered to be substantially the same development as that that was originally granted.

*(c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

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

It is expected that all planning considerations will be addressed by both this and the previous development application. However, should Council receive any submission during the notification process then we are prepared to respond to any submission that is received.

***(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the***



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*consent authority for the grant of the consent that is sought to be modified.*

The development proposal causes no significant change to the proposed development and therefore cannot be considered to have any adverse environmental impact pursuant to 4.15(1) of the EP&A Act. An assessment of this impact is further demonstrated at Section 6 of this report. This assessment reveals no adverse impact.

The development consent proposed to be modified provided the following reasons for imposing the various conditions of development consent.

*(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;*

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*(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.*

The proposed modifications will not cause any inconsistency with any of those stated reasons.

Accordingly, Council has the authority to approve the proposed modification.

## 6.0 PLANNING ASSESSMENT

The following section undertakes an assessment of the modified development proposal against the heads of consideration identified at section 4.15(1) of the EP & A Act, 1979.

### 6.1 PROVISIONS OF ANY PLANNING INSTRUMENTS

The relevant provisions of *Muswellbrook LEP 2009* are provided below together with an assessment of the development against those provisions.

#### 2.3 Zone objectives and land use table

The subject site is zoned as follows pursuant to *Muswellbrook Local Environmental Plan 2009*.

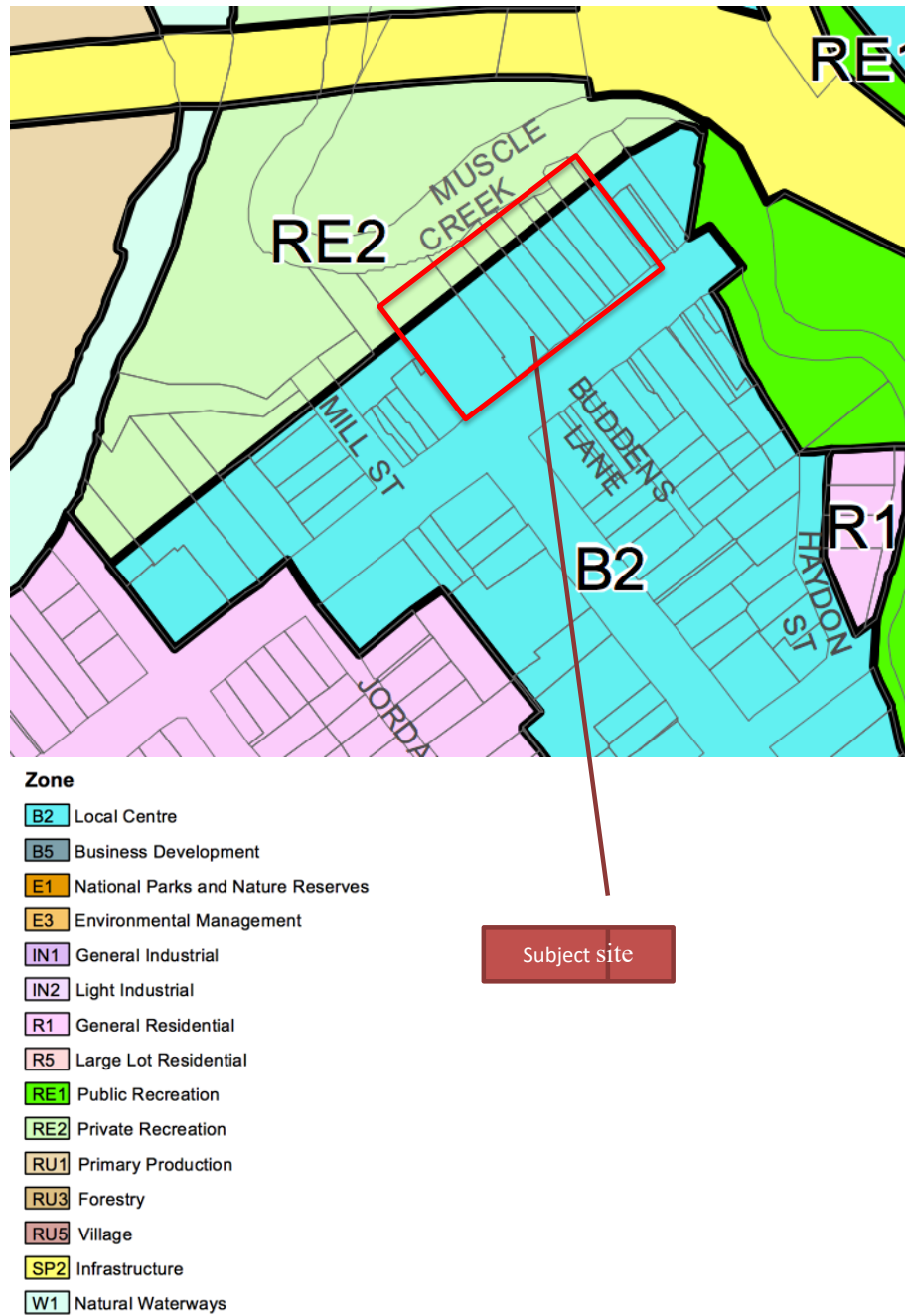
- Part **B2 Local Centre**
- Part **RE2 Private Recreation**

An extract of the relevant zoning plan is provided at Figure 4 and demonstrates that the workers club is located primarily within the B2 Local centre Zone.

The land use table to both the B2 Local Centre and RE2 Private Recreation zones identifies *registered clubs* as a permissible land use in both zones.

Council can therefore approve the proposed development.

FIG 4: ZONING MAP



cityscape

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## Zone B2 Local Centre

### 1 Objectives of zone

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

### COMMENT:

The modified development seeks to undertake modest changes to the elevations of the previously approved alterations and alterations to the existing club building and community asset.

The modified development will continue to add to the diversity of services and activities in the centre and create additional employment through the construction and operation stages of the development.

cityscape

The limited scope of works, associated with the development, ensures that no adverse impact to the adjacent heritage items is caused.

Accordingly, the modified development is considered to cause no inconsistency with the zone objectives.

### **Zone RE2 Private Recreation**

#### **1 Objectives of zone**

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To encourage the development of public open spaces in a way that addresses the community's diverse recreation needs.*

#### **COMMENT:**

The modified development maintains an existing club facility land use which provides a community recreational activity.

The modified roof form and elevations occur in lands outside the RE2 zoned lands.

The reconfigure carpark does include lands that are Zoned RE2, however that element of the modified development does not require any new physical works as the subject lands already provide a car park area.

Accordingly, this element of the modification ensures no adverse impacts occur in the RE2 zone or the Muscle Creek corridor that sits to the rear of that zone.

cityscape

Accordingly, the modified development causes no inconsistency with any of the zone objectives.

#### **4.3 Height of buildings**

**(1) The objectives of this clause are as follows:**

**(a) to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.**

**(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.**

The relevant LEP map provides a maximum building height of 13m for the subject site. An extract of that map is provided at Figure 5.

The existing development does not exceed 9m in height and no increase in maximum building height is proposed as part of the modified development.

#### **4.4 Floor Space Ratio**

**(1) The objectives of this clause are as follows:**

**(a) to permit development of a bulk and scale that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.**

**(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.**

The relevant LEP map provides a maximum FSR of 2:1. The approved development provide an FSR of 0.36:1

No increase or change is FSR is proposed as part of the modified development proposal.

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FIG 5: HEIGHT OF BUILDING MAP

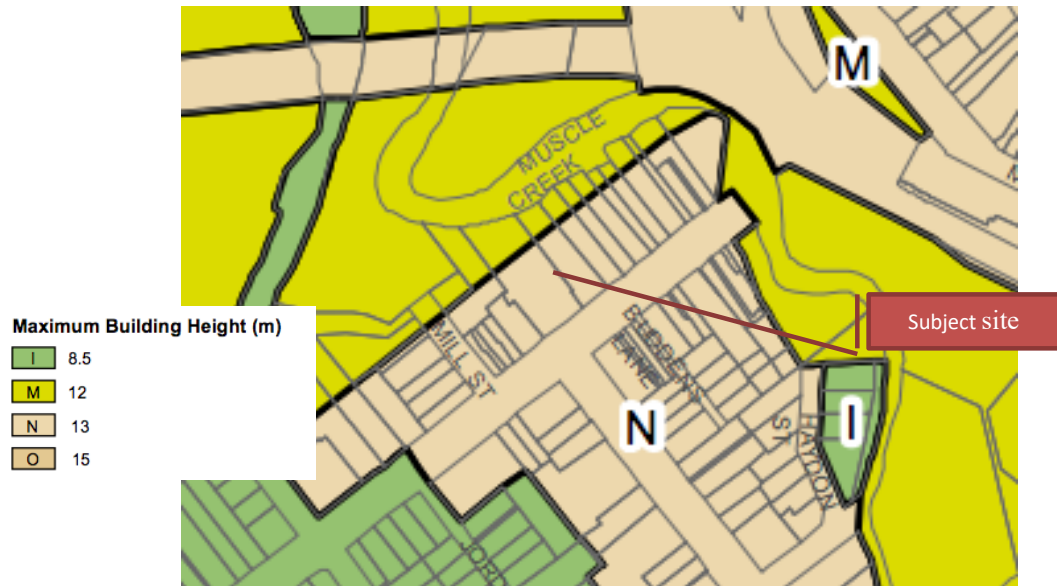
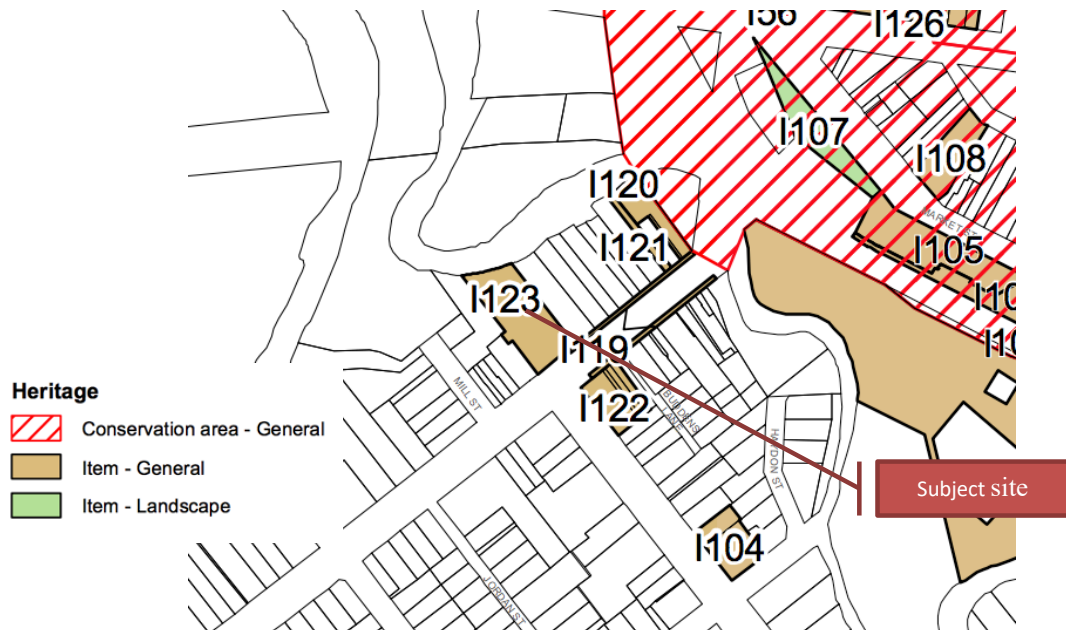


FIG 6: LEP HERITAGE MAP



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### 5.10 Heritage conservation

**(1) Objectives** *The objectives of this clause are as follows:*

**(a)** *to conserve the environmental heritage of Muswellbrook,*

**(b)** *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

**(c)** *to conserve archaeological sites,*

**(d)** *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The subject site accommodates a heritage item identified as *Valley Hotel/Motel* at 33 Sydney St, Muswellbrook. It also adjoins several heritage items. An extract of the relevant Council heritage map is provided at Figure 6. These heritage items are listed at Table 1.

Accordingly, a detailed heritage impact statement accompanied the initial development application and this assessment concludes that the development causes no inconsistency with the relevant clause objectives.

**TABLE 1: RELEVANT HERITAGE ITEMS**

Item Number	Name	Address	Significance
I119	Kerb and Guttering	Sydney Street (Maitland Street to Haydon Street)	Local
I120	Former Royal Hotel	1 Sydney St	Local
I121	Former barber shop	7 Sydney St	Local
I122	Prince of Wales Tavern	28–30 Sydney St	Local
I123	Valley Hotel/Motel	33 Sydney St	Local



The reconfigured carpark occurs on lands that accommodate the *Valley Hotel/Motel* however, result is no change to the lands use or physical works on that land as that part of the site is already used and built as a carpark. Therefore, the modified development causes no changes to the use or physical appearance of that heritage item.

In this context, the proposed modified development causes no impact to the conservation values of that heritage item.

The modified development proposal provides limited and modest changes to the elevations of the approved club building.

Importantly the following matters, identified in the initial Statement of heritage impact remains relevant:

- The subject site has minimal interaction with the surrounding Heritage Items. The scale of development is limited to relatively minor alterations and addition, to the side and rear of the club building.
- Views between the sites will be maintained in a manner consistent with current viewing conditions and therefore will have no heritage adverse impact.
- There is no impact on the curtilage of the heritage items as existing setbacks and distances between buildings will be maintained by the modified development.
- The development simply seeks to improve the function and visual amenity of the club building. No decrease in building separation is proposed and no change in height is proposed. Accordingly, the development is considered to be sympathetic to the heritage item.

The nature and scale of these modifications is such that they have no potential to cause any new or adverse impact upon the conservation values or significance of the adjacent heritage items.

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Accordingly, the modified development will cause no inconsistency with the relevant LEP clause objectives.

## **6.2 PROVISIONS OF ANY DRAFT LEP**

There are no known draft Planning Instruments relevant to this development proposal.

## **6.3 PROVISIONS OF ANY DCP**

### **MUSWELLBROOK DCP 2009**

A detailed assessment of the original development proposal against this DCP was undertaken as part of the initial development application. This previous assessment identified a general compliance with all relevant objectives and controls of the DCP.

Accordingly, this section of the report will only undertake an assessment against those sections of the DCP relevant to the modified development proposal.

### **SECTION 9 – LOCAL CENTRE DEVELOPMENT**

#### **9.1 BUILT FORM**

##### **9.1.1 BUILDING DESIGN**

##### **Objectives**

- a) To provide for the integration of new development into local centres.*
- b) To ensure the design of buildings complements and enhances existing local centres.*
- c) To maintain the heritage character/ value and streetscape of the business centre of Muswellbrook.*

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The site is located on the periphery of the local centre and provides a stand-alone development that has limited built character or association with adjacent or other nearby development.

The site does adjoin other heritage items and a detailed report has been undertaken as part of the initial DA to demonstrate that no adverse impact to heritage values is caused.

## **9.2 URBAN LANDSCAPE**

### **9.2.1 Landscaping Objectives**

- a) To enhance the character of the town centre.**
- b) To provide landscaping which enhances the amenity of a development by allowing for adequate open space, sunlight and shade.**

The modified development provides no new GFA and does not seek to remove any existing trees.

Similarly, the reconfigured carpark also does not remove any trees or cause any change to the urban landscape.

## **SECTION 16 – CAR PARKING AND ACCESS**

A detailed assessment of the car parking occurred as part of the initial DA. This DA required the preparation of a Traffic Management Plan (TMP) as deferred condition of consent. The TMP that was ultimately accepted by Council provide 121 car parking spaces to suitably accommodate the parking demands of the club.

The proposed modification does not result in any increase of GFA and as such does not generate any additional parking demand.

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The reconfigured car parking plan provides a total of 131 parking spaces which are available for use by the bowling club and the Valley motel. (Please note that the Valley Hotel is no longer operational).

The accommodation wing at the rear of the Valley Hotel site provides only 6 units and as such generates a demand for only 6 parking spaces

Accordingly, the combined hotel and bowling club provide a demand for 127 parking spaces.

In this context the provision of 131 parking spaces across both sites exceeds the parking demand of both sites.

## **6.4 LIKELY IMPACTS OF DEVELOPMENT**

### **6.4.1 IMPACT ON THE NATURAL ENVIRONMENT**

The site is located within an established urban area and does not possess any items of identified environmental significance.

However, the site does immediately adjoin Muscle Creek and Hunter River and as such the original development had been designed to ensure that no physical works occur within the creek or its riparian corridor.

Further, a stormwater management plan was prepared to ensure no adverse impact is caused to that watercourse or the broader catchment.

The modified development provides not potential for adverse impact to that water course or any other natural environmental values of the site or surrounding area.

Accordingly, the modified development can be considered to cause no adverse impact upon the natural environment.

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#### **6.4.2 IMPACT ON BUILT ENVIRONMENT**

The initial DA was accompanied by a Statement of Heritage Impact that demonstrated that the development will cause no adverse impact or loss of conservation value to adjacent heritage items.

The nature and scale of the proposed modifications are such that they have no potential to cause any new or adverse impact upon the conservation values or significance of the heritage items.

The modified development proposal provides no significant changes to the built environment.

It is therefore considered that the modified development will have no adverse impact upon the local built environment.

#### **6.4.3 ECONOMIC IMPACT**

The modified proposal is not of a scale that could be considered to have any significant impact upon economy of the local area.

#### **6.4.4 SOCIAL IMPACT**

The proposed development will ensure the ongoing viability of an import community asset. This is considered to represent a positive social impact.

### **6.5 SUITABILITY OF THE SITE FOR DEVELOPMENT**

The subject site is located within an existing urban area that is well serviced by infrastructure necessary to support the use.

The broader site already accommodates a club building and parking area.

The modified development presents no new demands on infrastructure or services and is therefore well within the servicing capacities of that infrastructure.

It is therefore considered that the subject site is ideally suited to the proposed modified development.

## 6.6 THE PUBLIC INTEREST

The modified development proposal does not generate any development outcomes that would be considered to be not in the public interest.

The modified development provides several positive outcomes that clearly indicate that it serves the Public interest. These outcomes include:

- Enhanced community recreation facility
- Ongoing employment and economic opportunities for local area
- No adverse environmental impact.
- Efficient utilisation of existing urban infrastructure and carparking area
- Compatibility with adjacent uses

cityscape

## 7.0 CONCLUSION

The application seeks approval relatively minor modifications to the roof form and corresponding elevation changes to the approved development as well as a reconfiguration of the car park.

The proposed modifications are permissible pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act, 1979*, and satisfy all requirements pursuant to that clause.

In summary this assessment demonstrates that the proposed modified development proposal:

- Is substantially the same as the development as the development for which the consent was originally granted
- Represents an appropriate response to the context, setting, planning instruments, controls and guidelines and other considerations outlined in Section 4.15(1) of the *Environmental Planning & Assessment Act, 1979*.
- Provide a built form that is consistent with the prevailing and desired future character of the site and its surrounds.
- Have no significantly adverse impacts upon the natural or built environment
- Provides sufficient carparking

The benefits provided by the development outweigh any potential impacts and it is therefore considered to be in the public interest. The proposal will deliver a suitable and appropriate development that is worthy of approval.

### Section 4.55(1A) Assessment Report

<b>Property Address</b>	Lot 100 DP 1282301 & Lot 61 DP 733294 15 – 31 Sydney Street MUSWELLBROOK, 33 – 39 Sydney Street MUSWELLBROOK
<b>APPLICATION NO:</b>	DA 2017-18
<b>PROPOSAL:</b>	Pursuant to section 4.55(1A) of the EP & A Act 1979, to modify a consent for
<b>OWNER:</b>	Muswellbrook Wokers Club
<b>APPLICANT:</b>	Chain & Associates Pty Ltd
<b>ADDRESS:</b>	304 Victoria Road Gladesville 2111
<b>AUTHOR:</b>	Hamish McTaggart
<b>DATE OF REPORT:</b>	23 June 2023
<b>DATE LODGED:</b>	6 September 2022

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## 1. Site Locality and Description

The s4.55(1A) modification request relates to the Muswellbrook District Workers Club, 15-29 Sydney Street, Muswellbrook (Lot 100 DP 1282307).

The modification will amend the subject site to include the adjoining land that comprises the Muswellbrook Valley Hotel (Lot 61 DP 733294). Despite this, the proposal is considered to be substantially the same as only car parking is proposed on this land.

The site currently contains a large club, a community services centre and a vacant building that has been identified as a locally significant heritage Item. Access to the site is provided via Sydney Street.

The image below identifies the land subject, with the perimeter of the Muswellbrook District Workers Club site identified in red outline and the Valley Hotel outlined in green.

**Figure 1 – Subject site**



## 2. Background

The approved development application involved an extensive redevelopment of the Muswellbrook District Workers Club and was approved by Council on the 25 July 2017.

This approval involved extensions and refurbishment of the Muswellbrook District Workers Club including a new restaurant wing extended on the northeastern side of the Club.

As part of the determination of that application, there was a deferred commencement condition for the expansion of the Worker's Club car park to incorporate parking behind Sunnyfield Disability care service building. Within this space the applicant was required to provide a total of 120 off-street car parking spaces.

The approved development was subsequently constructed, and an Occupation Certificate issued prior to completion of the off-street car parking.

Council Officers became aware of the development's failure to comply with the condition and construct the required off-street parking in 2020 and undertook compliance action. Reports related to the compliance action were tabled to Council at Council's 29 September 2020 and 26 July 2022 Ordinary Council Meetings.

Through the carrying out of compliance action it has become apparent that there are spatial challenges that limit the total number of off-street car parking spaces able to be constructed within the area available.

### **3. Modification Description**

There are two aspects to the proposed modification, alterations to the Club and changes to the car parking proposed. The scope of each set of changes are outlined below:

#### Club alterations

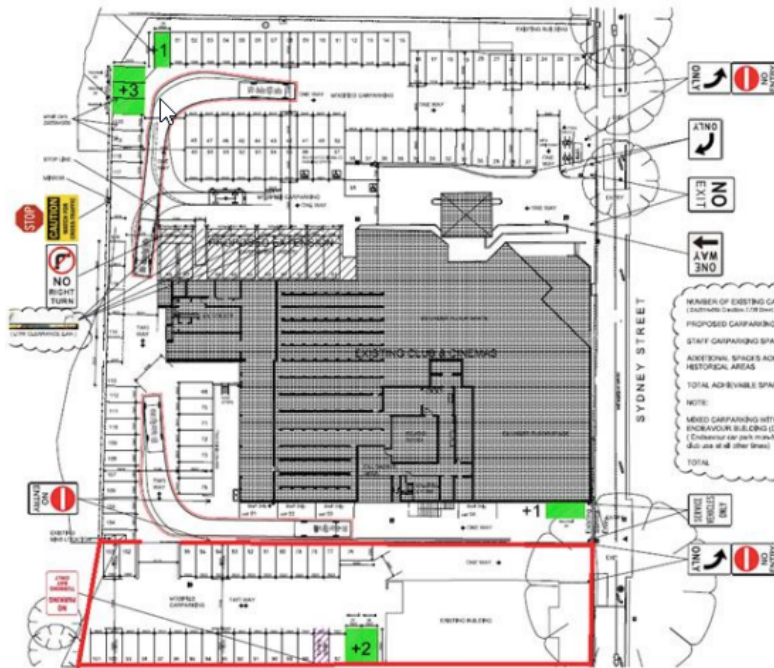
The proposal seeks to update the existing outdoor gaming area at the Club's southeastern corner by:

- Installing a roof over the gaming area
- Alterations to internal walls within the gaming area
- Alterations to the approved wall and louvers to enclose the outdoor gaming area (while more weather protected, the outdoor gaming area would remain a gaming area without smoking restriction).

The proposal will not result in an increase in floor area compared to the previously approved development.

#### Car parking alterations

The original determination of the development application required the construction of 120 off-street car parking spaces in accordance with the approved plan below.



Car parking within the area outlined in red was not constructed. Followed more detailed site investigations it was identified that the total car parking yield within the red highlighted area was impractical to construct.

This proposed modification seeks to alter the approved car parking plan by:

- Incorporating the area at the rear of the Valley Hotel into the car park area
- Redesigning the layout of car parking to provide improved circulation behind the property at 29 Sydney Street.
- Providing a total of 131 off-street car parking spaces for use by the Workers Club with an additional 19 spaces reserved for use by the Valley Motel. Council review of submitted plans suggest that it may only be practical for 8 of the 19 car parks referenced to be associated with the Valley Motel use to be provided due to conflict with manoeuvring areas.

The plan detailed the updated proposed car parking layout has been included below.



#### 4.1. Internal Referrals

Council's Heritage Advisor notes:

- The land affected at the rear of the Valley Hotel is largely covered in bitumen.
- There is capacity for positive change as a result of the development where there is potential for future landscaping at the rear of the Valley Hotel.
- Where any deep excavations are carried out there could be potential to find archaeological resources. This issue should be considered and appropriate investigations carried out should deep excavations be required.

## Community Infrastructure – Roads and Drainage

- The total car park yield in context with the incorporation of the existing Valley Hotel and Motel facility.
- Muscle Creek bank stability

- Parking layout and stormwater management.

The applicant responded to Council's related request for information with:

- A supplementary traffic and parking advice from consultant traffic engineer. This advice provided comments on aspects of the car parking design in response to related queries raised by Council.
- Advice from a Geotechnical Engineer related to Muscle Creek bank stability in context with the proposed works.
- A stormwater management plan

Council Roads and Drainage Officers recommended the development application be supported subject to conditions/requirements related to the following (related comments around how each of the recommendations have been considered and informed the recommended conditions of the consent have been included from Council Assessment Officer):

*That off-street car parking is provided in accordance with the updated car park plan submitted, with the exception of the removal of the three parking spaces for staff to the south of the Worker's Club in the vicinity of the service vehicle.*

*Updated parking details are required in accordance with AS1428 including provisions for accessible parking are to be included and provide an allowance for a waste storage area for the Valley Hotel car park accessible by a service vehicle of 9.9m length.*

*Proposed parking in the vicinity of the rear of the Valley Hotel car parking area is subject to appropriate remediation of the embankment to achieve the total car parking layout, including overland flow route which does not exacerbate or damage the embankment of Muscle Creek during any storm events.*

Planning comment – work in the vicinity of the waterway to be carried out in accordance with the requirements of Department of Planning and Environment – Water's Controlled Activity Permit.

*The existing retaining wall is to be maintained at all times, and, if further damage from construction occurs, Council will require a detailed design of a replacement retaining wall to their written satisfaction.*

*An improved pavement design for a CBR of 8 including consideration of a basecourse and asphalt layer no less than 40mm thick is to be provided to Council's written satisfaction*

Planning comment – recommended condition requiring pavement design and construction in accordance with relevant Australian Standards included.

*Updated detailed stormwater management plans and erosion sediment plans to meet Council's DCP and written satisfaction including water quality improvements (such as pit baskets) are to be completed prior to the car park construction.*

Planning comment – a condition of consent has been included for stormwater quality devices to be included in the stormwater management infrastructure.

*The person acting with the consent ensures that they have a current Controlled Activity Permit from DPI – Water prior to carrying out works on waterfront land related to the car park construction.*

*A condition of consent should be imposed to restrict the use of the existing Valley Hotel access on Sydney St for service vehicle access only.*

*A condition of consent should be imposed to restrict the Valley Hotel access to restrict all vehicles from using the Sydney St access to leave the site.*

*All construction operations are to be informed by a geotechnical engineer for loading areas within the vicinity of the embankment*

Planning comment – requested conditions have been included in the recommended condition of consent.

#### **4.2. External Referrals**

The Application did not require any referrals to government agencies external to Council.

#### **5. Section 4.55 (1A) Assessment**

The application lodged with Council is a Section 4.55(1A) modification application.

Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 enables a consent authority to modify a development consent provided that the consent authority:

- is satisfied that the development to which the consent as modified relates is of minimal environmental impact;
- is satisfied that the development to which the consent as modified relates is substantially the same development;
- has notified the application in accordance with the regulations and has considered any submissions made concerning the proposed modification; and
- in determining the application for modification, has taken into consideration such matters referred to under Section 4.15(1) as are relevant.

#### **Is the proposed development of minimal environmental impact?**

*Environmental Impact* – The site is located within an established urban area and does not possess any items of identified environmental significance.

*Heritage Impact* – The nature and scale of the proposed modifications will have minimal potential to cause any new adverse impact upon the heritage values or significance of the adjacent heritage items. The proposed development was referred to Council's Heritage Advisor who confirmed that they had no objection in relation to the proposal.

*Traffic Impact* – The proposal is minor in nature and does not result in an increase in the floor area of the building and will have minimal impact on the number on the existing traffic flow on the site.

*Visual Impact* – The proposal is minor in nature and the proposed change to the existing façade is very similar to the approved façade.

#### **Is the proposed development as modified substantially the same development approved by the Council?**

The proposed modification to the approved works are considered to be substantially the same as the approved development. This view has been informed by the following:

- The land use remains the same as that previously approved.



- The proposed modification to the outdoor gaming area would not change the total club licensed floor area.
- The works involved in enclosing the gaming area are minor.
- The alterations to the approved car parking layout seek to give effect to the requirements imposed by Council as conditions of consent related to the construction of off-street car parking.
- Lot 61 DP 733294 has been included within the development site as a measure to address the off-street car parking obligation conditions on the development. The applicant has demonstrated in correspondence and design plans related to Council compliance action that the full rate of off-street car parking required by the consent cannot be fully accommodated within the Workers Club and 29 Sydney Street sites. The inclusion of the Valley Hotel site enables a more effective car parking layout to be provided alongside achieving the total off-street car parking prescribed through the initial determination.
- The proposal does not involve any physical alterations to the buildings at the Valley Hotel. Works related to car parking are the only works proposed at this site.

**Whether the application required the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies?**

The application did not require the concurrence of any external approval bodies and does not change the terms of any concurrence that was required originally.

**Whether any submissions were made concerning the proposed modification?**

No submissions were received during the notification period.

**1. ASSESSMENT OF SECTION 4.15 CONSIDERATIONS**

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

The following EPIs, DCPs, Codes and Policies are relevant to this Application:

**1. Muswellbrook Local Environmental Plan 2009 (MLEP 2009)**

Land Use Zone and Permitted Land Use

The development site is zoned E3 Productivity Support Zone pursuant to MLEP 2009. The land use related to the development application is best defined as *registered club*, which is permitted with consent in the subject Zone.

Objectives of the E3 Productivity Support Zone

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To provide opportunities for new and emerging light industries.
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.

- To ensure that development is arranged and carried out in a way that does not intrude on the amenity of adjoining residential areas.

The development proposal is not contrary to the objectives of the Zone.

**Relevant Clauses applicable under the Muswellbrook Local Environmental Plan 2009**

<i>Part 1 Preliminary</i>	
<i>Part 2 Permitted or prohibited development</i>	
<i>2.3 Zone objectives and Land Use Table</i>	<p>The subject land is zoned E3 Productivity Support Zone.</p> <p>The Assessing Officer is satisfied that the proposed development is compatible with the land use zone, subject to the standard conditions imposed, and complies with this requirement. <b>Complies</b></p>
<i>Part 3 Exempt and complying development</i>	
<i>Part 4 Principal development standards</i>	
<i>4.3 Height of buildings</i>	<p>MLEP 2009 specifies a maximum building height of 13m in relation to the land. The proposal does will not increase the height of the existing building. <b>Complies</b></p>
<i>4.4 Floor space ratio</i>	<p>The 'floor space ratio map' relevant to the land subject to this application is 2:1. The proposal does not involve an increase in the FSR of the site. <b>Complies</b></p>
<i>Part 5 Miscellaneous provisions</i>	
<i>5.10 Heritage Conservation</i>	<p>The Valley Hotel is a local heritage item under the MLEP 2009.</p> <p>The impact of the proposal on this heritage item has been considered through the assessment of this development application and advice provided by Council's Heritage Advisor.</p> <p>The proposal does not involve any physical alterations to the Valley Hotel building. Council Officers are satisfied that the proposal is compatible with the provisions of this Clause. <b>Complies</b></p>
<i>Part 6 Urban release areas</i>	
<i>Part 7 Additional local provisions</i>	
<i>7.1 Terrestrial biodiversity</i>	<p>The land has not been identified as Terrestrial biodiversity under the LEP 2009. <b>Not Relevant</b></p>
<i>7.6 Earthworks</i>	<p>The proposed earthworks have been designed and assessed by a geotechnical engineer. There will be no detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items. Therefore, the proposal complies with the requirements under this cause. <b>Complies.</b></p>

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

Council Officers are unaware of any activities that have occurred on the site that are likely to have caused the contamination of the land. No visual evidence of any contamination was observed by Council Officers during an inspection of the site. It is therefore considered that the subject site is unlikely to be affected by contamination requiring remediation in



accordance with the SEPP. The proposed development may therefore proceed without the need to further consider the provisions of this SEPP.

**S 4.15(1)(a)(ii) The provisions of any draft environmental planning instruments**

There are no draft Environmental planning instruments that relate to the proposed modification.

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

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

The provisions of the DCP have been considered in relation to the proposed modification below:

**Section 3 – Site Analysis**

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

**Section 9 – Local Centre Development**

<b>9.1 Built Form</b>	
9.1.1 Building Design	The proposed changes to the building design are minor in nature and will continue to complement and enhance the existing local centre. <b>Complies</b>
9.1.2 Building Height	The existing development does not exceed 9m in height and no increase in maximum building height is proposed as part of the modified development. <b>Complies</b>
9.1.3 Setbacks	The proposal does not involve any changes to the existing setbacks on the site. <b>Complies</b>
9.1.4 Accessibility	The proposed changes will have no impact on the accessibility of the site. <b>Complies</b>
<b>9.2 Urban Landscape</b>	
9.2.1 Landscaping	The proposal does not involve any changes to the landscaping on the site.
9.2.2 Car Parking	The proposal will not significantly increase the traffic flow on the site and does not involve an increase in total floor area and therefore does not need to consider this section of the DCP further.

**Section 13 – Flood Prone Development**

The proposed site is identified as Flood prone land, however, the proposal does not involve any changes to the floor level or any building works that will negatively impact the flood hazard on the site.

Council granted development consent to the enclosure of the Club Pokies area. This modification seeks further alterations to the scope of those approved works.

**Section 16 – Car Parking**

In its determination of the original development application Council identified that car parking should be provided at a rate of 131 spaces to service the Workers Club.

This Section 4.55 Modification seeks to provide a total of 131 off-street car parking spaces

by incorporating the Valley Hotel and Motel site.

To inform the consideration of this issue the applicant has:

- Prepared a supplementary Parking and Traffic Advice from McLaren Traffic Engineering.
- Undertaken a considered review of the overall off-street car parking provided in context with the continued use of the 17 Valley Motel rooms. 19 car parking spaces are proposed to be retained for this use (this may be reduced once manoeuvring areas are accounted for).
- Responded to Council queries related to the demand for car parking associated with the Valley Hotel. While it is understood that the Valley Hotel is not currently operating this use may be restarted without necessitating a new development consent. Council DCP provisions related to pub car parking require a case-by-case consideration.

Thereby a merit-based consideration of the incorporation of the Valley Hotel into the Workers club car park was required. In this instance it was considered a reasonable and practical outcome as it provided an overall improvement to the flow of the parking area and a larger shared car parking area which could be utilised by either land use.

#### Section 15 – Heritage Conservation

The site subject to this development application involves two heritage items.

- Former Barber Shop & Kerb and Guttering – Sydney Street – east of the Workers Club building and located on the same land title ; and
- The Muswellbrook Valley Hotel.

The proposed development does not involve any physical works to either item. Referral comments provided by Council's Heritage Advisor raised no objection to the proposed development.

#### **S 4.15(1)(a) (iia) the provisions of any planning agreement**

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

#### **S 4.15(1)(a)(iv) the provisions of the regulations**

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

#### **S 4.15(1)(b) likely environmental impacts**

The proposal is minor in nature and unlikely to have any significant environmental impacts on the surrounding land.

#### **S 4.15(1)(c) the suitability of the site for the development**

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

#### **S 4.15(1)(d) any submissions made**

No submissions were received during the notification period:

### **CONCLUSION**

The proposed development has been assessed against the relevant heads of consideration of Section 4.15 and 4.55 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.

**RECOMMENDATION**

It is recommended that the Council approve the modification request to DA 2017-18 subject to the recommended conditions of consent.

Signed by:

Hamish McTaggart  
Development Coordinator

Date: 7 July 2023

**Schedule 1**  
**Summary of New and modified conditions**

This Schedule includes a summary of the changes to the conditions of consent from those imposed on the original determination of this development application. This Schedule should not be relied on to identify the full details of the consent and is provided as a reference document only. The current conditions of consent are listed in full in Schedule 2 and 3.

Changes to the conditions of consent:

- General adjustments to condition numbers to account for new condition numbering.
- Deletion of all deferred commencement conditions (previously titled deferred commencement conditions 1, 2 & 3)
- Condition 1 updated to identify updated to reference the scope of this modification and approve updated plans related to the gaming area, car park layout, design and stormwater management.
- Condition 12 updated to reference updated car parking plan requirements for submission with Construction Certificate documentation.
- New Condition 13 requires a current Controlled Activity Approval for work on waterfront land prior to car park construction.
- New condition 26 regarding the carrying out of excavation in the vicinity of the Valley Hotel heritage item.
- Condition 52 updated to reference updated car parking plan requirements for construction prior to Occupation Certificate.
- New Condition 67 requiring the consolidation of Lot 100 DP 1282301 & Lot 61 DP 733294.
- New condition 68 to restrict the use of the existing Valley Hotel access for vehicles entering the site.
- New condition 69 to restrict the use of the existing Valley Hotel access for vehicles exiting the site.
- New condition 70 requiring stormwater infrastructure construction and the installation of stormwater quality controls.
- New condition 93 requiring the maintenance of the retaining wall adjacent the service lane.

## Schedule 2

### DEFERRED COMMENCEMENT CONDITIONS

~~In accordance with section 80(3) of the Act the consent will not operate until the applicant has provided information to the satisfaction of the Council that the following conditions can be complied with. Upon receipt of written information from the application in relation to the conditions in this schedule the Council will advise in writing whether the information is satisfactory and, if so, will nominate the effective date for the commencement of the consent.~~

~~In accordance with Clause 95(3) of the regulation, a twenty-four (24) month period is given from the date of the "deferred commencement" notice to lodge plans and evidence that satisfactorily address the required details. If not, then the "deferred commencement" will lapse and a new development application will be required.~~

#### **1. Carparking – Compliance with Australian Standards**

~~The applicant shall provide a fully dimensioned and numbered carparking plan showing all parking locations wholly located on the development site for approval by Council. The carparking spaces are to comply with AS 2890.~~

#### **2. Traffic Management Plan**

~~Traffic Management Plan is to be submitted to and approved by Council's Local Traffic Committee, detailing all proposed regulatory signage including but not limited to "left out only", "stop", "one way", "visibility mirrors" and "no entry for vehicles over 10m in length or caravans".~~

~~The Traffic Management Plan, as a minimum, should address the following issues:~~

- ~~a. Turning templates to be provided for movements into, out of and through the site for the largest vehicle, being 10m entering the site and a garbage service truck.~~
- ~~b. Consideration of the inclusion of an internal turning area in the vicinity of the exit to Sydney Street~~

#### **3. Consolidation of lots**

~~The applicant shall lodge a plan of consolidation to Council for endorsement prior to registering with Lands Title Office. The plan of consolidation is to include the following lots:~~

- ~~• Lot 1 DP 797354~~
- ~~• Lot 1 DP 87825~~
- ~~• Alt A & Alt B DP 156819~~
- ~~• Lot 3 DP 112100~~
- ~~• Lot 2 DP 966900~~
- ~~• Lot 1 DP 970101~~
- ~~• Lot 1 DP 69766~~

**Schedule 3**  
**Development Consent Conditions**

This Schedule sets out the conditions of consent for the development.  
The conditions of consent are as follows:

**IDENTIFICATION OF APPROVED PLANS**

**1. Development in Accordance with Plans**

The development being carried out in accordance with the development application and the drawings referenced below, and endorsed with Council's approval stamp, except where amended by the following conditions.

Drawing No.	Rev	Drawn by	Drawing Date
Proposed Stage 2A Works	05	Network Refurbishments and Construction	10 July 2020
Proposed Elevations State 2A Works	1	Network Refurbishments and Construction	10 July 2020
Sheet 1 Site Plan	6	Network refurbishments and Construction	11 July 2017
Sheet 2 Existing floor plan	1	Network refurbishments and Construction	24 November 2016
Sheet 3 Existing elevations	1	Network refurbishments and Construction	24 November 2016
Sheet 4 Proposed floor plan	3	Network refurbishments and Construction	11 July 2017
Sheet 5 Proposed elevations	4	Network refurbishments and Construction	11 July 2017
Sheet 6 Proposed sections, note and details	4	Network refurbishments and Construction	11 July 2017
Sheet 7 Areas	3	Network refurbishments and Construction	11 July 2017
Sheet 8 Landscape concept plan Stormwater concept plan	3	Network refurbishments and Construction	11 July 2017
Sheet 9 Proposed staging plan	3	Network refurbishments and Construction	11 July 2017
Sheet 10 Overlay plan	2	Network refurbishments and Construction	11 July 2017
Sheet 11 Proposed and existing floor plans	2	Network refurbishments and Construction	11 July 2017
Sheet 12 Basement plan	2	Network refurbishments and Construction	11 July 2017
Sheet 13 Room Areas	2	Network refurbishments and Construction	11 July 2017
Survey plan	B	Parker Scanlon	25 January 2017

The above approved plans notwithstanding, the following stamped approved plans submitted with the section 4.55 (1A) Modification lodged 30 August 2022 form part of Council's Notice of Determination and are to be complied with through the carrying out of the development. Where there is any conflict between a plan referenced approved and referenced in the table below the plans and documentation in the following table shall take precedence.

Drawings no.	Revision	Drawn by	Date	Received
MWC-01 (elevations)	06	Network Refurbishment and Construction	06/07/2022	06/09/2022
MWC-01 (floor plan)	13	Network Refurbishment and Construction	06/07/2022	06/09/2022
MWC-01 (site plan)	3	Network Refurbishment and Construction	25/08/2022	21/07/2023
Supplementary Parking Advice	-	McLaren Traffic Engineering	29/05/2023	29/05/2023
Geotechnical Investigation		Capital Engineering Consultants	05/04/2023	29/05/2023
SWDP01	A	Global Consulting Engineers	02/04/2023	29/05/2023
SWDP02	A	Global Consulting Engineers	02/04/2023	29/05/2023
SWDP03	A	Global Consulting Engineers	02/04/2023	29/05/2023
SWDP04	A	Global Consulting Engineers	02/04/2023	29/05/2023
SWDP05	A	Global Consulting Engineers	02/04/2023	29/05/2023

## 2. Plans on Site

A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be always kept on site to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

## 3. Limit to Demolition Works

Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

## 4. Approved Landscaping Plan

Landscaping works on the site are to be undertaken generally in accordance with the

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

## 5. Building Code of Australia

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

## 6. Smoke Free Environment Regulation 2016

All covered outside areas that permit smoking must comply with the Smoke-Free Environment Regulation 2016.

**ANCILLARY MATTERS TO BE ADDRESSED TO THE SATISFACTION OF COUNCIL PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE**

## 7. Construction Management Program

A Construction Management Program must be prepared and submitted to and

approved in writing by the Council prior to the issue of any Construction Certificate. The program shall include such matters as:

- (a) a Safe Work Method Statement;
- (b) the proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- (c) the proposed phases of construction works on the site, and the expected duration of each construction phase;
- (d) the proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- (e) the proposed way adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
- (f) the proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- (g) the proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- (h) the proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- (i) the proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising structural engineer, or equivalent;
- (j) proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of "B" class hoardings and fans over footpaths and laneways;
- (k) proposed protection for Council and adjoining properties;
- (l) the location and operation of any on site crane;
- (m) the location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval; and
- (n) location, identification, treatment and disposal of all hazardous materials on site.



All work and excavation, demolition or construction activities shall be undertaken in accordance with the approved Construction Management Program and any conditions attached to the approved plan. A copy of the approved Construction Management Plan, and any conditions imposed on that plan, shall be always kept on the site and made available to any officer of Council upon request.

**8. Muswellbrook Shire Water & Waste Division**

A 'Notice of Requirements' under the Water Management Act 2000 must be obtained detailing water and sewer extensions to be built and charges to be paid by the applicant prior to the issuing of any Construction Certificate application.

**9. Foundations Adjacent to Sewer and Drainage Easements**

The foundations for building structures and walls adjacent to the sewer and stormwater drainage easement are to be constructed in such a manner that does not affect the integrity of sewer and stormwater main drainage lines. Details demonstrating compliance are to be submitted to Certifying Authority for approval with any Construction Certificate.

**10. Structural Engineer's Plans and details – Proposed Works**

A certificate and detailed drawings issued by an appropriately qualified structural engineer are to be submitted to the Certifying Authority with any Construction Certificate application, which certifies that the design and construction of the structural elements will be structural adequate for its intended purpose.

**11. Parking for People with Disabilities**

A total of three (3) car-parking spaces for use by persons with a disability shall be provided as part of the total car-parking requirements. Consideration must be given to the means of access from the car-parking spaces to adjacent buildings, to other areas within the building and to footpath and roads and shall be clearly shown on the plans submitted to the Certifying Authority for approval with any Construction Certificate. All details shall be prepared in consideration of, and construction completed in accordance with Australian Standard AS2890.1 to achieve compliance with the Disability Discrimination Act, and the relevant provisions of AS1428.1 and AS1428.4.

**12. Off Street Car Parking**

Plans submitted with a Construction Certificate shall include detailed construction plans for all required car parking and manoeuvring areas generally in accordance with the car park plan approved as part of the section 4.55(1A) modification application lodged 30 August 2022 and referenced in the approved plans as drawing number MWC-01 (site Plan) prepared by Network Refurbishments & Construction subject to the following.

- A) There is no requirement for the staff only car parking numbered 1 – 3 to be constructed within the one-way service area.
- B) All car parking spaces together with access driveways, shall be designed to be constructed, paved, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice.
- C) The final car park layout shall include adequate provision for waste storage,

service vehicle manoeuvrability and accessible car parking in accordance with relevant Australian Standards and subject to Building Code of Australia requirements.

- D) The plans shall also nominate the allocation of parking spaces for specific purposes as required by conditions of this consent.

A certificate prepared and certified by an appropriately qualified and practising Civil Engineer for the construction of these areas in accordance with this requirement shall be submitted to the Certifying Authority for approval with any Construction Certificate.

### **13. Car Park Construction adjacent Muscle Creek**

Prior to the issue of a Construction Certificate involving the construction of car parking hardstand adjacent Muscle Creek, the person acting with this consent is to ensure they have a current Controlled Activity Permit from Department of Planning & Environment – Water related to the completion of these works in accordance with the requirements of the related General Terms of Approval.

### **14. Garbage and Recycling Facilities**

An appropriate area shall be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements shall be met:

- (a) all internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- (b) include provision for the separation and storage in appropriate categories of material suitable for recycling;
- (c) the storage area shall be adequately screened from the street and located behind the building line;
- (e) garbage enclosures serving residential units are to be located within areas designated for non-residential uses; and
- (f) all waste is to be removed weekly from the site by a contractor and disposed of at a site approved for such purposes

Details of the storage area are to be provided to, and approved by the Certifying Authority prior to issuing of any Construction Certificate.

### **15. Sediment Control**

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including plans and specifications shall be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Muswellbrook Shire Council's DCP provisions on Erosion and Sediment Control, or a suitable and effective alternative method. The Control Plan shall incorporate and disclose:

- (a) all details to protect and drain the site during the construction processes;
- (b) all sediment control devices, barriers and the like;
- (c) sedimentation tanks, ponds or the like;

- (d) covering materials and methods;
- (e) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing that these design requirements have been met shall be submitted with the Construction Certificate and approved in writing by the Certifying Authority prior to issuing of any Construction Certificate.

**16. Cigarette Butt Receptacle - Commercial**

That provision be made for cigarette butt receptacles on the site to minimise littering. Cigarette butt receptacles must be provided on site, and permanently provided to any commercial component of the development after construction. Details of the size and the location of the receptacle are to be provided to the Certifying Authority for approval with any Construction Certificate.

**17. Access for People with Disabilities**

Ramps and access for people with disabilities are to be provided to and within the entire building. Consideration must be given to the means of dignified and equitable access from public places to adjacent buildings, to other areas within the building and to footpath and roads. Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted to the Certifying Authority for approval with any Construction Certificate. All details shall be prepared in consideration of, and construction completed to achieve compliance with the provisions of the Disability Discrimination Act, and the relevant provisions of AS1428.1 and AS1428.4.

**18. Waste Management Plan**

A Waste Management Plan is to be submitted with any Construction Certificate. The plans should include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, all landfill removed from the site, haulage routes, design of on-site wind proof waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process.

**19. Geotechnical Investigation**

A certificate prepared by an appropriately qualified Geotechnical Engineer shall be submitted to the Certifying Authority for approval with any Construction Certificate, certifying that the existing substrate on the site is capable of:

- (a) withstanding the proposed loads to be imposed;
- (b) withstanding the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;
- (c) providing protection and support of adjoining properties;
- (d) the provision of appropriate subsoil drainage during and upon completion of construction works.

**20. Building Code of Australia - Fire Safety Audit of Existing Structures**

Engage the services of an Accredited Certifier, or equivalently qualified person/company, to carry out a Building Code of Australia audit that is based upon inspections of the building in terms of the deemed-to-satisfy fire safety provisions. (A list of Accredited Certifiers is available on the Building Professionals Board website.)

The audit must specifically cover all clauses within Section C, D and E of the Building Code of Australia (as per the most recent amendments) reflecting compliance, non-compliance or not applicable in the circumstances. The audit (checklist) is to accompany the report.

The results of the audit are to be incorporated into a report and strategy to overcome the non-compliant provisions either by performance solution or adherence to deemed-to-satisfy provisions by satisfying the fire safety objectives of Sections C, D and E of the Building Code of Australia.

A schedule of existing (if applicable) and the proposed Essential Fire Safety Measures, including their standard performance must be included in this strategy.

The report and strategy must be submitted to the Certifying Authority with the application for any Construction Certificate.

**21. Potential Flood Damage to Buildings**

An assessment, report and certification by a qualified practising Consulting Engineer stating that the structure has been designed to withstand the flood pressures, including debris and buoyancy forces, imposed in the event of a 1% AEP flood and that the structure will not sustain unacceptable damage from the impact of floodwater and debris is to be submitted to the Certifying Authority for approval with any Construction Certificate.

**22. Section 94A Contributions**

Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010, a contribution of **\$40,000** shall be paid to Muswellbrook Shire Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010. The contribution is to be paid prior to the issue of any Construction Certificate.

**23. Sewer Main**

A restrictive covenant is to be registered on the title of the land for the purpose of indemnifying Council against any loss, damage or expenses incurred by Council in relation to the sewer main because of the building or structure being constructed over or within the zone of influence of the sewer main and any activities ancillary thereto.

**24. Food – plans and elevations**

Detailed plans and elevations of the food preparation and food storage areas must be submitted to, and approved by Council, prior to the release of any Construction Certificate. Plans must include the finishes to floors, walls, ceilings, benches and shelves, elevations of fixtures and fittings and location of hand wash basins.

**25. Public Domain Plan**

A detailed Public Domain Plan must be prepared and approved by Council prior to a Construction Certificate being issued. A copy of Council's Public Domain Manual is located on Council's website.

This plan is to be used to design any works required in the road reserve under Section 138 of the Roads Act 1993.

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT**

**26. Excavation in proximity to the Valley Hotel**

Should excavation work be required in the immediate vicinity of the Valley Hotel to a depth greater than the removal of existing bitumen layers, an Archaeological Assessment should be prepared to inform the carrying out of that work and the consider the likelihood and management practices related to the disturbance of any items of historical importance through the carrying out of that work.

Excavations within 15m of Muscle Creek and/or excavation associated with the approved stormwater design plan are not considered to be work in the immediate vicinity of the Hotel.

**27. Sediment and Erosion Control**

All required erosion and sedimentation 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.

**28. Site Facilities**

- a) If the development involves building work or demolition work, the work site must be fully enclosed by a temporary security fence (or hording) before work commences.
- b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians.
- c) Any such hoarding or fence is to be removed when the work has been completed.
- d) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.
- e) A person having the benefit of this certificate who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land must at their own expense and where necessary:
  - protect and support the building from damage; and
  - if necessary, underpin and support the building in accordance with the details prepared by a professional engineer.
- f) A person having the benefit of this certificate who causes the excavation must, at least 7 days before commencing this work, give notice of intention to do so

to the owner of the adjoining allotment of land and provide particulars of the proposed work.

- g) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site.

## **29. Site Sign**

A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (a) stating that unauthorised entry to the work site is prohibited;
- (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while building work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply to building works being carried out inside an existing building.

## **30. Construction Certificate Requirement**

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

## **31. Damage to Public Infrastructure**

The applicant shall bear the cost of all restoration works to Council property damaged during the course of this development. The applicant shall submit in writing and/or photographic record, 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.

## **32. Section 68 Local Government Act Approval**

Prior to the commencement of any works it shall be necessary for the applicant to obtain a Section 68 Local Government Act approval for all water supply, sewer and stormwater drainage works.

The application shall include the submission of Hydraulic Engineers details for all water supply, sewer and stormwater drainage works

**Stormwater Design for Section 68 Approval must demonstrate.**

- (a) all stormwater from the development, including all paved surfaces and overflows from rainwater tanks is to be collected and discharged to the existing stormwater drainage system on site. A Council approved commercially available stormwater pollution control device is to be installed prior to discharge to Muscle Creek at existing locations.
- (b) A stormwater grate is to be provided at the driveways to collect stormwater runoff so as to avoid stormwater discharge across council's footpath at the boundary of the property.

**CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**33. Approved Materials**

The colour, texture and substance of all external materials shall be generally as detailed in the application.

**34. Second Hand Materials**

Second hand materials shall not be used unless specifically approved by the Certifying Authority or Principal Certifying Authority in writing.

**35. No Removal of Trees on Public Property**

No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved in this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

**36. Dust Emission and Air Quality**

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in addition odour suppression measures must also be carried out where appropriate to prevent nuisance occurring at adjoining properties.

**37. Applicant's Cost of Work on Council Property**

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

**38. Construction Hours**

- (1) Subject to this clause, building construction is to be carried out during the following hours:
  - (a) between Monday to Friday (inclusive)—7.00am to 6.00pm,
  - (b) on a Saturday—8.00am to 1.00pm.
- (2) Building construction must not be carried out on a Sunday or a public holiday.
- (3) Demolition works and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm.
- (4) 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.

**39. 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 96 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.

**40. Prohibition on Use of Pavements**

Building materials and equipment must be stored wholly within the work site, unless prior written approval has been obtained from council. Equipment must not be operated on the footpath or roadway, unless prior written approval has been obtained from council.

**41. Excavation/Demolition**

- (1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- (2) 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.
- (3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.
- (4) The builder is to ensure that persons working on the site comply with the WorkCover Authority's requirements.

**42. Protection of Public Places**

- (1) If the work involved in the erection or demolition of a building:-
  - (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - (b) building involves the enclosure of a public place,a hoarding and site fencing must be erected between the work site and the public place and be contained within the site boundary unless prior permission has been obtained in writing from Council.



- (2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- (5) No access across public reserves or parks is permitted.

#### **43. Demolition or Removal of Buildings**

- 1) Demolition must be carried out in accordance with AS 2601–1991, *Demolition of structures*.
- 2) Demolition materials must not be burnt or buried on the work site.
- 3) A person having the benefit of this certificate must ensure that all vehicles leaving the work site carrying demolition materials, have their loads covered and do not track soil or waste material onto the road.
- 4) If demolition work obstruct or inconvenience pedestrians or vehicular traffic on an adjoining public road or reserve, a separate application must be made to council to enclose the public place with a hoarding or fence.
- 5) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site and must be maintained in a functional condition throughout the construction activities until the site is stabilised is until the
- 6) The work site must be left free of waste and debris when work has been completed.

#### **44. Mandatory Council Inspections**

At the following stages of construction, a satisfactory report from Council is to be obtained prior to works proceeding:

- (a) Sewer drains – all pipes are to be correctly laid, suitably bedded and ready to backfill. Suitable backfill material is to be available on site at the time of inspection.
- (b) Connection of stormwater drainage to easement– following installation and bedding of drainage lines, pollution control devices and prior to backfilling
- (c) Driveway crossover of the footpath or nature strip:
  - prior to pouring concrete
  - Section 138 Roads Act Permit required prior to inspection being carried out.
- (d) Council infrastructure- at completion of works and prior to an Occupation Certificate inspection.

To arrange an inspection please contact Council's Environmental Service Department on (02) 6549 3745.

Note: 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.

#### **45. Sediment & Erosion Controls**

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

**46. Construction noise**

During construction, the development must comply with the Department of Environment and Climate Change NSW, Interim Construction Noise Guidelines (as amended).

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

**47. Reinstatement**

All redundant lay-backs and vehicular crossings shall be reinstated to conventional kerb and gutter, foot-paving or grassed verge as appropriate. All costs shall be borne by the applicant, and works shall be completed prior to the issue of any final Occupation Certificate.

**48. Access for People with Disabilities**

Provision shall be made for access to and within the building on the site for persons with a disability in accordance with the provisions of AS 1428 Part 1 prior to the issue of any Occupation Certificate.

**49. Disabled Access from the Public Realm - Tactile Surface Indicators**

Tactile ground surface indicators complying with AS1428.4 shall be provided at the point of common public access to the building and at the vehicular access points to assist people with visual impairments in gaining access to and from the public way and the premises prior to occupation. Such works are to be undertaken wholly within the boundaries of the site.

**50. Disposal Information**

Upon completion of works and prior to any occupation, the person entitled to act on this consent shall provide to Council the following information;

- (a) the total tonnage of all waste and excavated material disposed of from the site;
- (b) the disposal points and methods used; and
- (c) a copy of all disposal receipts are to be provided

**51. Connection to Sewer**

The premises shall be connected to the sewer system in accordance with the Australian Standard 3500. A works as executed plan on Council's approved form is to be submitted to Council within seven (7) days following the final drainage inspection and prior to any Occupation Certificate being issued.

**52. Allocation of Parking Areas**

Prior to the issue of any Occupation Certificate all car parking areas are to be fully constructed and line marked generally in accordance with the approved plans as drawing number MWC-01 (site Plan) prepared by Network Refurbishments & Construction and the related prior to Construction Certificate design requirements of this consent.

All car parking spaces together with access driveways, shall be designed to be constructed, paved, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice.

**53. Bicycle Storage Area**

Prior to the issue of any Occupation Certificate, a bicycle storage area, including bicycle parking rail, shall be provided within the site to accommodate a minimum of four (4) bicycles. The bicycle storage area shall be located in accordance with the approved plans, AS1749.2-2003, and Ausroads – Guide to Road Design, Part 6a, relating to pedestrian and cycle paths.

**54. 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.

**55. Works as Executed Plans**

Prior to the issue of any Occupation Certificate a works as executed plan drawn on the NSW Fair Trading approved template detailing the layout and location of the sewer and stormwater pipe work is to be submitted to Muswellbrook Shire Council.

**56. Redundant vehicle crossings**

Where a redundant layback will occur at the frontage of the property, a new concrete kerb and gutter must be constructed to replace the redundant layback prior to the issue of any occupation certificate.

**57. Existing Substandard driveway / crossovers and footpath areas**

The applicant shall submit a Section 138 Application for the demolition and reconstruction of cracked, broken or substandard driveways and footpath elements. New / replaced driveways and footpaths are to be constructed to commercial standards as per Council's Footpath policy and the approved public domain plan.

**58. Public Infrastructure Inspection**

Prior to the issue of any Occupation Certificate written confirmation is to be obtained from Muswellbrook Shire Council' building section that all damage caused to Council's infrastructure has been reinstated to a satisfactory condition. Council's inspection charges will apply.

**59. Final Compliance Certificate for Water Supply and Sewerage Works**

The final compliance certificate for water supply and sewerage works is to be obtained from Muswellbrook Shire Council Water & Waste Department and a copy must be submitted to the Principal Certifying Authority prior to release of any Occupation Certificate.

**60. Evidence of mandatory inspections**

Prior to the issue of any Occupation Certificate, a satisfactory inspection report is to be obtained from Council confirming that the following inspections have been carried out:

- (a) Sewer drainage
- (b) Connection of stormwater drainage to Muscle Creek
- (c) Driveway crossover of the footpath or nature strip
- (d) Council infrastructure

**61. Mechanical Exhaust**

Certification, from an appropriately qualified and practising Mechanical Engineer, is to be submitted to the Principal Certifying Authority, detailing that the exhaust ventilation system has been installed in accordance with AS1668, prior to completion and the issue of any Occupation Certificate.

**62. Extinguishment of Right of Way**

The applicant shall extinguish all redundant Rights of Way for the site prior to the issuing of any Occupation Certificate.

**63. Development within the registered boundaries**

Prior to the release of any Occupation Certificate, the applicant shall submit a survey plan of the site to determine that the development and associated infrastructure is wholly within the registered boundaries of the subject site.

**64. Easement for Access to Muscle Creek**

Prior to the issue of any Occupation Certificate, an easement shall be registered on the title of the property for access to Muscle Creek for the purpose of bed and bank stabilisation and vegetation maintenance. This easement is to name Muswellbrook Shire Council as the sole authority to release, vary, or modify."

**65. Police – CCTV installation**

Prior to the issuing of any Occupation certificate, the applicant shall provide CCTV surveillance cameras be strategically installed, operated and maintained throughout the premises with particular coverage to:

- All principal entrance / s and exits (including fire doors)
- All areas within the premises occupied by the public (excluding toilets)
- The area within 50m radius external to the public entrance / s to the premises.
- Approved outdoor area / s (including carparks)

**66. Gross Pollutant Traps**

Prior to the issuing of any Occupation Certificate, the applicant shall install Gross Pollutant Traps (GPT) on any stormwater drainage devices which discharge to Muscle Creek.

**67. Consolidation of Lots**

Prior to the issuing of a final Occupation Certificate the person acting with this consent must prepare a plan of consolidation and submit the appropriate documentation to NSW Land Registry Services for the consolidation of Lot 100 DP 1282301 and Lot 61 DP 733294

**68. Valley Hotel access use restriction**

The use of the existing Valley Hotel driveway access is to be restricted to provide an entry point for service vehicles only.

Prior to the issue of any Occupation Certificate appropriate signage is to be installed at the entry point to restrict use of the access for service vehicles only or close the vehicle access to traffic via the installation of bollards or alternate traffic management devices.

**69. Valley Hotel access use restriction**

The use of the existing Valley Hotel driveway access is to be restricted to prevent vehicles using the access to exit the site.

Prior to the issue of an Occupation Certificate appropriate 'no exit signage' or alternate acceptable traffic signage is to be installed within the site to provide clear directional signage restricting any vehicle from using the access to exit the site. Alternatively, or in addition to the signage, Council would accept the installation of bollards to physically prevent use of the access.

**70. Stormwater Management**

Prior to the issue of an Occupation the stormwater management system for the car park is to be installed generally in accordance with the approved plans.

Stormwater quality improvement devices are to be included in the stormwater pits in the form of pit baskets or alternate quality controls with comparable performance to the satisfaction of Council.

**CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

**71. Traffic – Internal signage**

The southern exit to Sydney Street is to be restricted to delivery and service vehicles only. Signage approved detailed in the Traffic Management plan is to be placed on site.

**72. Hours of Operation**

The hours of Club are restricted to the hours detailed on the Liquor Licence

**73. Trade Waste**

Trade wastewater shall be disposed of in accordance with the requirements of the trade waste agreement between the Owner and Muswellbrook Shire Council.

**74. Impact on Amenity of Surrounding Area – Non-Residential Areas**

The implementation and intensity of this development shall not adversely affect the amenity of the neighbourhood by reason of excessive levels of illumination (internal or external), solar glare arising from the building materials utilised in any construction processes or fit-out, the emission of noises, noxious fumes, odours and waste.

**75. Obstruction of Parking Areas**

No parking spaces, loadings bays or vehicular access ways or access thereto shall be restricted, constrained or enclosed by any form of structure such as fencing, or the like, without prior consent from Council.

**76. Existing Dock**

The existing loading dock shall be maintained and utilised for use in connection with the proposed development.

**77. Loading Within Site**

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

**78. 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.

**79. Illumination Intensity**

The level of illumination and/or lighting intensity used to illuminate the signage is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises.

**80. Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

**81. Delivery Hours**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

**82. Stormwater Disposal**

All stormwater from the development including all hard stand areas and overflows from rainwater tanks is to be collected and disposed of to the existing stormwater drainage on site.

**83. Flood Evacuation Plan**

A Flood Evacuation Plan for users of the development is to be prepared by the applicant, submitted to Council for its record and maintained throughout the life of the development.

**84. Noise**

- a) The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.
- b) The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.
- c) Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

**85. Food**

- a) All food premises storage, preparation and serving areas (including bar, kitchen and cafe service areas) must comply with AS/NZ 4674 – Construction and Fit-Out of Food Premises, Food Act 2003 and associated regulations and the Food Standards Code.
- b) All sinks and floor wastes in the food preparation areas must contain basket arrestors.

**86. Trade**

**Waste**

The premises must comply with Council's Liquid Trade Waste Policy at all times.

**87. Mechanical Exhaust**

The mechanical exhaust system shall be installed in accordance with AS1668 and be operated in such a way to minimise/prevent the creation of odours, fumes and excessive noise which may adversely affect the amenity, or interfere unreasonably with the comfort or repose of occupants of the building and adjoining premises.

**88. Development within boundaries**

The applicant shall ensure the development is wholly within the registered boundaries of the site.

**89. Police – CCTV storage**

The applicant shall retain the CCTV recordings for a minimum of 28 days before being re-used, destroyed or deleted. Time and date shall be shown on the recordings. Recordings must be handed to Council, Police or Special Inspectors upon request. Recordings must include the premise's CCTV software.

**90. Police – CCTV**

The applicant shall provide video equipment that is of a high-grade digital quality so as to facilitate identification and adjudication of patrons, offenders and incidents occurring with the subject premises.

**91. Police – CCTV Maintenance**

The applicant shall undertake daily inspections of the CCTV recording devices and cameras to ensure the equipment is operating correctly. The owner / licensee shall record this daily checking activity in the premises incident register or book that meets the standards required by Council and / or Police.

**92. Police – CCTV operation**

The applicant shall operate the CCTV recording devices and cameras 24 hours per day 7 days per week plus one hour after closure of the premises.

**93. Retaining wall management**

At all times the person acting with this consent shall ensure that the retaining wall adjacent to the service lane is maintained accordance with the engineering advice submitted with this consent. Where any signs of retaining wall failure are observed, the person acting with this consent should undertake further engineering investigation of the wall stability to ensure compliance with their Occupational Health and Safety obligations to patrons and staff using the site.

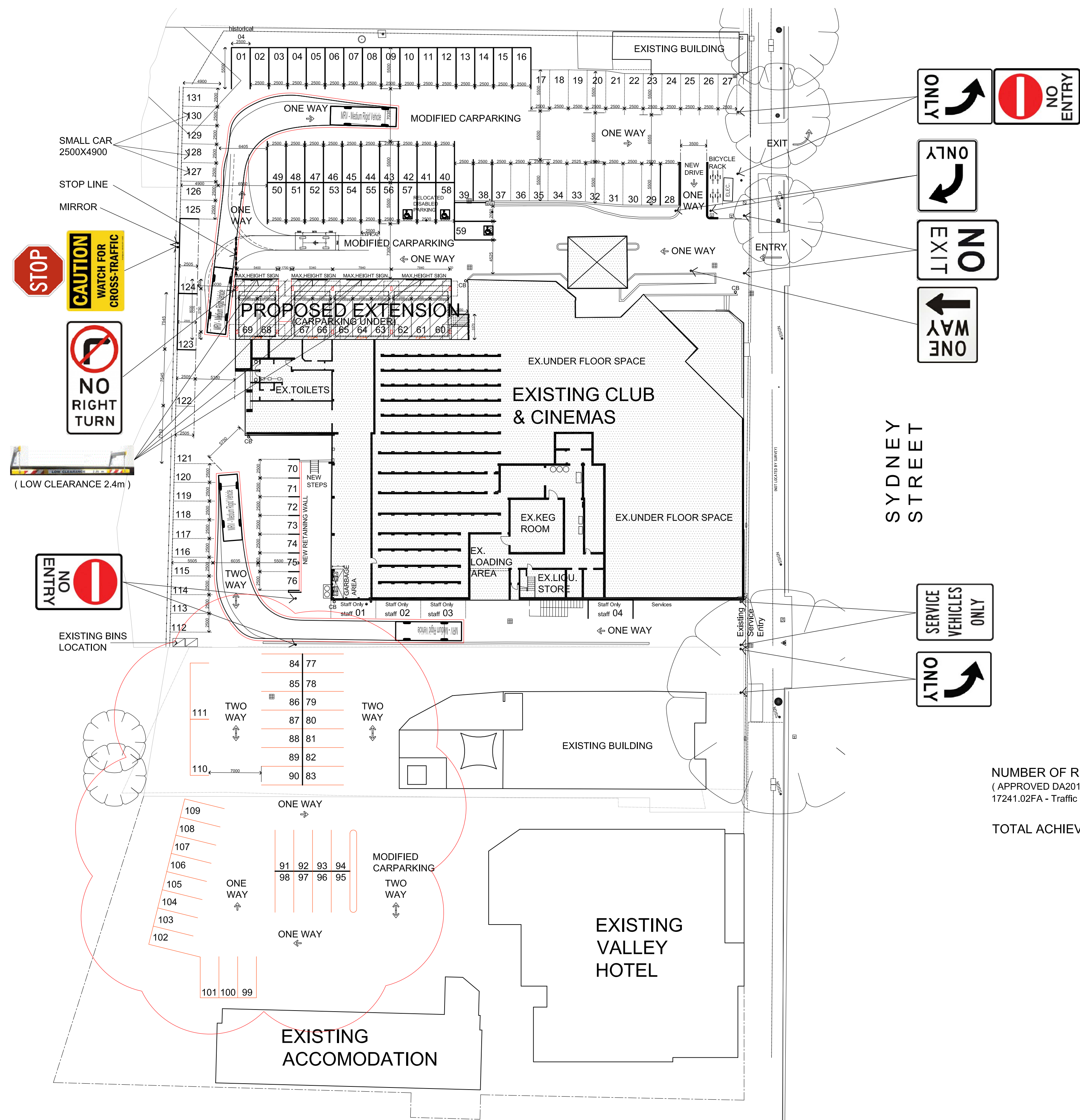
<b>GENERAL TERMS OF APPROVAL PURSUANT TO SECTION 91A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)</b>
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**DPI - Water**



Plans, standards and guidelines	
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to 18/2017 and provided by Council:</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.</p>
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>
3	<p>The consent holder must prepare or commission the preparation of:</p> <ul style="list-style-type: none"> <li>(i) Vegetation Management Plan</li> <li>(ii) Works Schedule</li> <li>(iii) Erosion and Sediment Control Plan</li> <li>(iv) Amendments to Vegetation Management Plan– Increased planting densities for fully structured vegetation.</li> </ul>
4	<p>All plans must be prepared by a suitably qualified person and submitted to the DPI Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at <a href="http://www.water.nsw.gov.au/Water-Licensing/Approvals">www.water.nsw.gov.au/Water-Licensing/Approvals</a>.</p> <ul style="list-style-type: none"> <li>(i) Vegetation Management Plans</li> <li>(ii) Laying pipes and cables in watercourses</li> <li>(iii) Riparian Corridors</li> <li>(iv) In-stream works</li> <li>(v) Outlet structures</li> <li>(vi) Watercourse crossings</li> </ul>
5	<p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.</p>
6	<p>The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the DPI Water.</p>
7	<p>The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to DPI Water as and when required.</p>

8	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.
9	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.
10	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.
11	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
12	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.
13	The consent holder must clearly mark (with stakes using a GPS or peg out survey), protect and maintain a riparian corridor measured horizontally landward from for the length of the site directly affected by the controlled activity in accordance with a plan approved by DPI Water.
14	The consent holder must establish a riparian corridor along Muscle Creek in accordance with a plan approved by DPI Water.

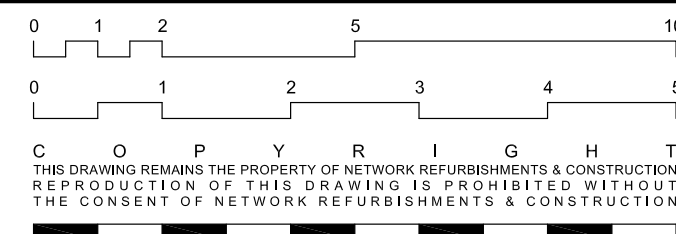


(CB) WALL MOUNTED CIGARETTE BIN HOLDS 600 BUTTS APPROX

NUMBER OF REQUIRED CARPARKING SPACES = 121  
(APPROVED DA2017-018 & TRAFFIC MANAGEMENT PLAN  
17241.02FA - Traffic Management Plan - 16 August 2017 )

TOTAL ACHIEVABLE SPACES = 131

Warning: "Derived Concept from Club Supplied Drawings"  
Dimensions Not Verified by NETWORK Site Measure.



REVISION	DATE	ADJUDICATION
01	26.04.22	CARPARK REPLAN
02	12.05.22	CARPARK ADJUSTMENTS
03	25.08.22	DA NUMBER CORRECTED

PROJECT: ALTERATIONS TO EXISTING CLUB  
DRAWING: SITE PLAN

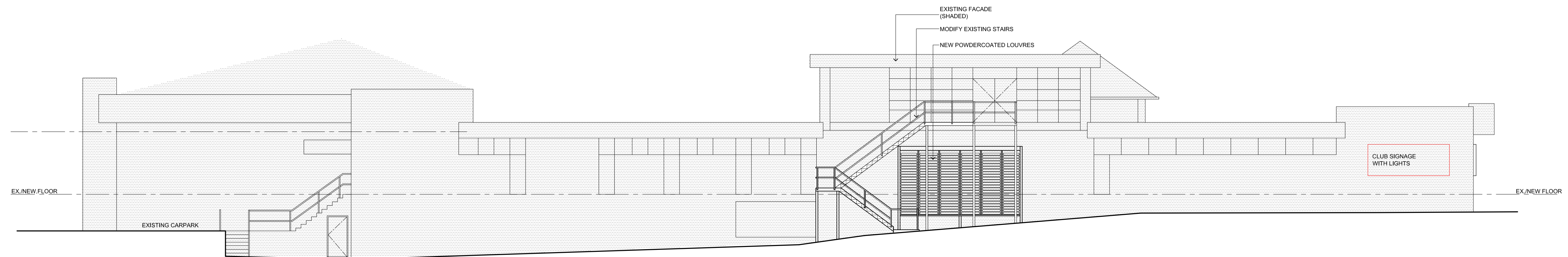
CLIENT: MUSWELLBROOK & DISTRICT *Workers CLUB*  
15 SYDNEY STREET MUSWELLBROOK NSW 2333

DATE: NOV 2016	DRAWN: JR	APPROVED: GPR	SCALE: 1:300@A1
PROJECT NO: MWC-01	PHASE: sk	DRAWING NO: 62	REVISION: 03

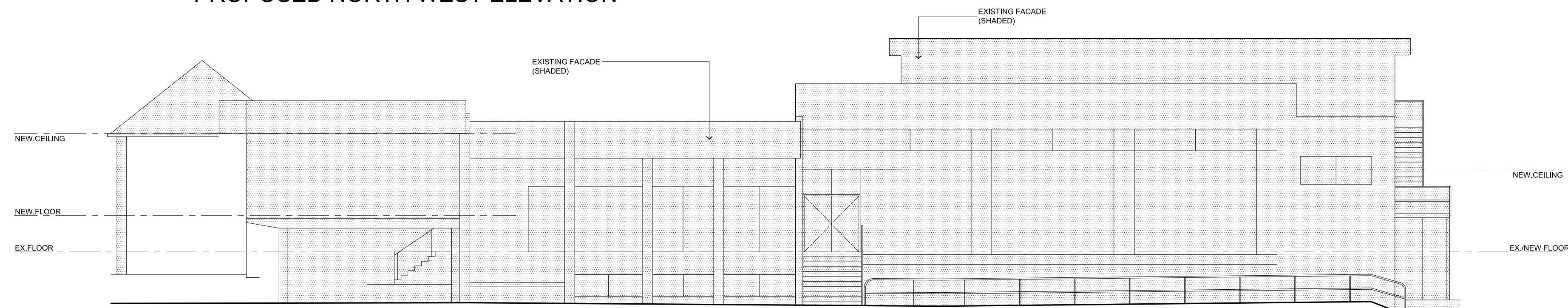
FOR DISCUSSION

**NETWORK REFURBISHMENTS & CONSTRUCTION**  
A DIVISION OF CHAIN & ASSOCIATES PTY LTD.  
ABN 89 065 437 ACN 065 524 437  
1/873 Victoria Rd, Ryde, 2112.  
Phone: (02)9858-5573  
Fax: (02)9807-7196  
E-mail: mc@networkinteriors.com.au

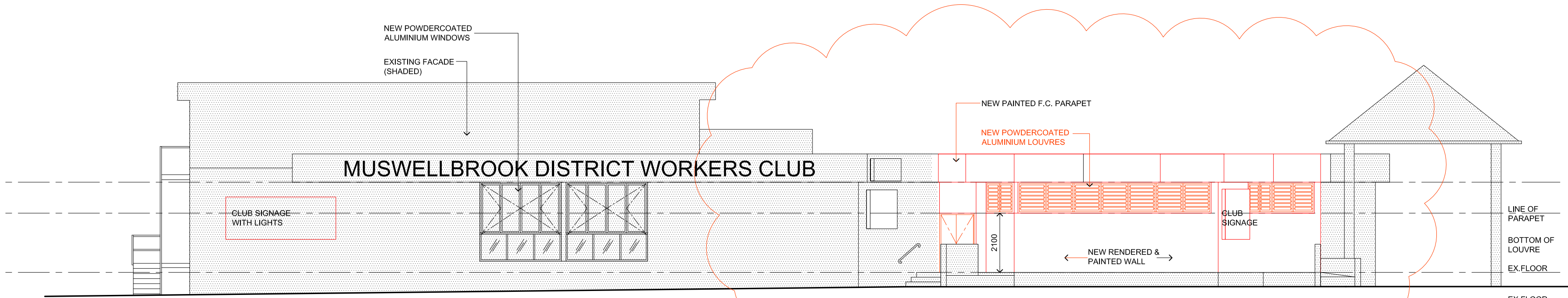




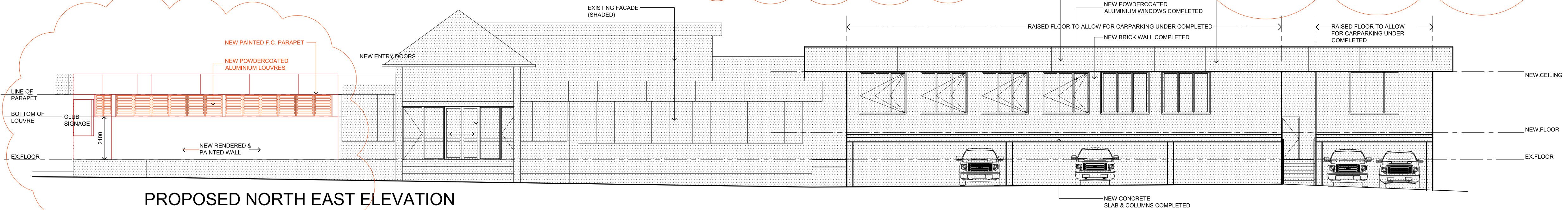
PROPOSED NORTH WEST ELEVATION



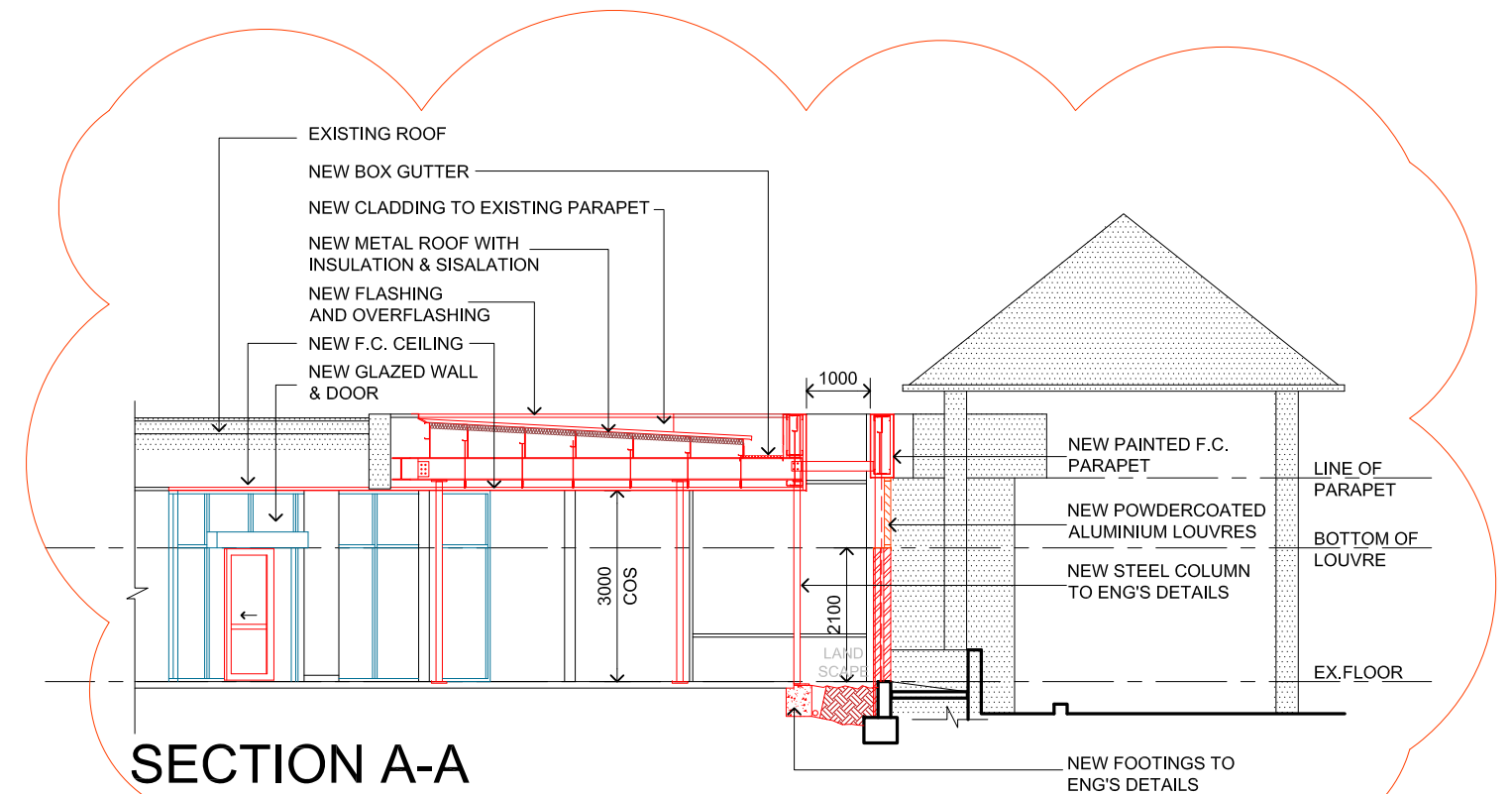
PROPOSED SOUTH WEST ELEVATION



PROPOSED SOUTH EAST ELEVATION  
(SYDNEY STREET ELEVATION)

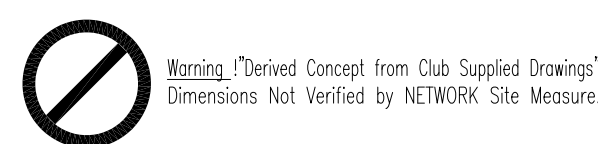


PROPOSED NORTH EAST ELEVATION  
(CARPARK ELEVATION)

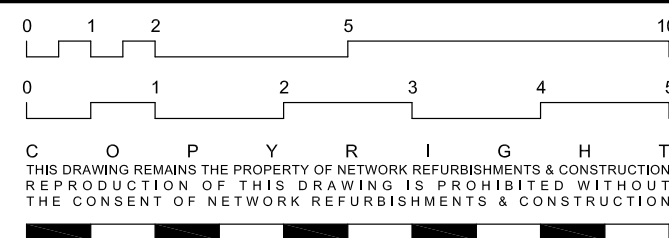


SECTION A-A

NO WORKS IN  
SHADED AREA



Warning: "Derived Concept from Club Supplied Drawings"  
Dimensions Not Verified by NETWORK Site Measure.



REVISION	DATE	ADJUDICATION
01	11.08.20	ISSUE FOR S.96
02	02.02.21	CONSTRUCTION CERTIFICATE ISSUE
03	28.04.22	REVISED ELEVATIONS
04	05.05.22	LOUVRE ADJUSTED - NEW OUTDOOR AREA - SYDNEY STREET
05	16.05.22	1M SILL TO GAMING AREA LOUVRES, GLASS TO OUTDOOR AREA
06	05.07.22	GAMING AREA LOUVRES ALTERED, CLERESTORY REMOVED

PROJECT: **ALTERATIONS TO EXISTING CLUB**

DRAWING: **PROPOSED ELEVATIONS STAGE 2A WORKS**

CLIENT: **MUSWELLBROOK & DISTRICT Workers CLUB**

15 SYDNEY STREET MUSWELLBROOK NSW 2333

DATE: NOV 2016	DRAWN: J.R.	APPROVED: G.P.R.	SCALE: 1:100@A1
PROJECT No: MWC-01	PHASE: -	DRAWING No: 61	REVISION: 06

FOR DISCUSSION

**NETWORK REFURBISHMENTS & CONSTRUCTION**  
A DIVISION OF CHAIN & ASSOCIATES PTY LTD.  
ABN 89 065 437 ACN 065 524 437  
1/873 Victoria Rd, Ryde, 2112.  
Phone: (02)9807-5573  
Fax: (02)9807-7196  
E-mail: mc@networkinteriors.com.au









29 May 2023

Reference: 230020.02FA

Muswellbrook Workers Club  
15 Sydney Street,  
Muswellbrook NSW 2333  
Attention: Joe Riitano

**SUPPLEMENTARY PARKING ADVICE FOR THE  
PROPOSED ALTERATIONS AND ADDITIONS TO LICENSED PREMISES  
AT 15 SYDNEY STREET, MUSWELLBROOK**

Dear Joe,

Reference is made to your request to provide supplementary parking advice for the proposed Alterations and Additions to Licensed Premises at 15 Sydney Street, Muswellbrook, with proposed plans depicted in **Annexure A** for reference. This letter is in response to Muswellbrook Shire Council's comments within an email dated 30 November 2022 for DA 2017-18 (PAN: 246121, Doc. 1452382). The comments made by Council relevant to traffic and parking are shown in the following sections (italicised) with *M<sup>C</sup>Laren Traffic Engineering's* (MTE) response thereafter.

**1 Use of Existing Car Parks**

As advised by the applicant, who owns the land in which the Valley Hotel and Motel is located, the Valley Hotel is not presently operating. The motel operation continues to operate with a total of 17 rooms. Based on the requirements provided in the Muswellbrook Development Control Plan, the operation requires 19 car spaces. MTE has provided a concept plan (**Annexure B**) detailing 19 car parking spaces in addition to the 131 parking spaces provided for the Workers Club. As such there are a total of 150 car spaces provided, which meets the needs of the operations on-site.

**2 Creek Embankment**

Geotechnical advice has been provided separately in the Geotechnical Investigation Report by CEC Geotechnical to address the issues raised with the creek embankment.

**3 Car Park Levels**

The car parking layout as depicted in **Annexure A**, has been assessed to achieve the relevant clauses and objectives of AS2890.1:2004 (and AS2890.2:2018 where applicable). A topographical survey was undertaken by the applicant to inform this assessment and is provided in **Annexure C** for reference. The proposed vehicular access design achieves the following:

- Approximate 5.5m wide one-way 'entry' driveway facilitating access from Sydney Street;
- Approximate 6.0m wide one-way 'exit' driveway facilitating access to Sydney Street;

- Compliant transition grades between lots not exceeding 25% for private developments and no grade change greater than 12.5%, with the maximum proposed grade being 11.25%.

It is noted that based on an assessment of the existing levels, no significant ramping works will be necessary within the car park and the parking layout proposed will not be affected.

#### **4 Car Parking Design**

The car parking layout as depicted in **Annexure A**, has been assessed to achieve the relevant clauses and objectives of AS2890.1:2004 (and AS2890.2:2018 where applicable).

Swept path testing has been undertaken and the results are reproduced within **Annexure D** for reference. The proposed car parking and vehicular access design achieves the following:

- Minimum 5.4m long, 2.5m wide car parking spaces;
- Minimum 5.8m wide parking aisles;
- Compliant transition grades between lots not exceeding 25% for private developments and no grade change greater than 12.5%, with the maximum proposed grade being 11.25%.

#### **5 Swept Path Testing**

The car parking layout as depicted in **Annexure A**, has been assessed to achieve the relevant clauses and objectives of AS2890.1:2004 (and AS2890.2:2018 where applicable). Swept path testing has been undertaken and the results are reproduced within **Annexure D** for reference.

Furthermore, commercial (heavy vehicle) access – for vehicles greater than B99 – is limited to the current Muswellbrook Workers Club site. No heavy vehicles will be required to access the new car parking areas and no swept path testing for services vehicles has been undertaken in these areas.

#### **6 AS2890.1 Compliance**

All proposed car parking arrangements have been designed to meet the requirements of AS2890.1:2004.

#### **7 Pavement Material**

The car park will be paved with asphalt to match the already constructed car parking areas.

#### **8 Retaining Wall Works**

Civil engineering advice has been provided separately by Thitchener Consulting to address the issues raised with regards to the retaining wall.

#### **9 Stormwater Management Plan**

Stormwater advice has been provided separately by Global Consulting Engineers.

#### **10 Amalgamation of Lots**

It is understood that the lots will be amalgamated as required to enable legal access to all areas of the car park by Muswellbrook Workers Club staff and visitors.

#### **11 Restriction of Existing Street Entry**

The closure of this existing driveway would remove the existing primary entrance serving the motel development and remove the emergency vehicle access to the neighbouring site.

The proposal is unlikely to noticeably change the volume of traffic using the driveway and, as a review of recent (5-year) crash data at the intersection indicates that there is no existing safety issue at the intersection, there is no reason for the driveway to be closed.



Please contact the undersigned on 9521 7199 should you require further information or assistance.

Yours faithfully,

**McLaren Traffic Engineering**

A handwritten signature in black ink, appearing to read 'Tom Steal', with a long, sweeping underline.

**Tom Steal**

**Senior Traffic Engineer**

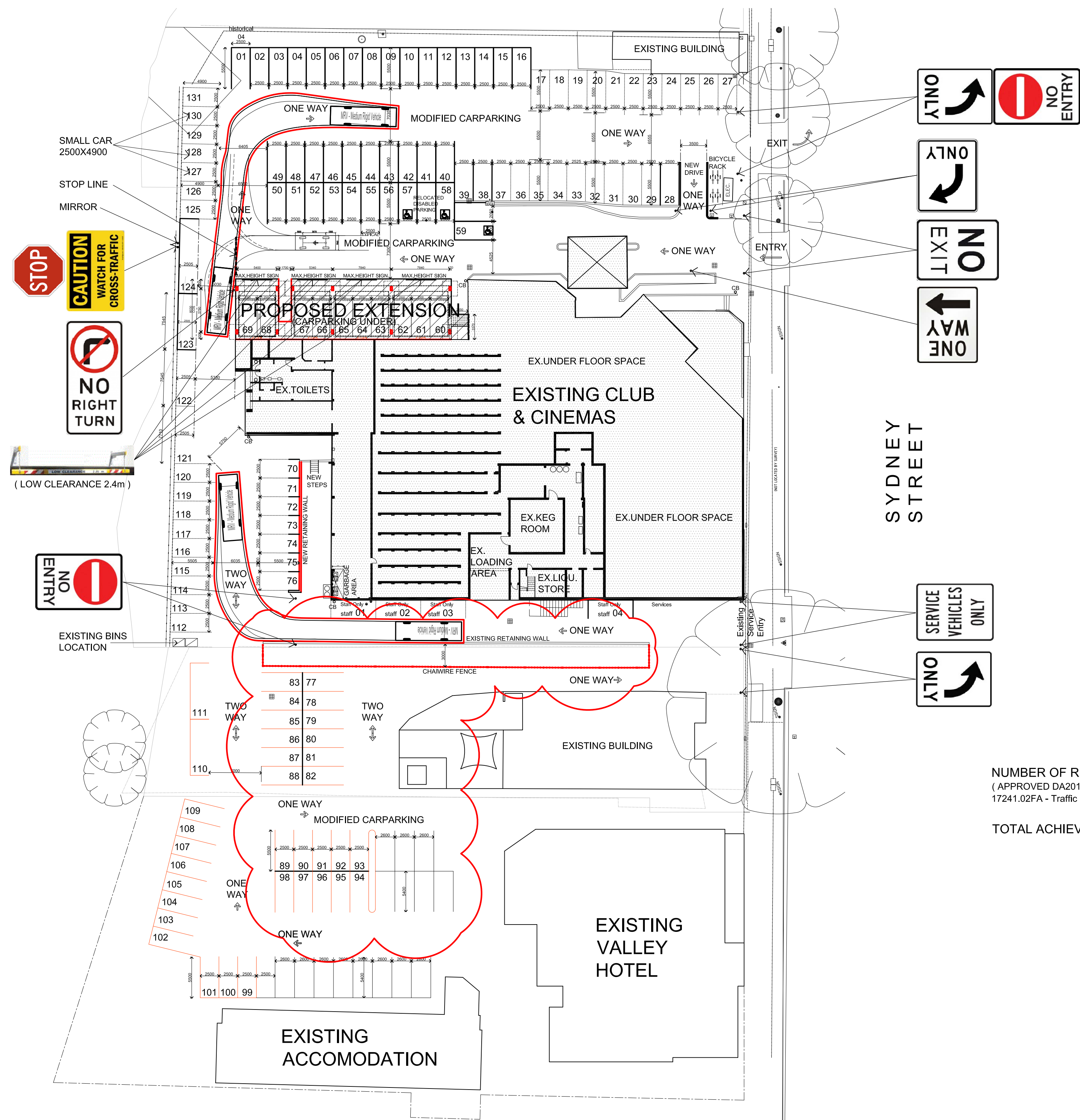
BE Civil AMAITPM MIEAust

TfNSW Accredited Level 2 Road Safety Auditor





**ANNEXURE A: PROPOSED PLANS  
(1 SHEET)**

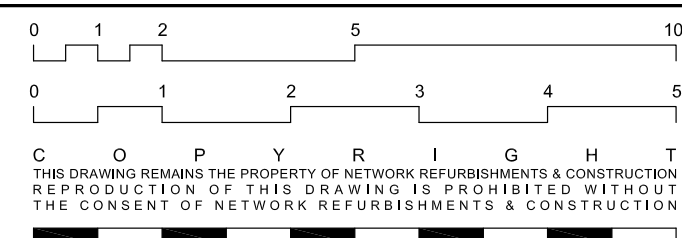


(CB) WALL MOUNTED CIGARETTE BIN HOLDS 600 BUTTS APPROX

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(APPROVED DA2017-018 & TRAFFIC MANAGEMENT PLAN  
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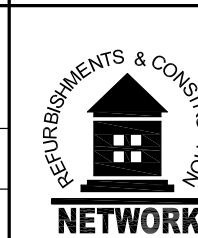
REVISION	DATE	ADJOURNMENT
01	26.04.22	CARPARK REPLAN
02	12.05.22	CARPARK ADJUSTMENTS
03	25.08.22	DA NUMBER CORRECTED
04	18.04.23	ADJUSTED CARPARK LAYOUT. CHAINWIRE FENCE ADDED
05	16.05.23	DIMENSIONS & ACCOMODATION PARKING INDICATED

PROJECT: ALTERATIONS TO EXISTING CLUB  
DRAWING: SITE PLAN

CLIENT: MUSWELLBROOK & DISTRICT *Workers CLUB*  
15 SYDNEY STREET MUSWELLBROOK NSW 2333

DATE: NOV 2016	DRAWN: JR	APPROVED: GPR	SCALE: 1:300@A1
PROJECT NO: MWC-01	PHASE: sk	DRAWING NO: 62	REVISION: 05

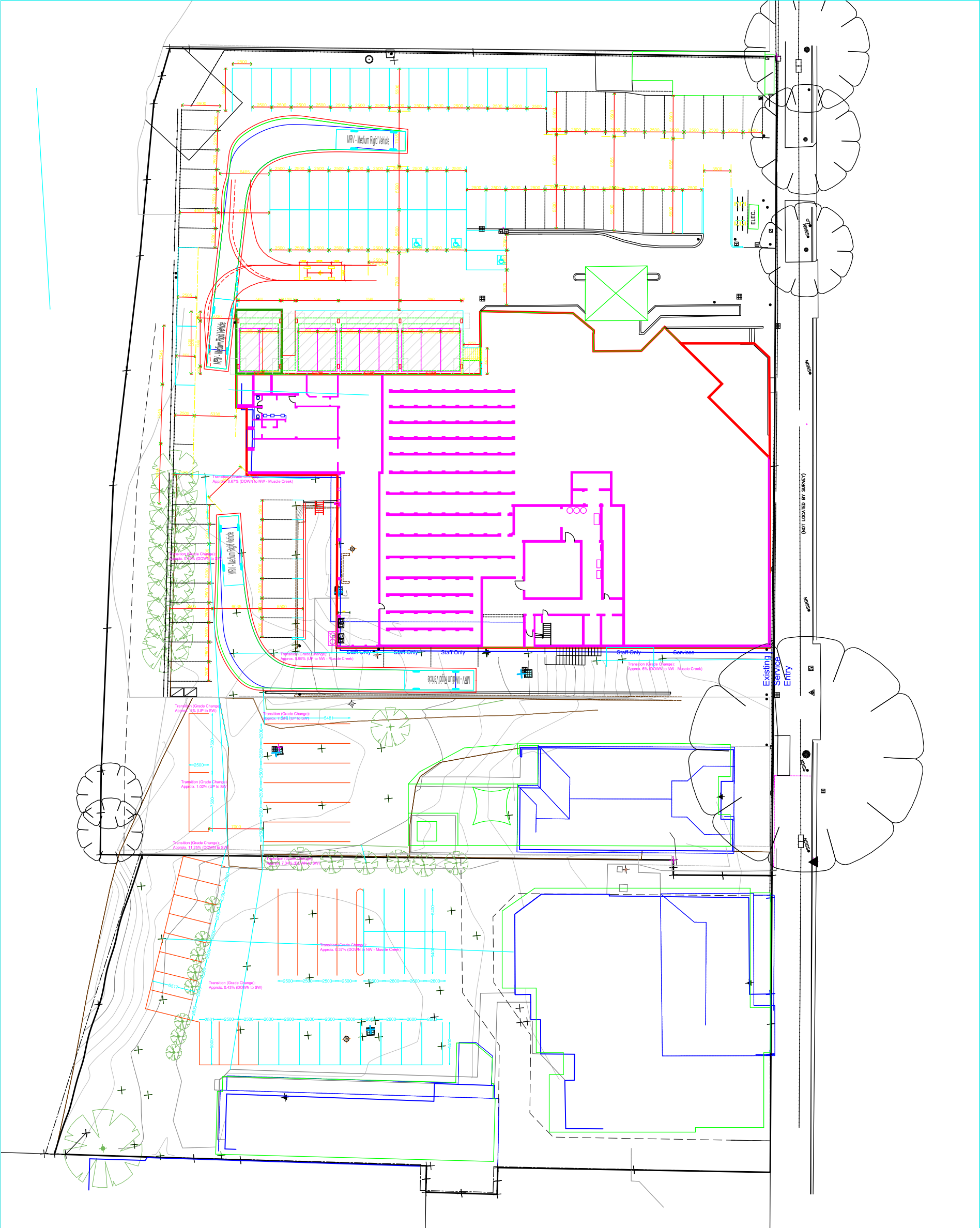
FOR DISCUSSION



**NETWORK REFURBISHMENTS & CONSTRUCTION**  
A DIVISION OF CHAIN & ASSOCIATES PTY LTD.  
ABN 89 065 437 ACN 065 524 437  
1/873 Victoria Rd, Ryde, 2112.  
Phone: (02)9859-5573  
Fax: (02)9807-7196  
E-mail: mc@networkinteriors.com.au



**ANNEXURE B: MTE CONCEPT PLAN  
(1 SHEET)**



MCLAREN TRAFFIC ENGINEERING  
A division of RAMTRANS Australia Pty. Ltd.  
Shop 7, 716-720 Old Princes Hwy, Sutherland NSW 2232  
Email: admin@mclarenttraffic.com.au  
Phone : (02) 9521 7199  
www.mclarenttraffic.com.au

**CLIENT / Project:**  
Muswellbrook Workers Club

**Project Address:**  
15 Sydney St, Muswellbrook NSW 2333

**Project No:** 2023/0020

**Dwg Name:** MTE Concept Plan

**Dwg No:** 2023-0020-01A

Revision	Date	Details
A	05/05/2023	Supp. Parking Advice and Compliance
B	12/5/23	Dims added
C	16/5/23	Adjusted per engineer's advice

**Notes:**  
CONCEPT PLAN ONLY.  
NOT FOR CONSTRUCTION.

**Tested Using:**  
\*Autodesk Vehicle Tracking 2018  
\*AutoCAD Version 2018



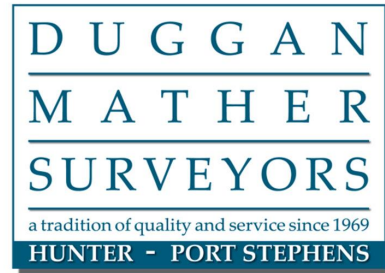




**ANNEXURE C: SITE SURVEY  
(1 SHEET)**

*Our Ref* 2023057 RepAcc-1 2023 03 28

28 March 2023



**The Manager  
Muswellbrook and District Workers Club**

Attention: **Mr Paul Cooper**

Email: [ceo@muswellbrookworkers.com.au](mailto:ceo@muswellbrookworkers.com.au)

Dear Zoe

Re: **Topographical / Detail Survey – Part Lot 61 DP733294 & Part Lot 100 DP12823077  
No's 15,29 & 33 Sydney Street, Muswellbrook.  
Being Land in Folio Identifiers 61/733294 & 100/12823077**

As instructed by you we have carried out a detail survey of the above-mentioned property and prepared a plan in PDF and DWG format for your information.

Please find attached the following:

- Copy of plan prepared – Drawing No. **20230577 TS1.dwg** dated **16/03/2023**
- Our account for work carried out to-date

The levels for the survey are on Australian Height Datum (AHD) and contours have been interpolated using spot levels.

Should you require any further information or clarification with the above, please do not hesitate to contact our office

Yours faithfully

**DUGGAN MATHER SURVEYORS**

**Daryl Duggan**  
Director

Port Stephens – U2/29 Shearwater Dr, Taylors Beach NSW 2316 P: 02 4919 0293  
Hunter - Ph 02 4919 0166  
[www.dmshunter.com.au](http://www.dmshunter.com.au) [dms@dmshunter.com.au](mailto:dms@dmshunter.com.au)  
Duggan Mather Surveyors is a division of Land Design Pty Ltd ACN 001 813 001 ABN 40 001 813 001

DUGGAN  
MATHER  
SURVEYORS

a tradition of quality and service since 1969

HUNTER - PORT STEPHENS

2/29 SHEARWATER DRIVE, TAYLORS BEACH  
Ph: (02) 49190293 Email:dms@dmshunter.com.au

LEGEND			
12.34	SURFACE LEVEL	S	SEWER MANHOLE
▲	BENCH MARK	S	SEWER INSPECTION POINT
FL 99.7	SURFACE FLOOR LEVEL	S	SEWER AIR VENT
●	ELECTRICITY POLE	S	SEWER PUMP WELL
L	LIGHT POLE	H	WATER HYDRANT
EP	ELECTRICITY PILLAR	SV	STOP VALVE
T	TELECOMMUNICATIONS PIT	W	WATER METER
T	TELECOMMUNICATIONS POST	W	WATER METER
T	TELECOMMUNICATIONS PIT (MAJOR)	W	WATER METER
G	GAS	W	WATER METER
12.34	INVERT	W	WATER METER
SIGN	SIGN	W	WATER METER

LINETYPE LEGEND:	
BOUNDARY LINE	---
OVERHEAD ELECTRICITY	---
UNDERGROUND ELECTRICITY	---
TELEPHONE CABLE	---
SEWER PIPE	---
WATER PIPE	---
GAS PIPE	---
STORMWATER PIPE	---
TOP OF BANK	---
OPEN DRAIN/TABLE DRAIN	---

- GENERAL NOTE:
1. TOPOGRAPHICAL & FEATURE DETAILS HAVE BEEN LOCATED BY APPROXIMATE SURVEY METHODS ONLY AND ARE SHOWN AS SUCH FOR CLARITY.
  2. THE TITLE BOUNDARIES AS SHOWN HEREON HAVE NOT BEEN MARKED BUT HAVE BEEN DETERMINED BY CALCULATIONS AND PLAN DIMENSIONS.
  3. IF FURTHER DEVELOPMENT IS CONTEMPLATED ON OR NEAR THE BOUNDARIES, THEN BOUNDARY DIMENSIONS SHOULD BE FULLY INVESTIGATED BY SURVEY & MARKS PLACED.
  4. TREE SYMBOL SIZES SHOWN ARE INDICATIVE ONLY & SHOULD NOT BE SCALED. ANY ADDITIONAL TREE MEASUREMENTS SHOWN ARE APPROXIMATE. TYPES ARE INDICATIVE ONLY AND HAVE NOT BEEN IDENTIFIED BY A QUALIFIED BOTANIST.
  5. SERVICES CAUTION
  6. SERVICES INDICATED HEREON HAVE BEEN LOCATED BY APPROXIMATE SURVEY METHODS ONLY & ARE SHOWN AS SUCH FOR CLARITY.
  7. UNDERGROUND SERVICES HAVE NOT BEEN LOCATED BY SURVEY. IF INDICATED ON THE PLAN, THEIR POSITION IS APPROXIMATE ONLY.
  8. VERIFICATION OF THE SERVICE LOCATION SHOULD BE SOUGHT WITH THE RELEVANT AUTHORITY.
  9. GENERAL CAUTION IS HEREBY GIVEN TO ANY PERSON EXCAVATING ON SITE. SERVICE ENQUIRIES TO DIAL BEFORE YOU DIG SHOULD BE UNDERTAKEN PRIOR TO SUCH EXCAVATION. NO LIABILITY TO DISRUPTION OR INTERFERENCE WITH ANY EXISTING SERVICES DUE TO THE ACTION OF OTHERS EXIST THROUGH THE MAKING OF THIS TOPOGRAPHICAL SURVEY.
  10. **CONTACT DIAL BEFORE YOU DIG.**

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SURVEY DATE	DATUM	SCALE
16/03/2023	AHD +/- 0.05	1:400 @ A3
REVISION DATE	DRAWN/CHKD BY	CONTOURS
-	SG / BH	0.2 m

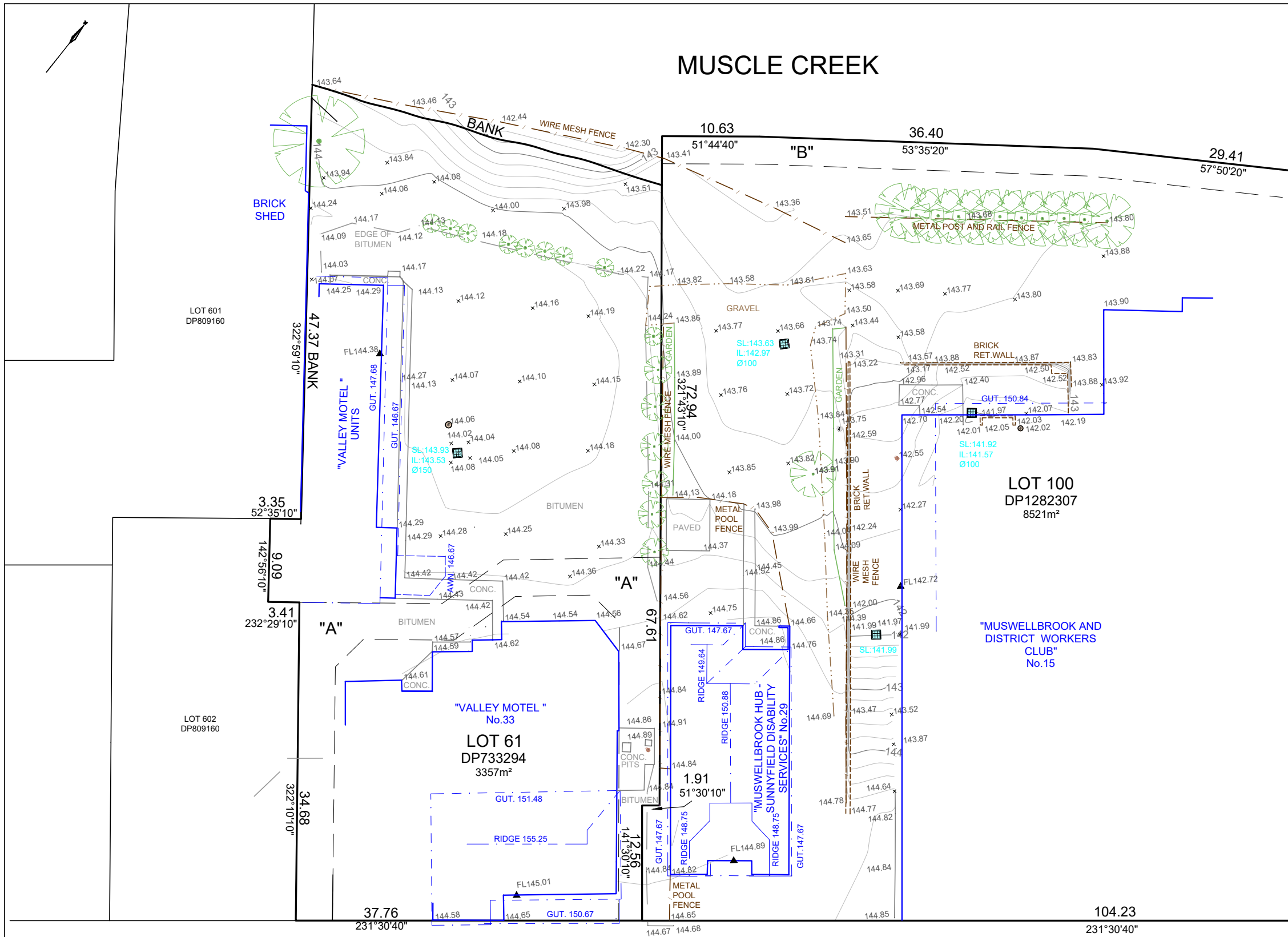
FILENAME: X:\Data\2023\2023057 Q23-058 TS Muswellbrook Workers Sydney S\DRAWINGS\2023057 TS1.dwg

AMENDMENTS:

PAGE: 1 OF 1

2023057 TS1

THIS DRAWING: TOPOGRAPHICAL SURVEY



"A" RIGHT OF CARRIAGEWAY 4 WIDE AND VARIABLE (DP645569)  
"B" EASEMENT FOR ACCESS 3 WIDE (DP128307)

**SYDNEY STREET**

▲ BENCHMARK  
DRILL HOLE AND  
WING IN KERB  
RL144.45

1:400

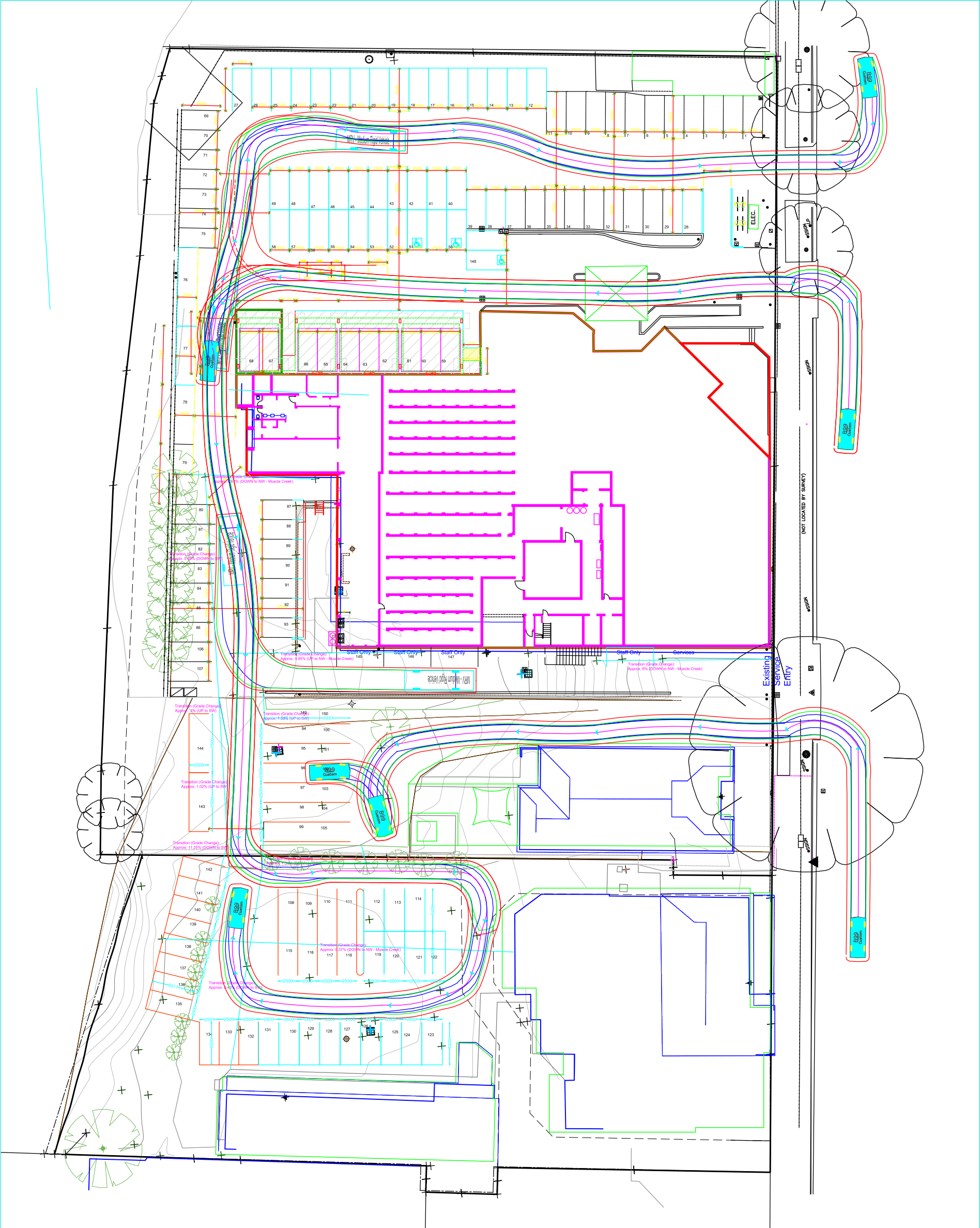
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CLIENT:	MUSWELLBROOK WORKERS CLUB	SITE ADDRESS:	15, 29, 31 & 33 SYDNEY STREET, MUSWELLBROOK
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**ANNEXURE D: SWEPT PATH PLANS  
(2 SHEETS)**





MCLAREN TRAFFIC ENGINEERING  
A division of RAMTRANS Australia Pty. Ltd.  
Shop 7, 716-720 Old Princes Hwy, Sutherland NSW 2232  
Email: admin@mclarentraffic.com.au  
Phone : (02) 9521 7199  
www.mclarentraffic.com.au

**CLIENT / Project:**  
Muswellbrook Workers Club

**Project Address:**  
15 Sydney St, Muswellbrook NSW 2333

**Project No:** 2023/0020

**Dwg Name:** B99 Swept Paths

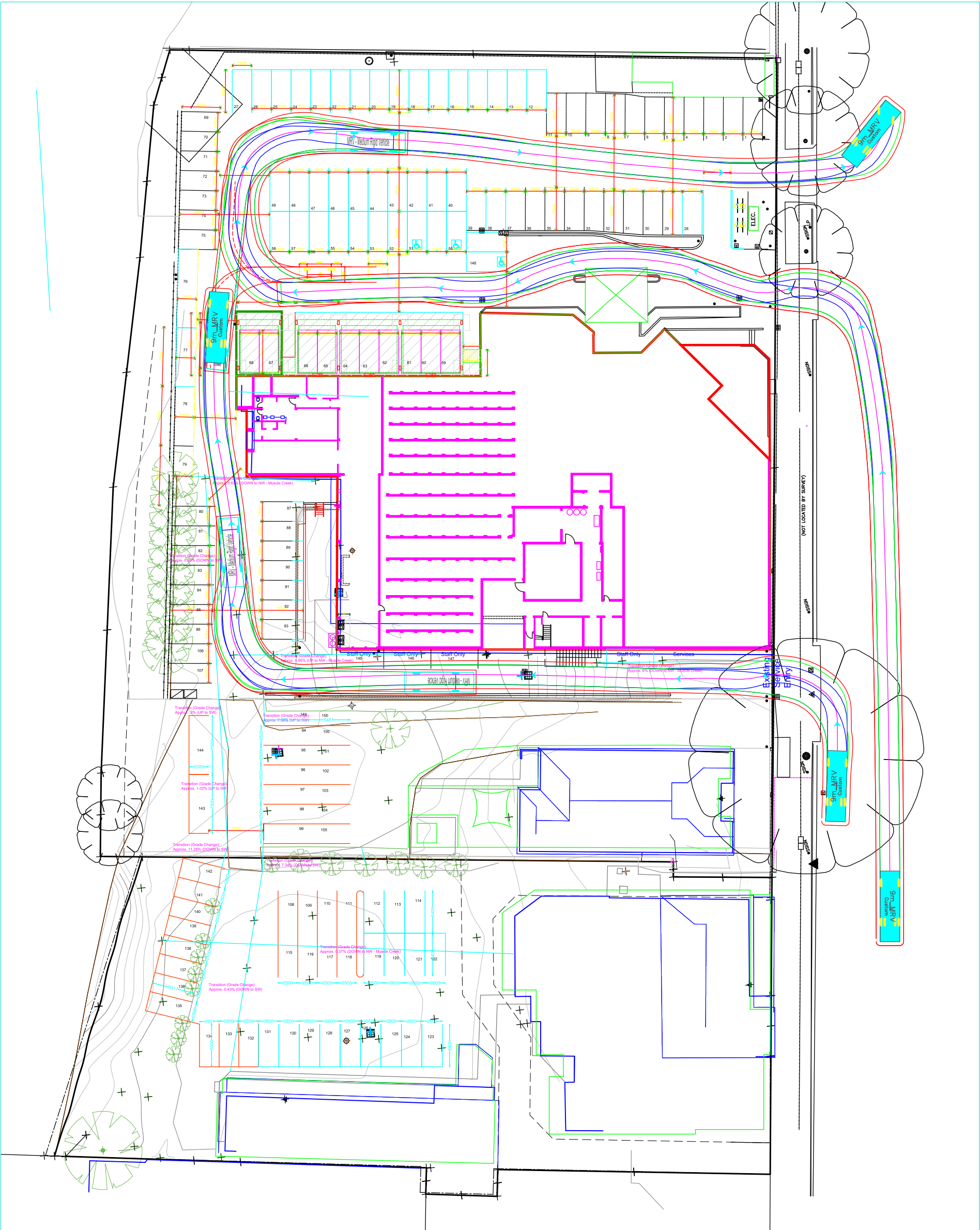
**Dwg No:** 2023-0020-02A

Revision	Date	Details
A	05/05/2023	Supp. Parking Advice and Compliance

**Notes:**  
CONCEPT PLAN ONLY.  
NOT FOR CONSTRUCTION.

**Tested Using:**  
\*Autodesk Vehicle Tracking 2018  
\*AutoCAD Version 2018





MCLAREN TRAFFIC ENGINEERING  
A division of RAMTRANS Australia Pty. Ltd.  
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Email: admin@mclarenttraffic.com.au  
Phone : (02) 9521 7199  
www.mclarenttraffic.com.au

**CLIENT / Project:**  
Muswellbrook Workers Club

**Project Address:**  
15 Sydney St, Muswellbrook NSW 2333

**Project No:** 2023/0020

**Dwg Name:** MRV Swept Paths

**Dwg No:** 2023-0020-03A

Revision	Date	Details
A	05/05/2023	Supp. Parking Advice and Compliance

**Notes:**  
CONCEPT PLAN ONLY.  
NOT FOR CONSTRUCTION.

**Tested Using:**  
\*Autodesk Vehicle Tracking 2018  
\*AutoCAD Version 2018



# GEOTECHNICAL INVESTIGATION REPORT

Client – The Network Group  
Project Title – Muswellbrook Workers Club  
Project Type – Proposed Duplex with Basement  
Project No. – GR23057  
Date Issued – 5/04/2023  
Description of Services – Geotechnical Investigation Report for Car Park Slope

## Table of Contents

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Appendix A: Site Plan

Appendix B: Bore Hole Logs and DCP Test Results

Appendix C: Laboratory Test Results

Appendix D: Site Classification General Information  
(CSIRO Document – BTF18)

## 1. Introduction

CEC Pty Ltd (CEC Geotechnical) carried out a geotechnical investigation for the proposed carpark at Muswellbrook Workers Club. This report provides the geotechnical investigation on the existing ground conditions and includes:

- Geotechnical recommendations and design parameters for foundations, retaining walls and site excavations
- Detailed logs of the boreholes and groundwater observations.
- Excavation conditions
- Hydrogeological considerations

The geotechnical site investigation was carried out on 17/03/2023 and included the drilling of two boreholes by a Drilling Machine in conjunction with Dynamic Cone Penetration (DCP) testing as shown in Appendix A. The DCP testing was carried out in accordance with Australian Standards AS 1289, 'Methods of Testing Soil for Engineering Purposes'. The soil encountered during drilling was classified according to Australian Standards AS 1726-2017.

This report is based only on the information provided prior to preparation of this report and may not be valid if the site conditions changed and/or after earthworks are undertaken.

## 2. Information Received

- Proposed Drawing By Network Refurbishment and Construction Pty Ltd Architects, Project No. – MWC-01, issued November 2016

## 3. Site Description

Muswellbrook Workers Club is located at 15 Sydney St, Muswellbrook NSW. The proposed carpark is at the northwest corner of the site adjacent Muscle Creek. The slope between the carpark and the creek is the subject of this study.



#### 4. Proposed Development

The proposed works includes construction of a carpark.

#### 5. Methods of Investigation

##### 5.1 Desktop Assessment

Geological maps from the Geological Survey of New South Wales (NSW), aerial photography and our local experience were used to assess the anticipated site conditions and the area's geology. The 1:25,000 scale Geological Series Sheet 9033-II-N 1983 of the Muswellbrook Region indicates that the subject site is underlain by Quaternary aged deposits (**Qha**) including stream sediment sands.



Figure 1 - 1:25,000 scale Geological Series Map of the Muswellbrook Region

##### 5.2 Fieldwork

The fieldwork comprised the drilling of 3 boreholes (BH01 and BH03) to a maximum depth of 9.0m by a 4x4 drill rig with 100 mm diameter solid flight auger. The subsurface materials were classified in accordance with AS 1726-2017: Geotechnical Site Investigations.

In-situ testing consisted of DCP testing within the boreholes to assess the density/consistency of in-situ soils. The Borehole Log, DCP test results and field observations are presented in Appendix B.

##### 5.3 Soil Profiles

The results of the investigation indicate that the subsurface profile comprises poorly graded sand underlain by sandstone bedrock. Based on the borehole information, a geotechnical model with a summary of subsurface conditions is presented below

**Table 1: Subsurface Conditions**

Unit	Description	BH01 (m)*	BH02 (m)*	BH03 (m)*
<b>Unit – 1: Asphalt</b>	Sub Base Coarse Asphalt	0.0 – 0.1	0.0 – 0.1	0.0 – 0.1
<b>Unit – 2: Controlled FILL</b>	Fill sandy CLAY (CL): soft, low plasticity, brown, fine-grained sand, with medium sized gravel,	0.1 – 1.3	0.1 – 1.5	0.1 – 1.5
<b>Unit – 3: Controlled FILL</b>	Fill sandy CLAY (CL): soft, low plasticity, brown, fine-grained sand, with medium sized gravel,	1.3 – 3.0	1.5 – 3.0	1.5 – 3.0
<b>Unit – 4: Controlled FILL</b>	Fill sandy CLAY (CL): dense to very dense, low plasticity, brown, medium grained, with medium sized gravel, moist	3.0 – 9.0	3.0 – 9.0	3.0 – 9.0

\*Depths below ground level (BGL).

For a detailed description of the subsurface conditions encountered at the borehole locations, refer to the Borehole Logs in Appendix B.

One soil sample was tested by a NATA accredited Aargus Pty Ltd. Laboratory in Tuggerah. This included index properties to assess the California Bearing Ratio Test (CBR). The laboratory test results are summarised in Table 2.

**Table 2: Summary of CBR Test Results**

Borehole No	Depth (m)	Soil Type	CBR (%)	CBR Swell (%)
<b>BH01</b>	0.5	Sandy Silty CLAY	14.0	0.5

- The test certificates are presented in Appendix C.

#### 5.4 Groundwater

It should be noted that groundwater levels may be associated with surface water infiltration through soils and may be subject to seasonal and daily fluctuations influenced by factors such as heavy rainfall, broken services and future development of the surrounding land. Soil moisture within the site may be influenced by events within the adjacent infrastructure such as breakage of water mains, or stormwater pipes.

## 6. Discussion and Recommendations

### 6.1 Car Park Pavement

A design CBR of 8 shall be used for the pavement design of the carpark.

### 6.2 Slope Stability

The proposed carparks are located at the crest of the slope adjacent Muscle Creek as shown on Figure 2. Based on the site information a slope stability model was carried out using a limit equilibrium method.

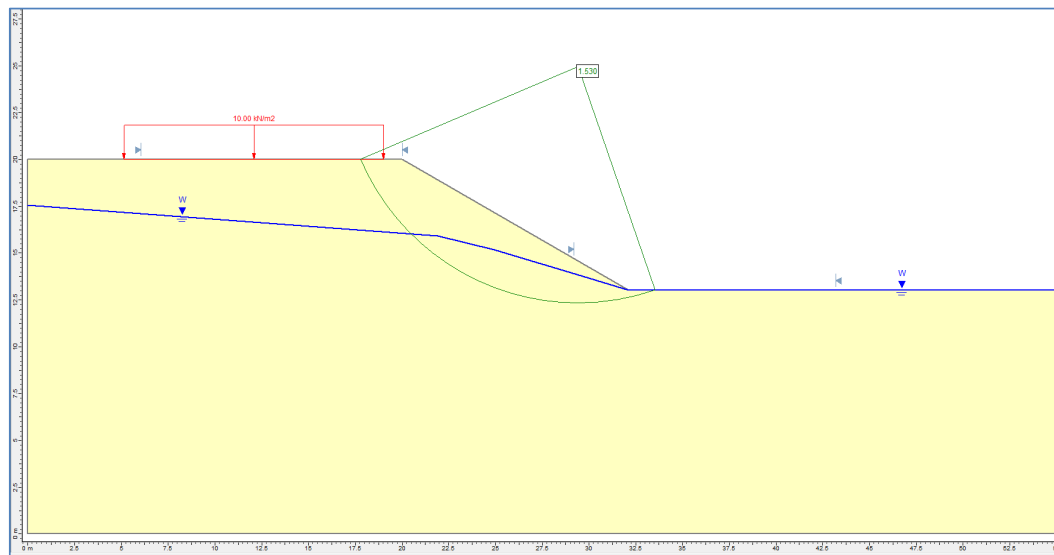
The material properties are presented in Table 2. The material characteristics are evaluated using the DCP test results and type of the materials encountered during the drilling.



Figure 2 – Plan of Proposed Work and Slope Stability Site

The result of slope stability analysis is presented on Figure 3. Based on the analysis the calculated factor of safety is 1.53 which is satisfactory for the proposed carpark.





**Figure 3 – Slope Stability results – FoS=1.53**

### 6.3 Preliminary Site Earthquake Classification

In accordance with Australian Standard AS 1170.4-2007 (Reference 2) the site may be classified as a “Shallow Soil Site” (Class Ce) for the design of foundations and retaining walls embedded in the underlying soils and weathered Sandstone. Seismic Factor (Z) for Sydney in accordance with AS 1170.4-2007 is 0.08.

### 6.4 Exposure Classification for Structures – Soil Salinity & Aggressivity Assessment

Soil samples collected from the boreholes were tested by Eurofins, a NATA accredited laboratory for Soil Salinity and Aggressivity testing (pH, Chloride  $\text{Cl}^-$ , Sulphates  $\text{SO}_4$ , electrical conductivity and moisture content).

The soil encountered is Silty Clay and was tested as stipulated in the Department of Natural Resources (DNR) publication “Site Investigations for Urban Salinity” (2002).

Results of the laboratory testing are attached to this report in Appendix C and summarized in Tables 4 and 5.

**Table 4. Results of Electrical Conductivity Test (Salinity)**

Borehole	Depth (m bgl)	Electrical Conductivity (dS/m)	Multiplication Factor <sup>a</sup>	Electrical Conductivity of Saturated Extract (dS/m) $\text{EC}_e$	Soil Type
BH01	1.5	0.25	9	2.25	Clay Loam
BH02	1.5	0.26	9	2.34	Clay Loam
“Site Investigations for Urban Salinity” (2002)				Saline at >4 dS/m Non-saline <2 dS/m Slightly saline 2-4 dS/m Moderately saline 4-8 dS/m Very saline 8-16 dS/m Highly saline >16 dS/m	

The resultant electrical conductivity of saturated extracts (ECe) from the samples tested approximately 0.0153 ds/m, indicating the samples of residual deposit soil tested which is to be “**Slightly-Saline**”.

**Table 5. Soil pH, Chloride, Sulphate and Electrical Resistivity Test Results (AS 2159-2009)**

Borehole	Depth (m bgl)	MC* (%)	pH	Chloride (mg/kg)	Sulphate as SO <sub>4</sub> (mg/kg)	Electrical Resistivity (ohm.cm)
BH01	1.5	3.0	6.8	<10	460	4,000
BH02	1.5	2.3	7.4	<10	340	3,800

\*MC = Moisture Content

Note: Electrical Resistivity converted from Electrical Conductivity

Results for aggressivity testing in low permeability soil indicated the following classification:

- pH – “**Non-aggressive**” for Steel piles and “**Non-aggressive**” for Reinforced Concrete Piles
- Chloride, Sulphate and Electrical resistivity is “**mild**” for Steel Piles and Reinforced Concrete Piles.

## 7. Excavation Conditions and Vibration Control

Excavations for the proposed basement should mostly encounter residual clay/silty clay. Removal of materials should be carried out using conventional earthmoving equipment, such as a hydraulic excavator or backhoe. If rock hammers are to be used, such works will need to be completed carefully as there may be direct transmission of ground vibration to existing structures. We recommend that a geotechnical engineer be present at the be required to carry out quantitative vibration monitoring to confirm that vibrations are 1 should not exceed the maximum Peak Particle Velocity (PPV) values provided in Table 6 below.

**Table 6: Recommended Maximum PPV**

Type of Building or Structure	Maximum PPV (mm/sec)
Historical buildings or structures in sensitive conditions	2
Residential and low-rise buildings	5
Brick or unreinforced structures in good condition	10
Commercial and industrial buildings or structures of reinforced concrete or steel construction	25

It is recommended that monitoring is carried out during demolition and excavation using a vibration monitoring instrument (Vibra) and alarm levels (being the appropriate PPV) selected in accordance with the type of structures present within the zone of influence of the proposed excavation.

If vibrations in adjacent structures exceed the above values or appear excessive during construction, excavations should cease, and the project Geotechnical Engineer should be contacted immediately for appropriate reviews.

## 8. General Recommendations

CEC Geotechnical should be engaged at the following stages:

- If soil conditions encountered differ significantly from those described within this report.
- If it is recommended that a detailed investigation with deeper boreholes be carried out for design optimisation.
- If the proposed development is altered significantly from what has been assessed and described within this report.
- To confirm safe batter angles and excavation methods during construction.
- To confirm founding materials and allowable bearing pressures.

### 8.1 Sub-Grade Preparation

- Fill should be compacted close to its optimum moisture content (+/- 2%) during compaction.
- The compaction method and equipment should suit the fill material used and the degree of compaction should be inspected and tested by a NATA accredited Geotechnical Inspection and Testing Authority (GITA) to ensure it meets the requirements of AS 3798-2007 “Guidelines on earthworks for commercial and residential developments”.

### 8.2 Conditions of the Recommendations

- The descriptions of the soils encountered in the boreholes follow those outlined in AS 726-2017, Geotechnical Site Investigations. Colour descriptions can vary with soil moisture content and individual interpretation.
- If the site conditions at the time of construction differ from those described in this report, then CEC Geotechnical should be contacted so that a site inspection can be carried out prior to any concrete pouring for footings. The owner/builder will be responsible for any fees associated with this additional work.
- The advice given in this report assumes that the test results are representative of the overall subsurface conditions. However, it should be noted that actual conditions in some parts of the building site may differ from those found in the boreholes. If excavations reveal soil conditions significantly different from those shown in our attached Borehole Log(s), CEC Geotechnical shall be consulted and excavations stopped immediately.
- Depths mentioned in this report are measured from the surface during testing and may vary accordingly if any filling or excavation works are carried out. The description of the foundation material has been provided for ease of recognition over the whole building site.
- Any sketches in this report should be considered as only approximate pictorial evidence of our work. Therefore, unless otherwise stated, any dimensions or slope information should not be used for any building cost calculations and/or positioning of the building. Dimensions on logs are correct.

## 9. Limitations

This report and its associated recommendations have been prepared exclusively for our client who is named on the front page of this report and is the only intended entity to benefit from this report. CEC Geotechnical notes that any reliance on the information provided in this report by any third party will be at their own risk. It should be noted that the analysis and conclusions made in this report are based on documents and investigations prepared by other consultants and entities and hence, should these documents and investigations be incorrect, CEC Geotechnical must be made aware and the results of this report may be void.

For and on behalf of CEC Geotechnical Pty Ltd.

**Ali Selman**



*Geotechnical Engineer*  
B.E. (Civil) (Hons.),  
Dip. Eng. Prac., GradIE Aust.

**Amir Farazmand**



Associate Geotechnical Engineer  
B.E. (Civil) MSc (Geotechnical)  
CPEng

## References

- AS 2870 -2011, Residential Slab and Footings – Construction
- AS 1726-2017, Geotechnical Site Investigations
- AS 2159-2009, Piling - Design and Installation
- AS 3798-2007 “Guidelines on earthworks for commercial and residential developments”
- Geological Series Sheet 9033 1983, Map of the Muswellbrook Region, Scale 1:100,000
- Site investigations for urban salinity, Date1 January 2002, Department of Land and Water Conservation .

**Appendix A:**  
**Site Plan with Borehole Locations**





CEC GEOTECHNICAL


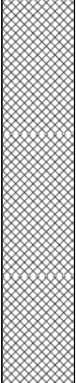
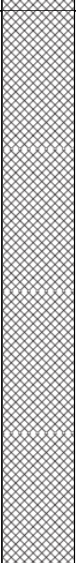
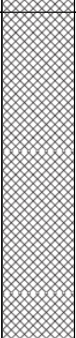
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Checked	SG		Title	Site Plan
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Scale @ A3	NTS			

## **Appendix B:**


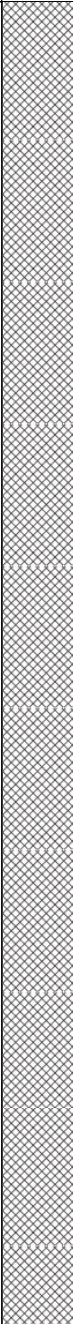
### **Borehole Logs and DCP Test Results**


CEC Geotechnical		CEC Geotechnical		Engineering Log - Borehole	
U4 83, Grose Street, North Parramatta, NSW 2151		Borehole No: BH1			
Phone: (02) 9630 0121					
UTM : 56H	Driller Rig : PIXY	Job Number : GR23057			
Easting : 0.0	Driller Supplier : CEC	Client : Chain & Associates Pty Ltd			
Northing : 0.0	Logged By : Ali Selman	Project : Proposed Development			
RL : N/A	Reviewed By :	Location : Muswellbrook & District Workers Club, Sydney Street, Muswellbrook			
Total Depth : 9m	Date : 21/03/2023				

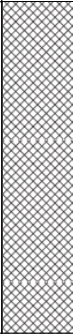
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100mm SFA		0.1		Non-Soil		SBC	Sub Base Coarse Asphalt			L	
				Fill		SC	Fill clayey SAND (SC) : loose, low plasticity, brown, medium grained.				
		1.3		Fill		SC	Fill clayey SAND (SC) : medium dense to dense, low plasticity, brown, medium grained, dry.				
		3		Fill		SC	Fill clayey SAND (SC) : dense, low plasticity, brown, medium grained, moist.	M		D	




CEC Geotechnical		Engineering Log - Borehole									
		<b>CEC Geotechnical</b> U4 83, Grose Street, North Parramatta, NSW 2151 Phone: (02) 9630 0121									
<b>Borehole No: BH1</b>											
UTM : 56H Easting : 0.0 Northing : 0.0 RL : N/A Total Depth : 9m	Driller Rig : PIXY Driller Supplier : CEC Logged By : Ali Selman Reviewed By : Date : 21/03/2023	Job Number : GR23057 Client : Chain & Associates Pty Ltd Project : Proposed Development Location : Muswellbrook & District Workers Club, Sydney Street, Muswellbrook									
Drilling Method	DCP	Depth (m)	Water	Soil Origin	Graphic Log	Classification Code	Material Description	Moisture	Testing	Consistency	Well Diagram
100mm SFA		4		Fill		SC	Fill clayey SAND (SC) : dense to very dense, low plasticity, brown, medium grained, with medium sized gravel, moist.	M		D-VD	
		4.5									
		5									
		5.5									
		6									
		6.5									
		7									
		7.5									
		8									


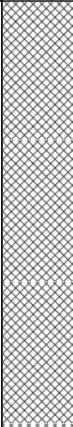
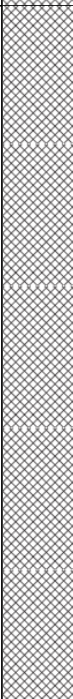

CEC Geotechnical		Engineering Log - Borehole	
		<b>CEC Geotechnical</b> U4 83, Grose Street, North Parramatta, NSW 2151 Phone: (02) 9630 0121	
<b>Borehole No: BH1</b>			
UTM	: 56H	Driller Rig	: PIXY
Easting	: 0.0	Driller Supplier	: CEC
Northing	: 0.0	Logged By	: Ali Selman
RL	: N/A	Reviewed By	:
Total Depth	: 9m	Date	: 21/03/2023
Job Number	: GR23057	Client	: Chain & Associates Pty Ltd
Project	: Proposed Development	Location	: Muswellbrook & District Workers Club, Sydney Street, Muswellbrook


  

Drilling Method	DCP	Depth (m)	Water	Soil Origin	Graphic Log	Classification Code	Material Description	Moisture	Testing	Consistency	Well Diagram
100mm SFA		8.5		Fill		SC	Fill clayey SAND (SC) : dense to very dense, low plasticity, brown, medium grained, with medium sized gravel, moist.	M		D-VD	
		9					BH1 Terminated at 9m				
		9.5									
		10									
		10.5									
		11									
		11.5									
		12									

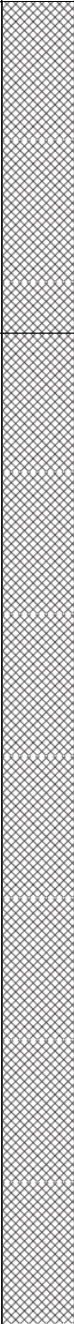
CEC Geotechnical		Engineering Log - Borehole	
		<b>CEC Geotechnical</b> U4 83, Grose Street, North Parramatta, NSW 2151 Phone: (02) 9630 0121	
<b>Borehole No: BH2</b>			
UTM : Easting : 0.0 Northing : 0.0 RL : N/A Total Depth : 9m		Driller Rig : PIXY Driller Supplier : CEC Logged By : Ali Selman Reviewed By : Date : 21/03/2023	
Job Number : GR23057 Client : Chain & Associats Pty Ltd Project : Proposed Development Location : Muswellbrook & District Workers Club, Sydney Street, Muswellbrook			


  

Drilling Method	DCP	Depth (m)	Water	Soil Origin	Graphic Log	Classification Code	Material Description	Moisture	Testing	Consistency	Well Diagram
100mm SFA		0.1		Non-Soil		SBC	Sub Base Coarse Asphalt				
				Fill		SC	Fill clayey SAND (SC) : loose to medium dense, low plasticity, brown, medium grained.			L-MD	
				Fill		SC	Fill clayey SAND (SC) : medium dense to dense, low plasticity, brown, medium grained.			MD-D	
		3.5		Fill		SC	Fill clayey SAND (SC) : dense, low plasticity, brown, medium grained.			D	

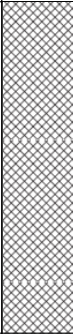
CEC Geotechnical		Engineering Log - Borehole	
		<b>Borehole No: BH2</b>	
U4 83, Grose Street, North Parramatta, NSW 2151 Phone: (02) 9630 0121			
UTM : Easting : 0.0 Northing : 0.0 RL : N/A Total Depth : 9m		Driller Rig : PIXY Driller Supplier : CEC Logged By : Ali Selman Reviewed By : Date : 21/03/2023	
Job Number : GR23057 Client : Chain & Associates Pty Ltd Project : Proposed Development Location : Muswellbrook & District Workers Club, Sydney Street, Muswellbrook			



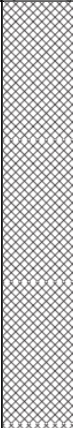
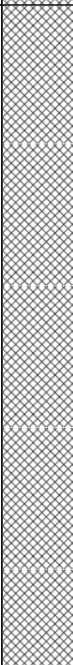
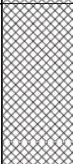
  

Drilling Method	DCP	Depth (m)	Water	Soil Origin	Graphic Log	Classification Code	Material Description	Moisture	Testing	Consistency	Well Diagram
100mm SFA		4.5		Fill		SC	Fill clayey SAND (SC) : dense, low plasticity, brown, medium grained.			D	
		5		Fill		SC	Fill clayey SAND (SC) : dense to very dense, low plasticity, brown, medium grained.			D-VD	
		5.5									
		6									
		6.5									
		7									
		7.5									
		8									

CEC Geotechnical		Engineering Log - Borehole	
		<b>CEC Geotechnical</b> U4 83, Grose Street, North Parramatta, NSW 2151 Phone: (02) 9630 0121	
<b>Borehole No: BH2</b>			
UTM :	Driller Rig : PIXY	Job Number : GR23057	
Easting : 0.0	Driller Supplier : CEC	Client : Chain & Associates Pty Ltd	
Northing : 0.0	Logged By : Ali Selman	Project : Proposed Development	
RL : N/A	Reviewed By :	Location : Muswellbrook & District Workers Club, Sydney Street, Muswellbrook	
Total Depth : 9m	Date : 21/03/2023		

Drilling Method	DCP	Depth (m)	Water	Soil Origin	Graphic Log	Classification Code	Material Description	Moisture	Testing	Consistency	Well Diagram
100mm SFA		8.5		Fill		SC	Fill clayey SAND (SC) : dense to very dense, low plasticity, brown, medium grained.			D-VD	
		9					BH2 Terminated at 9m				
		9.5									
		10									
		10.5									
		11									
		11.5									
		12									

CEC Geotechnical		Engineering Log - Borehole									
		<b>CEC Geotechnical</b> U4 83, Grose Street, North Parramatta, NSW 2151 Phone: (02) 9630 0121									
<b>Job Number</b> : GR23057 <b>Client</b> : Chain & Associates Pty Ltd <b>Project</b> : Proposed Development <b>Location</b> : Muswellbrook & District Workers Club, Sydney Street, Muswellbrook		<b>Borehole No: BH3</b>									
<b>UTM</b> : <b>Easting</b> : 0.0 <b>Northing</b> : 0.0 <b>RL</b> : N/A <b>Total Depth</b> : 7.5m	<b>Driller Rig</b> : PIXY <b>Driller Supplier</b> : CEC <b>Logged By</b> : Ali Selman <b>Reviewed By</b> : <b>Date</b> : 21/03/2023										
Drilling Method	DCP	Depth (m)	Water	Soil Origin	Graphic Log	Classification Code	Material Description	Moisture	Testing	Consistency	Well Diagram
100mm SFA		0.2		Non-Soil		SBC	Sub Base Coarse				
		0.5		Fill		SC	Fill clayey SAND (SC) : loose to medium dense, low plasticity, brown, fine grained.			L-MD	
		1.5		Fill		SC	Fill clayey SAND (SC) : medium dense to dense, low plasticity, brown, medium grained.			MD-D	
		3.5		Fill		SC	Fill clayey SAND (SC) : dense, low plasticity, brown, medium grained.			D	

CEC Geotechnical		Engineering Log - Borehole									
U4 83, Grose Street, North Parramatta, NSW 2151 Phone: (02) 9630 0121		Borehole No: BH3									
UTM : Easting : 0.0 Northing : 0.0 RL : N/A Total Depth : 7.5m	Driller Rig : PIXY Driller Supplier : CEC Logged By : Ali Selman Reviewed By : Date : 21/03/2023	Job Number : GR23057 Client : Chain & Associates Pty Ltd Project : Proposed Development Location : Muswellbrook & District Workers Club, Sydney Street, Muswellbrook									
Drilling Method	DCP	Depth (m)	Water	Soil Origin	Graphic Log	Classification Code	Material Description	Moisture	Testing	Consistency	Well Diagram
100mm SFA		4.5		Fill		SC	Fill clayey SAND (SC) : dense, low plasticity, brown, medium grained.			D	
		5		Fill		SC	Fill clayey SAND (SC) : dense to very dense, low plasticity, brown, medium grained.			D-VD	
		5.5									
		6									
		6.5									
		7									
		7.5					BH3 Terminated at 7.5m				
		8									

## EXPLANATION OF NOTES, ABBREVIATIONS & TERMS USED ON BOREHOLE AND TEST PIT LOGS - SOIL DESCRIPTION (AS1726 - 2017)

### SOIL CLASSIFICATION SYSTEM

#### Coarse Grained Soil

<b>GW</b>	Well graded gravels, gravel-sand mixtures, little or no fines
<b>GP</b>	Poorly-graded gravels, gravel-sand mixtures, little or no fines, uniform gravels
<b>GM</b>	Silty gravels, Gravel-sand-silt mixtures
<b>GC</b>	Clayey gravels, gravel-sand-clay mixtures
<b>SW</b>	Well-graded sands, gravelly sands, little or no fines
<b>SP</b>	Poorly-graded sands, gravelly sand, little or no fines
<b>SM</b>	Silty sands, sand-silt mixtures
<b>SC</b>	Clayey sands, sand-clay mixtures

#### Fine Grained Soils

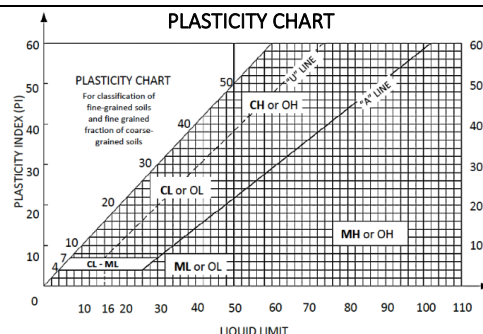
<b>ML</b>	Inorganic silts and very fine sands, rock flour, silty or clayey fine sands or silts with low plasticity
<b>CL, CI</b>	Inorganic clays of low to medium plasticity, gravelly clays, sandy clays
<b>OL</b>	Organic silts and organic silty clays or low plasticity
<b>MH</b>	Inorganic silts, micaceous or diatomaceous fine sand for silty soils
<b>CH</b>	Inorganic clays of high plasticity
<b>OH</b>	Organic clays of medium to high plasticity, organic silts
<b>PT</b>	Peat, humus, swamp soils with high organic contents

First Letter: G = Gravel, S = Sand, M = Silt, C = Clay; Second Letter: W = Well graded, P = Poorly-graded, M = Mixture, O = Organic, L = Low plasticity, H = High plasticity  
Soils may be a combination of multiple soil classifications where borderline

### PARTICLE SIZE

Soil	Major Division	Sub-Division	Particle Size (mm)
Coarse	Boulders		>200
	Cobbles		63 – 200
	Gravel	Coarse	20 – 63
		Medium	6 – 20
		Fine	2.36 – 6
	Sand	Coarse	0.6 – 2.36
		Medium	0.2 – 0.6
		Fine	0.075 – 0.2
Fine	Silt		0.002 – 0.075
	Clay		<0.002

0.075 mm is the approximate minimum particle size discernible by eye



### MOISTURE CONDITION

Coarse	D	Dry	Sands and gravels are free flowing.
	M	Moist	Soils are darker than in the dry condition and may feel cool. Sands and gravels tend to cohere.
	W	Wet	Soils exude free water. Sands and gravels tend to cohere
Fine	PL	Plastic Limit	Moisture content of fine grained soils are described; as below plastic limit (<PL), near to plastic limit (=PL), above plastic limit(>PL), near to the liquid limit (=LL), or above the liquid limit (>LL)
	LL	Liquid Limit	

### CONSISTENCY AND DENSITY

#### Fine Grained Soils

VS	Very Soft	Exudes between fingers when squeezed
S	Soft	Can be moulded by light finger pressure
F	Firm	Can be moulded by strong finger pressure
St	Stiff	Cannot be moulded by fingers. Can be indented by thumb
VSt	Very Stiff	Can be indented by thumb nail
H	Hard	Can be indented by thumb nail with difficulty

#### Pocket Penetrometer Reading (kPa)

<25
20 – 50
50 – 100
100 – 200
200 – 400
>400

#### Coarse Grained Soils

VL	Very Loose	Density Index %	'N' Value
L	Loose	≤15	0 – 4
MD	Medium Dense	15 – 35	4 – 10
D	Dense	35 – 65	10 – 30
VD	Very Dense	65-85	30 – 50
		>85	>50

### SECONDARY OR MINOR SOIL COMPONENTS

Designation of Components	In Coarse Grained Soils				In Fine Grained Soils	
	% Fines	Terminology	% Accessory Coarse Fraction	Terminology	% Sand/gravel	Terminology
Minor	≤5	'trace' clay/silt	≤15	'trace' sand/gravel	≤15	'trace' sand/gravel
	5 – 12	'with' clay/silt	15 – 30	'with' sand/gravel	15 – 30	'with' sand/gravel
Secondary	>15	Prefix silty or clayey	>30	Prefix sandy or gravelly	>30	Prefix sandy or gravelly



## EXPLANATION OF NOTES, ABBREVIATIONS & TERMS USED ON BOREHOLE AND TEST PIT LOGS - SOIL DESCRIPTION (AS1726 - 2017)

STRENGTH OF INTACT ROCK

Symbol	Term	Point Load Index, ( <i>I</i> <sub>50</sub> ) MPa	Field Guide to Strength
VL	Very Low	0.03 ≤ <i>I</i> <sub>50</sub> < 0.1	Material crumbles under firm blows with sharp end of pick; can be peeled with knife; pieces up to 30 mm thick can be broken by finger pressure
L	Low	0.1 ≤ <i>I</i> <sub>50</sub> < 0.3	Easily scored with knife; indentations 1 mm to 3 mm after firm blow with pick point; core 150mm long and 50 mm diameter can be broken by hand; sharp edges of core friable
M	Medium	0.3 ≤ <i>I</i> <sub>50</sub> < 1.0	Readily scored with knife; core 150 mm long and 50 mm diameter can be broken by hand with difficulty
H	High	1.0 ≤ <i>I</i> <sub>50</sub> < 3	Core 150 mm long and 50 mm diameter cannot be broken by hand but can be broken by single firm blow of pick; rock rings under hammer
VH	Very High	3 ≤ <i>I</i> <sub>50</sub> < 10	Hand held specimen breaks with pick after more than one blow; rock rings under hammer
EH	Extremely High	10 ≤ <i>I</i> <sub>50</sub> < ∞	Specimen requires many pick blows to break intact rock, rock rings under hammer

Material with rock strength less than “Very Low” is to be described using soil properties

DEGREE OF ROCK WEATHERING

Term		Symbol	Definition	
Residual Soil		RS	Soil derived from the weathering of rock; the mass structure and material fabric are no longer evident the soil has not been significantly transported.	
Extremely Weathered		XW	Material is weathered to such an extent that it has soil properties, i.e. it either disintegrates or can be remoulded in water. Fabric of original rock still visible.	
Highly Weathered	Distinctly Weathered	HW	DW	Rock strength is changed by weathering. The whole of the rock material is discoloured, usually by iron staining or bleaching to the extent that the colour of the original rock is not recognizable. Some minerals are decomposed to clay minerals. Porosity may be increased by leach, or may be decreased due to deposition or weathering products in pores.
Moderately Weathered		MW		The whole of the rock material is discoloured, usually by iron staining or bleaching to the extent that the colour of the original rock is not recognizable, but shows little or no change of strength from fresh rock.
Slightly Weathered		SW	Rock is slightly discoloured but shows little or no change of strength from fresh rock.	
Fresh		FR	Rock shows no sign of decomposition or staining.	

Distinctly Weathered is to be used when it is not possible to differentiate between highly and moderately weathered.

Extremely Weathered material is to be described using soil properties

ROCK MASS PROPERTIES

Term	Separation of Stratification Planes	Term	Description
Thinly laminated	< 6 mm	Fragmented	Primarily fragments < 20 mm length and mostly of width < core diameter
Laminated	6 mm to 20 mm	Highly fractured	Core lengths generally less than 20 mm to 40 mm with occasional fragments
Very thinly bedded	20 mm to 60 mm	Fractured	Core lengths mainly 30 mm to 100 mm with occasional shorter and longer pieces
Thinly bedded	60 mm to 200 mm		
Medium bedded	0.2 m to 0.6 m	Slightly fractured	Core lengths generally 0.3 m to 1.0 m with occasional longer and shorter sections
Thickly bedded	0.6 m to 2.0 m		
Massive	> 2 m	Unbroken	Core has no fractures

DEFECT TYPES AND DESCRIPTIONS

Defect Type		Defect Shape		Surface Roughness		Defect Coatings	
BR	Bedding parting	PL	Planar	VR	Very rough	CL	Clean
JT	Joint	ST	Stepped	RO	Rough	ST	Stained
SR	Sheared surface	CR	Curved	SM	Smooth	VN	Veneer
SZ	Sheared zone	IR	Irregular	PO	Polished	CT	Coating
SS	Sheared seam	UN	Undulating	SL	Slickenside		
CS	Crushed seam						
IS	Infill seam						
XS	Extremely Weathered Seam						

Vertical Boreholes – The dip of the defect is given from the horizontal

Inclined Boreholes – The angle of the defect is given from the core axis

## **Appendix C:**

### **Laboratory Test Results**

**CEC Geotechnical**  
**Unit 4 83 Grose Street**  
**North Paramatta**  
**NSW 2151**



**NATA Accredited**  
**Accreditation Number 1261**  
**Site Number 18217**

Accredited for compliance with ISO/IEC 17025 – Testing  
 NATA is a signatory to the ILAC Mutual Recognition  
 Arrangement for the mutual recognition of the  
 equivalence of testing, medical testing, calibration,  
 inspection, proficiency testing, scheme providers and  
 reference materials producers reports and certificates.

**Attention:** **Shyam Ghimire (cc reports & invoices)**

**Report** **975569-S**  
**Project name** **MUSWELLBROOK WORKERS CLUB**  
**Project ID** **GR23056**  
**Received Date** **Mar 17, 2023**

<b>Client Sample ID</b>			<b>BH02 1.5</b>	<b>BH01 1.5</b>
<b>Sample Matrix</b>			<b>Soil</b>	<b>Soil</b>
<b>Eurofins Sample No.</b>			<b>S23- Ma0062529</b>	<b>S23- Ma0062530</b>
<b>Date Sampled</b>			<b>Mar 16, 2023</b>	<b>Mar 16, 2023</b>
<b>Test/Reference</b>	LOR	Unit		
Chloride	10	mg/kg	< 10	< 10
Conductivity (1:5 aqueous extract at 25 °C as rec.)	10	uS/cm	250	260
pH (1:5 Aqueous extract at 25 °C as rec.)	0.1	pH Units	6.8	7.4
Resistivity*	0.5	ohm.m	40	38
Sulphate (as SO4)	10	mg/kg	460	340
<b>Sample Properties</b>				
% Moisture	1	%	3.0	2.3

**Sample History**

Where samples are submitted/analysed over several days, the last date of extraction is reported.

If the date and time of sampling are not provided, the Laboratory will not be responsible for compromised results should testing be performed outside the recommended holding time.

Description	Testing Site	Extracted	Holding Time
Chloride	Sydney	Mar 28, 2023	28 Days
- Method: LTM-INO-4270 Anions by Ion Chromatography			
Conductivity (1:5 aqueous extract at 25 °C as rec.)	Sydney	Mar 28, 2023	7 Days
- Method: LTM-INO-4030 Conductivity			
pH (1:5 Aqueous extract at 25 °C as rec.)	Sydney	Mar 28, 2023	7 Days
- Method: LTM-GEN-7090 pH by ISE			
Sulphate (as SO <sub>4</sub> )	Sydney	Mar 28, 2023	28 Days
- Method: In-house method LTM-INO-4270 Sulphate by Ion Chromatograph			
% Moisture	Sydney	Mar 27, 2023	14 Days
- Method: LTM-GEN-7080 Moisture			



web: www.eurofins.com.au  
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IANZ# 1290

**Company Name:** CEC Geotechnical  
**Address:** Unit 4 83 Grose Street  
North Paramatta  
NSW 2151

**Project Name:** HOLD: MUSWELLBROOK WORKERS CLUB  
**Project ID:** GR23056

**Order No.:**  
**Report #:** 975569  
**Phone:** 02 9630 0121  
**Fax:**

**Received:** Mar 17, 2023 12:00 AM  
**Due:** Mar 28, 2023  
**Priority:** 5 Day  
**Contact Name:** Shyam Ghimire (cc reports &

**Eurofins Analytical Services Manager : Hannah Mawbey**

Sample Detail						Aggressivity Soil Set	Moisture Set
Sydney Laboratory - NATA # 1261 Site # 18217						X	X
External Laboratory							
No	Sample ID	Sample Date	Sampling Time	Matrix	LAB ID		
1	BH02 1.5	Mar 16, 2023		Soil	S23-Ma0062529	X	X
2	BH01 1.5	Mar 16, 2023		Soil	S23-Ma0062530	X	X
Test Counts						2	2

## Internal Quality Control Review and Glossary

### General

1. Laboratory QC results for Method Blanks, Duplicates, Matrix Spikes, and Laboratory Control Samples follows guidelines delineated in the National Environment Protection (Assessment of Site Contamination) Measure 1999, as amended May 2013 and are included in this QC report where applicable. Additional QC data may be available on request.
2. All soil/sediment/solid results are reported on a dry basis, unless otherwise stated.
3. All biota/food results are reported on a wet weight basis on the edible portion, unless otherwise stated.
4. Actual LORs are matrix dependant. Quoted LORs may be raised where sample extracts are diluted due to interferences.
5. Results are uncorrected for matrix spikes or surrogate recoveries except for PFAS compounds.
6. SVOC analysis on waters are performed on homogenised, unfiltered samples, unless noted otherwise.
7. Samples were analysed on an 'as received' basis.
8. Information identified on this report with blue colour, indicates data provided by customer that may have an impact on the results.
9. This report replaces any interim results previously issued.

### Holding Times

Please refer to 'Sample Preservation and Container Guide' for holding times (QS3001).

For samples received on the last day of holding time, notification of testing requirements should have been received at least 6 hours prior to sample receipt deadlines as stated on the SRA.

If the Laboratory did not receive the information in the required timeframe, and regardless of any other integrity issues, suitably qualified results may still be reported.

Holding times apply from the date of sampling, therefore compliance to these may be outside the laboratory's control.

For VOCs containing vinyl chloride, styrene and 2-chloroethyl vinyl ether the holding time is 7 days however for all other VOCs such as BTEX or C6-10 TRH then the holding time is 14 days.

### Units

**mg/kg:** milligrams per kilogram

**mg/L:** milligrams per litre

**µg/L:** micrograms per litre

**ppm:** parts per million

**ppb:** parts per billion

**%:** Percentage

**org/100 mL:** Organisms per 100 millilitres

**NTU:** Nephelometric Turbidity Units

**MPN/100 mL:** Most Probable Number of organisms per 100 millilitres

**CFU:** Colony forming unit

### Terms

<b>APHA</b>	American Public Health Association
<b>COC</b>	Chain of Custody
<b>CP</b>	Client Parent - QC was performed on samples pertaining to this report
<b>CRM</b>	Certified Reference Material (ISO17034) - reported as percent recovery.
<b>Dry</b>	Where a moisture has been determined on a solid sample the result is expressed on a dry basis.
<b>Duplicate</b>	A second piece of analysis from the same sample and reported in the same units as the result to show comparison.
<b>LOR</b>	Limit of Reporting.
<b>LCS</b>	Laboratory Control Sample - reported as percent recovery.
<b>Method Blank</b>	In the case of solid samples these are performed on laboratory certified clean sands and in the case of water samples these are performed on de-ionised water.
<b>NCP</b>	Non-Client Parent - QC performed on samples not pertaining to this report, QC is representative of the sequence or batch that client samples were analysed within.
<b>RPD</b>	Relative Percent Difference between two Duplicate pieces of analysis.
<b>SPIKE</b>	Addition of the analyte to the sample and reported as percentage recovery.
<b>SRA</b>	Sample Receipt Advice
<b>Surr - Surrogate</b>	The addition of a like compound to the analyte target and reported as percentage recovery.
<b>TBTO</b>	Tributyltin oxide (bis-tributyltin oxide) - individual tributyltin compounds cannot be identified separately in the environment however free tributyltin was measured and its values were converted stoichiometrically into tributyltin oxide for comparison with regulatory limits.
<b>TCLP</b>	Toxicity Characteristic Leaching Procedure
<b>TEQ</b>	Toxic Equivalency Quotient or Total Equivalence
<b>QSM</b>	US Department of Defense Quality Systems Manual Version 5.4
<b>US EPA</b>	United States Environmental Protection Agency
<b>WA DWER</b>	Sum of PFBA, PFPeA, PFHxA, PFHpA, PFOA, PFBS, PFHxS, PFOS, 6:2 FTSA, 8:2 FTSA

### QC - Acceptance Criteria

The acceptance criteria should be used as a guide only and may be different when site specific Sampling Analysis and Quality Plan (SAQP) have been implemented

RPD Duplicates: Global RPD Duplicates Acceptance Criteria is 30% however the following acceptance guidelines are equally applicable:

Results <10 times the LOR: No Limit

Results between 10-20 times the LOR: RPD must lie between 0-50%

Results >20 times the LOR : RPD must lie between 0-30%

NOTE: pH duplicates are reported as a range not as RPD

Surrogate Recoveries: Recoveries must lie between 20-130% for Speciated Phenols & 50-150% for PFAS

PFAS field samples that contain surrogate recoveries in excess of the QC limit designated in QSM 5.4 where no positive PFAS results have been reported have been reviewed and no data was affected.

### QC Data General Comments

1. Where a result is reported as a less than (<), higher than the nominated LOR, this is due to either matrix interference, extract dilution required due to interferences or contaminant levels within the sample, high moisture content or insufficient sample provided.
2. Duplicate data shown within this report that states the word "BATCH" is a Batch Duplicate from outside of your sample batch, but within the laboratory sample batch at a 1:10 ratio. The Parent and Duplicate data shown is not data from your samples.
3. pH and Free Chlorine analysed in the laboratory - Analysis on this test must begin within 30 minutes of sampling. Therefore, laboratory analysis is unlikely to be completed within holding time. Analysis will begin as soon as possible after sample receipt.
4. Recovery Data (Spikes & Surrogates) - where chromatographic interference does not allow the determination of recovery the term "INT" appears against that analyte.
5. For Matrix Spikes and LCS results a dash "-" in the report means that the specific analyte was not added to the QC sample.
6. Duplicate RPDs are calculated from raw analytical data thus it is possible to have two sets of data.

**Quality Control Results**

Test			Units	Result 1			Acceptance Limits	Pass Limits	Qualifying Code
<b>Method Blank</b>									
Chloride			mg/kg	< 10			10	Pass	
Conductivity (1:5 aqueous extract at 25 °C as rec.)			uS/cm	< 10			10	Pass	
Sulphate (as SO4)			mg/kg	< 10			10	Pass	
<b>LCS - % Recovery</b>									
Chloride			%	120			70-130	Pass	
Conductivity (1:5 aqueous extract at 25 °C as rec.)			%	94			70-130	Pass	
Resistivity*			%	94			70-130	Pass	
Sulphate (as SO4)			%	96			70-130	Pass	
Test	Lab Sample ID	QA Source	Units	Result 1			Acceptance Limits	Pass Limits	Qualifying Code
<b>Spike - % Recovery</b>									
				Result 1					
Chloride	S23-Ma0053921	NCP	%	118			70-130	Pass	
Sulphate (as SO4)	S23-Ma0053921	NCP	%	96			70-130	Pass	
Test	Lab Sample ID	QA Source	Units	Result 1			Acceptance Limits	Pass Limits	Qualifying Code
<b>Duplicate</b>									
				Result 1	Result 2	RPD			
Chloride	S23-Ma0060284	NCP	mg/kg	< 10	< 10	<1	30%	Pass	
Conductivity (1:5 aqueous extract at 25 °C as rec.)	S23-Ma0062529	CP	uS/cm	250	270	7.8	30%	Pass	
pH (1:5 Aqueous extract at 25 °C as rec.)	S23-Ma0053920	NCP	pH Units	5.4	5.4	<1	30%	Pass	
Resistivity*	S23-Ma0062529	CP	ohm.m	40	37	7.8	30%	Pass	
Sulphate (as SO4)	S23-Ma0060284	NCP	mg/kg	200	190	1.5	30%	Pass	
<b>Duplicate</b>									
<b>Sample Properties</b>				Result 1	Result 2	RPD			
% Moisture	S23-Ma0061878	NCP	%	30	32	6.3	30%	Pass	

**Comments**
**Sample Integrity**

Custody Seals Intact (if used)	N/A
Attempt to Chill was evident	Yes
Sample correctly preserved	Yes
Appropriate sample containers have been used	Yes
Sample containers for volatile analysis received with minimal headspace	Yes
Samples received within HoldingTime	Yes
Some samples have been subcontracted	No

**Authorised by:**

Hannah Mawbey	Analytical Services Manager
Roopesh Rangarajan	Senior Analyst-Inorganic



**Glenn Jackson**  
**General Manager**

Final Report – this report replaces any previously issued Report

- Indicates Not Requested

\* Indicates NATA accreditation does not cover the performance of this service

Measurement uncertainty of test data is available on request or please [click here](#).

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## REPORT OF THE SOAKED C.B.R. OF A SOIL

CLIENT: CEC PROJECT: Geotechnical Site Investigation TEST LOCATION: Muswellbrook Workers Club		Job No.: LC8840-1a Date: 28/03/2023 Page: 1 of 1																						
Sample No.: MT1 Sampling Location: BH1 Depth: 0.5m Date Sampled: 20/03/2023 Sample Description: Slightly Sandy Silty Clay with fine gravel, Dark Brown		Sampling Methods: AS1289 1.2.1 <input type="checkbox"/> Sampled by Others <input checked="" type="checkbox"/>																						
<b>TEST METHOD: AS1289.6.1.1</b>																								
Compaction Type: <b>Standard</b> Maximum Dry Density (t/m <sup>3</sup> ): <b>1.84</b> Optimum Moisture Content (%): <b>14.3</b>		Remarks: CEC job no: GR23057																						
<table style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: left; padding-bottom: 10px;">TEST CONDITIONS</th> </tr> <tr> <td style="width: 35%; padding-bottom: 5px;">CONDITION OF SPECIMEN</td> <td style="padding-bottom: 5px;"><b>SOAKED (4 DAYS)</b></td> </tr> <tr> <td style="padding-bottom: 5px;">SURCHARGE (kg)</td> <td style="padding-bottom: 5px;"><b>4.5</b></td> </tr> <tr> <td style="padding-bottom: 5px;">PERCENTAGE RETAINED 19mm (%) (Not Included in Sample)</td> <td style="padding-bottom: 5px;"><b>0.1</b></td> </tr> <tr> <td style="padding-bottom: 5px;">MOISTURE CONTENT - TOP 30mm (%)</td> <td style="padding-bottom: 5px;"><b>15.8</b></td> </tr> <tr> <td style="padding-bottom: 5px;">MOISTURE CONTENT - Remainder (%)</td> <td style="padding-bottom: 5px;"><b>14.8</b></td> </tr> <tr> <td style="padding-bottom: 5px;">SWELL/CONSOLIDATION (%)</td> <td style="padding-bottom: 5px;"><b>0.5</b></td> </tr> <tr> <td style="padding-bottom: 5px;">LABORATORY MOISTURE RATIO (%)</td> <td style="padding-bottom: 5px;"><b>101.5</b></td> </tr> <tr> <td style="padding-bottom: 5px;">LABORATORY DENSITY RATIO (%)</td> <td style="padding-bottom: 5px;"><b>100.0</b></td> </tr> <tr> <td style="padding-bottom: 5px;">CBR PENETRATION IN mm</td> <td style="padding-bottom: 5px;"><b>5.0</b></td> </tr> <tr> <td style="padding-bottom: 5px;"><b>CBR VALUE %</b></td> <td style="padding-bottom: 5px;"><b>14.0</b></td> </tr> </table> <div style="text-align: center; margin-top: 20px;"> <p style="font-size: small;">LOAD ON PISTON (kN)</p> <p style="font-size: small;">PENETRATION (mm)</p> </div>			TEST CONDITIONS		CONDITION OF SPECIMEN	<b>SOAKED (4 DAYS)</b>	SURCHARGE (kg)	<b>4.5</b>	PERCENTAGE RETAINED 19mm (%) (Not Included in Sample)	<b>0.1</b>	MOISTURE CONTENT - TOP 30mm (%)	<b>15.8</b>	MOISTURE CONTENT - Remainder (%)	<b>14.8</b>	SWELL/CONSOLIDATION (%)	<b>0.5</b>	LABORATORY MOISTURE RATIO (%)	<b>101.5</b>	LABORATORY DENSITY RATIO (%)	<b>100.0</b>	CBR PENETRATION IN mm	<b>5.0</b>	<b>CBR VALUE %</b>	<b>14.0</b>
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**Appendix D:**  
**Site Classification General Information**  
**(CSIRO Document – BTF18)**

# Foundation Maintenance and Footing Performance: A Homeowner's Guide



CSIRO  
BTF 18  
replaces  
Information  
Sheet 10/91

Buildings can and often do move. This movement can be up, down, lateral or rotational. The fundamental cause of movement in buildings can usually be related to one or more problems in the foundation soil. It is important for the homeowner to identify the soil type in order to ascertain the measures that should be put in place in order to ensure that problems in the foundation soil can be prevented, thus protecting against building movement.

This Building Technology File is designed to identify causes of soil-related building movement, and to suggest methods of prevention of resultant cracking in buildings.

## Soil Types

The types of soils usually present under the topsoil in land zoned for residential buildings can be split into two approximate groups – granular and clay. Quite often, foundation soil is a mixture of both types. The general problems associated with soils having granular content are usually caused by erosion. Clay soils are subject to saturation and swell/shrink problems.

Classifications for a given area can generally be obtained by application to the local authority, but these are sometimes unreliable and if there is doubt, a geotechnical report should be commissioned. As most buildings suffering movement problems are founded on clay soils, there is an emphasis on classification of soils according to the amount of swell and shrinkage they experience with variations of water content. The table below is Table 2.1 from AS 2870, the Residential Slab and Footing Code.

## Causes of Movement

### Settlement due to construction

There are two types of settlement that occur as a result of construction:

- Immediate settlement occurs when a building is first placed on its foundation soil, as a result of compaction of the soil under the weight of the structure. The cohesive quality of clay soil mitigates against this, but granular (particularly sandy) soil is susceptible.
- Consolidation settlement is a feature of clay soil and may take place because of the expulsion of moisture from the soil or because of the soil's lack of resistance to local compressive or shear stresses. This will usually take place during the first few months after construction, but has been known to take many years in exceptional cases.

These problems are the province of the builder and should be taken into consideration as part of the preparation of the site for construction. Building Technology File 19 (BTF 19) deals with these problems.

### Erosion

All soils are prone to erosion, but sandy soil is particularly susceptible to being washed away. Even clay with a sand component of say 10% or more can suffer from erosion.

### Saturation

This is particularly a problem in clay soils. Saturation creates a bog-like suspension of the soil that causes it to lose virtually all of its bearing capacity. To a lesser degree, sand is affected by saturation because saturated sand may undergo a reduction in volume – particularly imported sand fill for bedding and blinding layers. However, this usually occurs as immediate settlement and should normally be the province of the builder.

### Seasonal swelling and shrinkage of soil

All clays react to the presence of water by slowly absorbing it, making the soil increase in volume (see table below). The degree of increase varies considerably between different clays, as does the degree of decrease during the subsequent drying out caused by fair weather periods. Because of the low absorption and expulsion rate, this phenomenon will not usually be noticeable unless there are prolonged rainy or dry periods, usually of weeks or months, depending on the land and soil characteristics.

The swelling of soil creates an upward force on the footings of the building, and shrinkage creates subsidence that takes away the support needed by the footing to retain equilibrium.

### Shear failure

This phenomenon occurs when the foundation soil does not have sufficient strength to support the weight of the footing. There are two major post-construction causes:

- Significant load increase.
- Reduction of lateral support of the soil under the footing due to erosion or excavation.
- In clay soil, shear failure can be caused by saturation of the soil adjacent to or under the footing.

## GENERAL DEFINITIONS OF SITE CLASSES

Class	Foundation
A	Most sand and rock sites with little or no ground movement from moisture changes
S	Slightly reactive clay sites with only slight ground movement from moisture changes
M	Moderately reactive clay or silt sites, which can experience moderate ground movement from moisture changes
H	Highly reactive clay sites, which can experience high ground movement from moisture changes
E	Extremely reactive sites, which can experience extreme ground movement from moisture changes
A to P	Filled sites
P	Sites which include soft soils, such as soft clay or silt or loose sands; landslip; mine subsidence; collapsing soils; soils subject to erosion; reactive sites subject to abnormal moisture conditions or sites which cannot be classified otherwise

### Tree root growth

Trees and shrubs that are allowed to grow in the vicinity of footings can cause foundation soil movement in two ways:

- Roots that grow under footings may increase in cross-sectional size, exerting upward pressure on footings.
- Roots in the vicinity of footings will absorb much of the moisture in the foundation soil, causing shrinkage or subsidence.

### Unevenness of Movement

The types of ground movement described above usually occur unevenly throughout the building's foundation soil. Settlement due to construction tends to be uneven because of:

- Differing compaction of foundation soil prior to construction.
- Differing moisture content of foundation soil prior to construction.

Movement due to non-construction causes is usually more uneven still. Erosion can undermine a footing that traverses the flow or can create the conditions for shear failure by eroding soil adjacent to a footing that runs in the same direction as the flow.

Saturation of clay foundation soil may occur where subfloor walls create a dam that makes water pond. It can also occur wherever there is a source of water near footings in clay soil. This leads to a severe reduction in the strength of the soil which may create local shear failure.

Seasonal swelling and shrinkage of clay soil affects the perimeter of the building first, then gradually spreads to the interior. The swelling process will usually begin at the uphill extreme of the building, or on the weather side where the land is flat. Swelling gradually reaches the interior soil as absorption continues. Shrinkage usually begins where the sun's heat is greatest.

### Effects of Uneven Soil Movement on Structures

#### Erosion and saturation

Erosion removes the support from under footings, tending to create subsidence of the part of the structure under which it occurs. Brickwork walls will resist the stress created by this removal of support by bridging the gap or cantilevering until the bricks or the mortar bedding fail. Older masonry has little resistance. Evidence of failure varies according to circumstances and symptoms may include:

- Step cracking in the mortar beds in the body of the wall or above/below openings such as doors or windows.
- Vertical cracking in the bricks (usually but not necessarily in line with the vertical beds or perpend).

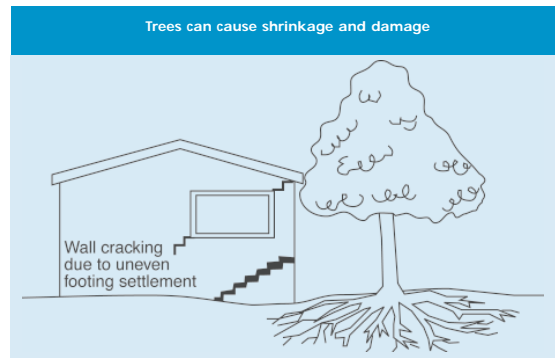
Isolated piers affected by erosion or saturation of foundations will eventually lose contact with the bearers they support and may tilt or fall over. The floors that have lost this support will become bouncy, sometimes rattling ornaments etc.

#### Seasonal swelling/shrinkage in clay

Swelling foundation soil due to rainy periods first lifts the most exposed extremities of the footing system, then the remainder of the perimeter footings while gradually permeating inside the building footprint to lift internal footings. This swelling first tends to create a dish effect, because the external footings are pushed higher than the internal ones.

The first noticeable symptom may be that the floor appears slightly dished. This is often accompanied by some doors binding on the floor or the door head, together with some cracking of cornice mitres. In buildings with timber flooring supported by bearers and joists, the floor can be bouncy. Externally there may be visible dishing of the hip or ridge lines.

As the moisture absorption process completes its journey to the innermost areas of the building, the internal footings will rise. If the spread of moisture is roughly even, it may be that the symptoms will temporarily disappear, but it is more likely that swelling will be uneven, creating a difference rather than a disappearance in symptoms. In buildings with timber flooring supported by bearers and joists, the isolated piers will rise more easily than the strip footings or piers under walls, creating noticeable doming of flooring.



As the weather pattern changes and the soil begins to dry out, the external footings will be first affected, beginning with the locations where the sun's effect is strongest. This has the effect of lowering the external footings. The doming is accentuated and cracking reduces or disappears where it occurred because of dishing, but other cracks open up. The roof lines may become convex.

Doming and dishing are also affected by weather in other ways. In areas where warm, wet summers and cooler dry winters prevail, water migration tends to be toward the interior and doming will be accentuated, whereas where summers are dry and winters are cold and wet, migration tends to be toward the exterior and the underlying propensity is toward dishing.

#### Movement caused by tree roots

In general, growing roots will exert an upward pressure on footings, whereas soil subject to drying because of tree or shrub roots will tend to remove support from under footings by inducing shrinkage.

#### Complications caused by the structure itself

Most forces that the soil causes to be exerted on structures are vertical – i.e. either up or down. However, because these forces are seldom spread evenly around the footings, and because the building resists uneven movement because of its rigidity, forces are exerted from one part of the building to another. The net result of all these forces is usually rotational. This resultant force often complicates the diagnosis because the visible symptoms do not simply reflect the original cause. A common symptom is binding of doors on the vertical member of the frame.

#### Effects on full masonry structures

Brickwork will resist cracking where it can. It will attempt to span areas that lose support because of subsided foundations or raised points. It is therefore usual to see cracking at weak points, such as openings for windows or doors.

In the event of construction settlement, cracking will usually remain unchanged after the process of settlement has ceased.

With local shear or erosion, cracking will usually continue to develop until the original cause has been remedied, or until the subsidence has completely neutralised the affected portion of footing and the structure has stabilised on other footings that remain effective.

In the case of swell/shrink effects, the brickwork will in some cases return to its original position after completion of a cycle, however it is more likely that the rotational effect will not be exactly reversed, and it is also usual that brickwork will settle in its new position and will resist the forces trying to return it to its original position. This means that in a case where swelling takes place after construction and cracking occurs, the cracking is likely to at least partly remain after the shrink segment of the cycle is complete. Thus, each time the cycle is repeated, the likelihood is that the cracking will become wider until the sections of brickwork become virtually independent.

With repeated cycles, once the cracking is established, if there is no other complication, it is normal for the incidence of cracking to stabilise, as the building has the articulation it needs to cope with the problem. This is by no means always the case, however, and monitoring of cracks in walls and floors should always be treated seriously.

Upheaval caused by growth of tree roots under footings is not a simple vertical shear stress. There is a tendency for the root to also exert lateral forces that attempt to separate sections of brickwork after initial cracking has occurred.

The normal structural arrangement is that the inner leaf of brickwork in the external walls and at least some of the internal walls (depending on the roof type) comprise the load-bearing structure on which any upper floors, ceilings and the roof are supported. In these cases, it is internally visible cracking that should be the main focus of attention, however there are a few examples of dwellings whose external leaf of masonry plays some supporting role, so this should be checked if there is any doubt. In any case, externally visible cracking is important as a guide to stresses on the structure generally, and it should also be remembered that the external walls must be capable of supporting themselves.

#### Effects on framed structures

Timber or steel framed buildings are less likely to exhibit cracking due to swell/shrink than masonry buildings because of their flexibility. Also, the doming/dishing effects tend to be lower because of the lighter weight of walls. The main risks to framed buildings are encountered because of the isolated pier footings used under walls. Where erosion or saturation cause a footing to fall away, this can double the span which a wall must bridge. This additional stress can create cracking in wall linings, particularly where there is a weak point in the structure caused by a door or window opening. It is, however, unlikely that framed structures will be so stressed as to suffer serious damage without first exhibiting some or all of the above symptoms for a considerable period. The same warning period should apply in the case of upheaval. It should be noted, however, that where framed buildings are supported by strip footings there is only one leaf of brickwork and therefore the externally visible walls are the supporting structure for the building. In this case, the subfloor masonry walls can be expected to behave as full brickwork walls.

#### Effects on brick veneer structures

Because the load-bearing structure of a brick veneer building is the frame that makes up the interior leaf of the external walls plus perhaps the internal walls, depending on the type of roof, the building can be expected to behave as a framed structure, except that the external masonry will behave in a similar way to the external leaf of a full masonry structure.

### Water Service and Drainage

Where a water service pipe, a sewer or stormwater drainage pipe is in the vicinity of a building, a water leak can cause erosion, swelling or saturation of susceptible soil. Even a minuscule leak can be enough to saturate a clay foundation. A leaking tap near a building can have the same effect. In addition, trenches containing pipes can become watercourses even though backfilled, particularly where broken rubble is used as fill. Water that runs along these trenches can be responsible for serious erosion, interstrata seepage into subfloor areas and saturation.

Pipe leakage and trench water flows also encourage tree and shrub roots to the source of water, complicating and exacerbating the problem.

Poor roof plumbing can result in large volumes of rainwater being concentrated in a small area of soil:

- Incorrect falls in roof guttering may result in overflows, as may gutters blocked with leaves etc.

- Corroded guttering or downpipes can spill water to ground.
- Downpipes not positively connected to a proper stormwater collection system will direct a concentration of water to soil that is directly adjacent to footings, sometimes causing large-scale problems such as erosion, saturation and migration of water under the building.

### Seriousness of Cracking

In general, most cracking found in masonry walls is a cosmetic nuisance only and can be kept in repair or even ignored. The table below is a reproduction of Table C1 of AS 2870.

AS 2870 also publishes figures relating to cracking in concrete floors, however because wall cracking will usually reach the critical point significantly earlier than cracking in slabs, this table is not reproduced here.

### Prevention/Cure

#### Plumbing

Where building movement is caused by water service, roof plumbing, sewer or stormwater failure, the remedy is to repair the problem. It is prudent, however, to consider also rerouting pipes away from the building where possible, and relocating taps to positions where any leakage will not direct water to the building vicinity. Even where gully traps are present, there is sometimes sufficient spill to create erosion or saturation, particularly in modern installations using smaller diameter PVC fixtures. Indeed, some gully traps are not situated directly under the taps that are installed to charge them, with the result that water from the tap may enter the backfilled trench that houses the sewer piping. If the trench has been poorly backfilled, the water will either pond or flow along the bottom of the trench. As these trenches usually run alongside the footings and can be at a similar depth, it is not hard to see how any water that is thus directed into a trench can easily affect the foundation's ability to support footings or even gain entry to the subfloor area.

#### Ground drainage

In all soils there is the capacity for water to travel on the surface and below it. Surface water flows can be established by inspection during and after heavy or prolonged rain. If necessary, a grated drain system connected to the stormwater collection system is usually an easy solution.

It is, however, sometimes necessary when attempting to prevent water migration that testing be carried out to establish watertable height and subsoil water flows. This subject is referred to in BTF 19 and may properly be regarded as an area for an expert consultant.

#### Protection of the building perimeter

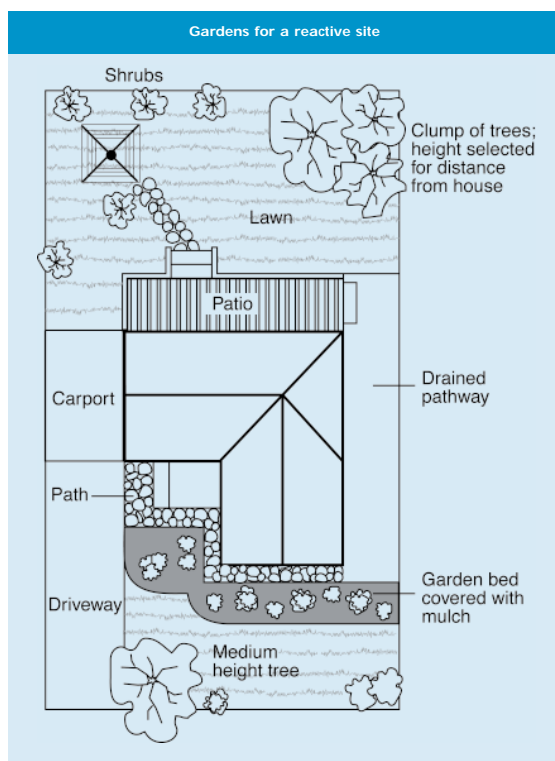
It is essential to remember that the soil that affects footings extends well beyond the actual building line. Watering of garden plants, shrubs and trees causes some of the most serious water problems.

For this reason, particularly where problems exist or are likely to occur, it is recommended that an apron of paving be installed around as much of the building perimeter as necessary. This paving

### CLASSIFICATION OF DAMAGE WITH REFERENCE TO WALLS

Description of typical damage and required repair	Approximate crack width limit (see Note 3)	Damage category
Hairline cracks	<0.1 mm	0
Fine cracks which do not need repair	<1 mm	1
Cracks noticeable but easily filled. Doors and windows stick slightly	<5 mm	2
Cracks can be repaired and possibly a small amount of wall will need to be replaced. Doors and windows stick. Service pipes can fracture. Weathertightness often impaired	5–15 mm (or a number of cracks 3 mm or more in one group)	3
Extensive repair work involving breaking-out and replacing sections of walls, especially over doors and windows. Window and door frames distort. Walls lean or bulge noticeably, some loss of bearing in beams. Service pipes disrupted	15–25 mm but also depend on number of cracks	4





should extend outwards a minimum of 900 mm (more in highly reactive soil) and should have a minimum fall away from the building of 1:60. The finished paving should be no less than 100 mm below brick vent bases.

It is prudent to relocate drainage pipes away from this paving, if possible, to avoid complications from future leakage. If this is not practical, earthenware pipes should be replaced by PVC and backfilling should be of the same soil type as the surrounding soil and compacted to the same density.

Except in areas where freezing of water is an issue, it is wise to remove taps in the building area and relocate them well away from the building – preferably not uphill from it (see BTF 19).

It may be desirable to install a grated drain at the outside edge of the paving on the uphill side of the building. If subsoil drainage is needed this can be installed under the surface drain.

#### Condensation

In buildings with a subfloor void such as where bearers and joists support flooring, insufficient ventilation creates ideal conditions for condensation, particularly where there is little clearance between the floor and the ground. Condensation adds to the moisture already present in the subfloor and significantly slows the process of drying out. Installation of an adequate subfloor ventilation system, either natural or mechanical, is desirable.

**Warning:** Although this Building Technology File deals with cracking in buildings, it should be said that subfloor moisture can result in the development of other problems, notably:

- Water that is transmitted into masonry, metal or timber building elements causes damage and/or decay to those elements.
- High subfloor humidity and moisture content create an ideal environment for various pests, including termites and spiders.
- Where high moisture levels are transmitted to the flooring and walls, an increase in the dust mite count can ensue within the living areas. Dust mites, as well as dampness in general, can be a health hazard to inhabitants, particularly those who are abnormally susceptible to respiratory ailments.

#### The garden

The ideal vegetation layout is to have lawn or plants that require only light watering immediately adjacent to the drainage or paving edge, then more demanding plants, shrubs and trees spread out in that order.

Overwatering due to misuse of automatic watering systems is a common cause of saturation and water migration under footings. If it is necessary to use these systems, it is important to remove garden beds to a completely safe distance from buildings.

#### Existing trees

Where a tree is causing a problem of soil drying or there is the existence or threat of upheaval of footings, if the offending roots are subsidiary and their removal will not significantly damage the tree, they should be severed and a concrete or metal barrier placed vertically in the soil to prevent future root growth in the direction of the building. If it is not possible to remove the relevant roots without damage to the tree, an application to remove the tree should be made to the local authority. A prudent plan is to transplant likely offenders before they become a problem.

#### Information on trees, plants and shrubs

State departments overseeing agriculture can give information regarding root patterns, volume of water needed and safe distance from buildings of most species. Botanic gardens are also sources of information. For information on plant roots and drains, see Building Technology File 17.

#### Excavation

Excavation around footings must be properly engineered. Soil supporting footings can only be safely excavated at an angle that allows the soil under the footing to remain stable. This angle is called the angle of repose (or friction) and varies significantly between soil types and conditions. Removal of soil within the angle of repose will cause subsidence.

#### Remediation

Where erosion has occurred that has washed away soil adjacent to footings, soil of the same classification should be introduced and compacted to the same density. Where footings have been undermined, augmentation or other specialist work may be required. Remediation of footings and foundations is generally the realm of a specialist consultant.

Where isolated footings rise and fall because of swell/shrink effect, the homeowner may be tempted to alleviate floor bounce by filling the gap that has appeared between the bearer and the pier with blocking. The danger here is that when the next swell segment of the cycle occurs, the extra blocking will push the floor up into an accentuated dome and may also cause local shear failure in the soil. If it is necessary to use blocking, it should be by a pair of fine wedges and monitoring should be carried out fortnightly.

**This BTF was prepared by John Lewer FAIB, MIAMA, Partner, Construction Diagnosis.**

The information in this and other issues in the series was derived from various sources and was believed to be correct when published.

The information is advisory. It is provided in good faith and not claimed to be an exhaustive treatment of the relevant subject.

Further professional advice needs to be obtained before taking any action based on the information provided.

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### 10.1.2. Draft Community, Environment and Economic Development Fund Policy and Deed

<b>Attachments:</b>	1. Draft Community Environment and Economic Development Fund Policy for consultation [10.1.2.1 - 6 pages]
	2. Draft Community Environment and Economic Development Funding Deed for consultation [10.1.2.2 - 19 pages]
<b>Responsible Officer:</b>	Sharon Pope - Director - Planning & Environment
<b>Author:</b>	Theresa Folpp (Development Compliance Officer), Madeleine St John (Business Improvement Officer), Chloe Wuiske (Business Improvement Officer)
<b>Community Plan Issue:</b>	6 - Community Leadership
<b>Community Plan Goal:</b>	Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.
<b>Community Plan Strategy:</b>	Not Applicable

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#### PURPOSE

The report provides Council with information on a proposed Muswellbrook Community, Environment, and Economic Development Fund (CEEDF) Policy and Funding Deed and to seek support for staff to commence engagement with Parties who currently have Planning Agreements with Council for State Significant Development projects in the shire.

#### OFFICER'S RECOMMENDATION

1. Council notes the draft Muswellbrook Community, Environment, and Economic Development Fund (CEEDF) Policy and CEEDF Deed.
2. Council supports staff carrying out engagement on the draft Policy and Deed with Parties who currently have Planning Agreements with Council for State Significant Development projects in the shire.
3. Following receipt of comments, a further report shall be presented to Council regarding the CEEDF Policy and CEEDF Deed.

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

#### REPORT

Council currently has several State Significant Development (SSD) projects operating in the Shire with Planning Agreements (PA) in place for community benefit. The contributions are used:

- to employ a staff member who monitors the ongoing compliance of the SSD projects and coordinates Council's submissions on SSD applications;
- for local road maintenance; and
- community and economic development projects, for example, recent Aquatic Centre upgrades, Hunter Beach, and the Donald Horne Building.

There are an increasing number of smaller SSD projects requiring PAs being proposed in the



Shire related to the Hunter Renewable Energy Zone, for example, Wind Farm, Battery Energy Storage Systems, and Solar Farms.

Expenditure of the community and economic development portion of a PA has historically been governed by Community Funding Investment Committees (CFICs). There are currently four separate Committees for mines in the Shire, and the Liddell Power Station closure PA and Dartbrook PA are being drafted at present.

As the number of Planning Agreements increase, the administrative burden, difficulty in gaining community representation on Committees, and the potential for funds to be used ineffectively on small scale, ad hoc projects also increases.

Council staff have prepared a CEEDF Policy and Deed, so that monetary contributions to the fund will be allocated based on a project's ability to provide the greatest community, economic, or environmental benefit.

A comparison of the current CFIC against the proposed CEEDF is provided in Table 1.

A copy of the draft CEEDF Policy and CEEDF Deed is provided in Attachment 1 and Attachment 2, respectively.

**Table 1 – Planning Agreement Governance Key Details**

Detail	CFIC	Proposed CEEDF Policy and Deed
Membership	<ul style="list-style-type: none"> <li>Two members of Council (generally the General Manager and Mayor)</li> <li>Two representatives from the development (generally)</li> <li>One community representative</li> </ul>	<p>Joint Management Board (JMB)</p> <ul style="list-style-type: none"> <li>Three members of Council (either Councillor or employee)</li> <li>Two community representatives</li> <li>One representative from each development</li> </ul> <p>Joint Management Team (JMT)</p> <ul style="list-style-type: none"> <li>Three persons from Council</li> <li>Three persons representing the combined development proponents</li> </ul>
Structure	<ul style="list-style-type: none"> <li>Committee recommends Funding Proposal to Council for final approval</li> </ul>	<ul style="list-style-type: none"> <li>JMT evaluates and endorses Funding Proposals to be reviewed by JMB</li> <li>JMB considers Funding Proposals endorsed by JMT and recommends to Council for final approval</li> </ul>
Funding Proposal	<ul style="list-style-type: none"> <li>Any committee member can submit a funding proposal</li> <li>Funding proposals generally put forward by MANEX</li> </ul>	<ul style="list-style-type: none"> <li>Any JMT member may submit a funding proposal</li> <li>Council will invite the community to nominate projects on an annual basis</li> </ul>
Funding Proposal Criteria	<ul style="list-style-type: none"> <li>Defined in Section 7.4(2) the <i>Environmental Planning and Assessment Act 1979</i></li> </ul>	
Meeting Frequency	Committee determines frequency. Generally, once per year.	Committee determines frequency.
Programs and Project Types	<p>Source: Council Annual Report*</p> <ul style="list-style-type: none"> <li>Resources for Regions VI</li> <li>Bylong Valley Way</li> <li>Hunter Beach</li> <li>Denman Business Precinct</li> <li>Tertiary Education Centre – Stage 2</li> <li>Outdoor Pool</li> <li>Hunter 2050 Foundation</li> <li>Animal Shelter</li> </ul>	See Table 2





Detail	CFIC	Proposed CEEDF Policy and Deed
	<ul style="list-style-type: none"> <li>Economic Development Fund activities</li> </ul>	
Financial Preservation	Internally restricted Reserve.	Internally restricted Reserve. A minimum of 50% of capital contribution to be preserved and invested in interest bearing accounts to provide fund longevity. Any Project must be supported by a detailed business case.

**Table 2 – Proposed CEEDF Program Principles**

Ref	Principle
1	Creating an environment that supports business, promotes job creation, supports entrepreneurship and diversifies the Shire's industry base.
2	Providing education and training opportunities for school, TAFE, and University based students to maintain a prosperous economy as economic drivers change.
3	Supporting and promoting activities that provide personal fulfilment for residents through arts and culture, and by creating attractive outdoor spaces.
4	Undertaking community projects that enhance the social, cultural, and recreational wellbeing of local communities.
5	Supporting and promoting sporting activities and events that attract visitors to the Shire.
6	Undertaking projects that allow the community to successfully adapt to the impacts of climate change.
7	Minimising adverse impacts on housing affordability and social issues arising from changes to the housing market.
8	Assisting with improvements to health outcomes and health services for the community.
9	Introducing Smart Place technology and initiatives in the Shire.
10	Improving infrastructure in accordance with the Community Strategic Plan.
11	Promoting and supporting initiatives that preserve regional biodiversity and improve biodiversity corridors and connections.
12	Supporting initiatives that minimise waste, improve long-term community sustainability and environmental outcomes for future generations.
13	Supporting initiatives that build upon historic heritage and traditional Aboriginal values.
14	Promoting and supporting initiatives that recognise other environmental aspects such as water resources, air quality, biodiversity (fauna), bushfire, greenhouse gas, soil, and agriculture.

Creating the CEEDF Policy and Deed will signal Council's intention to move towards a longer-term view to support projects with an ongoing capacity to improve wellbeing, liveability and education/training and employment opportunities, and support environmental conservation principles as outlined in Section 7.4(2) the *Environmental Planning and Assessment Act 1979*.



## **CONSULTATION**

### **Internal**

MANEX

### **External**

Staff have discussed the proposed CEEDF with representatives of mining companies in the Muswellbrook Local Government Area (LGA) at CFIC meetings. Proponents are interested in reviewing a copy of the proposed CEEDF Policy and Deed. Staff recommend that this occurs before the draft Policy is notified for general community feedback.

## **SOCIAL IMPLICATIONS**

The proposed CEEDF Policy and Deed will address the vision and goals outlined in Council's Community Strategic Plan 2022-2032. It may also assist Council in completing some of the activities outlined in Council's Delivery Program.

## **FINANCIAL IMPLICATIONS**

There are no immediate financial implications while the draft Policy is the subject of consultation. Long-term, the intention of the Policy is to ensure projects that are funded have demonstrated positive outcomes for the community, and that the Fund will built up over time so that interest earned becomes an ongoing source of funds for projects, particularly after SSD projects come to the end of their approved life.



# DRAFT Muswellbrook Community, Environment and Economic Development Fund Policy

MSC052E

## Authorisation Details

Authorised by:		Internal/External:	External
Date:		Minute No:	
Review timeframe:	4 years	Review due date:	
Department:	Environmental and Planning Services		
Document Owner:	Director Environmental and Planning Services		
Community Strategic Plan Goal	1. A dynamic local economy with full employment for current and future residents in a diverse range of high value industries		
Community Strategic Plan Strategy	1.2 Diversify the economy, facilitate the development of intensive agriculture, innovative manufacturing, health services and other growth industries		

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## 1. Policy Objective

The objectives of this Policy are to:

- Govern the expenditure of funds allocated to the Community, Environment and Economic Development Fund (CEEDF);
- Assist in proactively managing the impacts of Development (and ancillary activities) and closure of mines and power stations;
- Use funds received from Planning Agreement's to diversify and grow the economy; improve wellbeing, liveability and education/training and employment opportunities; and support environmental conservation principles as outlined in Section 7.4(2) the *Environmental Planning and Assessment Act*; and
- Provide long-term financial assurance for the ongoing benefit of the community.

## 2. Risks being addressed

Source: Muswellbrook Shire Council Community Strategic Plan 2022-2023

- Uncertainty in the coal and energy industry, associated direct and indirect job losses, and impact more broadly upon the Shire's economic base.
- Liveability and amenity - the extent to which the general well-being, health and quality of life of residents is supported physically, aesthetically, and in terms of accessibility.
- Impacts of mining on the environment today and into the future.
- Impacts of increasing human activity upon the local environment.
- Preservation of the Shire's history and heritage.
- Infrastructure to support Muswellbrook as a service centre for the Upper Hunter.

## 3. Scope

This Policy applies to the management of funds allocated from Planning Agreements as entered into for development (and ancillary activities) in the Muswellbrook Shire.

## 4. Definitions

For the purposes of this Policy:

Term	Definition
Muswellbrook Community, Environment and Economic Development Deed (Deed)	A partnering Deed for the "Developing a Better Muswellbrook Program"
Muswellbrook Community, Environment and Economic Development Fund (the Fund)	A restricted account into which identified monies from Planning Agreements are deposited and expended
Capital Funds	Initial lump sum deposits to the account from Planning Agreements
Funding Proposal	A proposal of Council to spend some of the Fund monies which satisfies the Funding Proposal Criteria
Funding Proposal Criteria	As outlined in Schedule 1 of the Deed, and defined in Section 7.4(2) the <i>Environmental Planning and Assessment Act 1979</i>
Interest	The financial interest generated on the capital component of any account under the Fund

Term	Definition
Joint Management Board	The board established under clause 3 of the Deed
Joint Management Team	The team established under clause 4 of the Deed

## 5. Policy Statement

The broad principles of the Fund aim to foster the long-term socio-economic and environmental prosperity of Muswellbrook, while promoting the health and wellbeing of the community by:

- Supporting business, promoting job creation, supporting entrepreneurship and diversifying our industry base;
- Providing education and training opportunities for school, TAFE and University based students to maintain a prosperous economy as economic drivers change;
- Supporting and promoting activities that provide personnel fulfilment for residents through arts and culture, and by creating attractive outdoor spaces;
- Undertaking community projects that enhance social, cultural and recreational wellbeing of local communities;
- Supporting and promoting sporting activities and events that attract visitors to the Shire;
- Undertaking projects that allow the community to successfully adapt to the impacts of climate change;
- Minimising adverse impacts on housing affordability and social issues arising from changes to the housing market;
- Assisting with improvements to health outcomes and health services for the community;
- Introducing Smart Place technology and initiatives in the Shire;
- Improving infrastructure in accordance with the Community Strategic Plan;
- Promoting and supporting initiatives that preserve regional biodiversity and improve biodiversity corridors and connections;
- Supporting initiatives that minimise waste, improve long-term community sustainability and environmental outcomes for future generations;
- Supporting initiatives that build upon historic heritage and traditional Aboriginal values; and
- Promoting and supporting initiatives that recognise other environmental aspects such as water resources, air quality, bushfire, greenhouse gas, soil and agriculture.

The Fund will be used to deliver projects, activities and events that result in a demonstrated environmental, economic or social benefit for the Muswellbrook Shire community.

Particular management principles that apply to the Fund and Deed are as follows:

- Where a Planning Agreement (PA) is proposed, Council will negotiate with the proponent, the proportion of the PA contributions to be allocated:
  - a) to the Fund,
  - b) to road maintenance if applicable, and
  - c) to the employment of Council staff who overview State Significant Development applications, monitor ongoing performance against conditions of approval and manage community concerns.
- Once agreement is reached, funds will be deposited in the Fund account. A record will be maintained of the contributions of each party to the Fund.
- Interest accrued in the Fund account will remain within the account for use on Funding proposals.

- Decisions on projects and initiatives to which the funds are allocated will be agreed and approved in accordance with the 'Muswellbrook Community, Environment and Economic Development Fund Deed' (Deed). Key features of the Deed include the following:
  - Membership – Joint Management Board (JMB) (consisting of three members from Council, two community representatives and one representative from each development) and Joint Management Team (JMT) (consisting of three persons from Council and three persons representing the combined development proponents).
  - Structure
    - JMT evaluates and endorses Funding Proposals to be reviewed by JMB.
    - JMB considers Funding Proposals endorsed by JMT and recommends to Council for final approval.
    - A Funding Proposal will be recommended for funding by the Joint Management Board and the Joint Management Board will vote on the priority of the Funding Proposals.
  - Funding Proposals:
    - Any JMT member may submit a proposal.
    - Council will invite the community to nominate projects on an annual basis.
    - Funding Proposal Criteria is outlined in Schedule 1 of the Deed, and defined in Section 7.4(2) of the *Environmental Planning and Assessment Act 1979*.
  - Reporting:
    - Council must report to the JMB as to the progress and status of all active Funding Proposals, including the current balance of the Fund and where funds have been allocated and spent.
    - An annual report will be made available to all parties who have entered into a Planning Agreement with Council, and to the community in general.
- A minimum of 50% of the capital contribution to the Fund is to be preserved to provide longevity of the fund.
- Any Funding Proposal must be supported by a detailed business case that demonstrates the benefits for such a proposal to be successful.
- Revenue raised by Council, whether through sale of assets or by other means may be deposited in the Fund from time to time.
- Funds may be used to support grant funding proposals and operational funding of projects.

General provisions for the management of the Fund are as follows:

- **Investment:** Amount invested in the Fund will be managed in accordance with Muswellbrook Council's Investment (Financial Securities) Policy (MSC14E).
- **Reinvestment:** All interest accrued on the Fund account is to be reinvested in the same account.
- **Reporting:** Reporting on the Fund will be undertaken in accordance with the requirements of the *Local Government Act 1993* and the requirements for managing and reporting Planning Contributions as set out in the *Environmental Planning and Assessment Act 1979* and regulations.
- **Expenditure:** Any expenditure of monies invested in the Fund will be undertaken in accordance with the principles of this Policy and the requirements of Council's Procurement Policy (MSC01E).
- **Auditing:** Accounts will be audited in accordance with Council's general audit procedures, the requirements of the *Local Government Act 1993*, *Local Government (General) Regulation 2005* and the Local Government Code of Accounting Practice and Financial Reporting.
- **Account Closure:** The Fund described in this Policy is designed to operate in perpetuity. However, should an account no longer be required or all funds are expended, the closure of the account will be undertaken by resolution of Council.

## 6. Delegations

The General Manager is the interpreter of this policy.

## 7. Dispute Resolution

The elected Council has the final decision on Funding Proposals.

## 8. Related Documents

### Legislation and Guidelines

- *Environmental Planning and Assessment Act 1979*;
- *Local Government Act 1993*;
- *Local Government (General) Regulation 2005*; and
- Local Government Code of Accounting Practice and Financial Reporting.

### Policies and Procedures

Number	Title
MSC14E	Investment (Financial Securities) Policy
MSC01E	Procurement Policy
TBC	Muswellbrook Community Development Fund Deed

### Other Supporting Documents

Muswellbrook Shire 2022-2023 Community Strategic Plan

## 9. 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
1	14/07/2023	Director Environmental and Planning Services	Draft policy



# Muswellbrook Community, Environment and Economic Development Fund Deed - DRAFT

Dated

XX

Muswellbrook Shire Council (ABN 86 864 180 944)  
("MSC")

## Details

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### Parties

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Name

ABN

Formed in

Address

Email

Attention

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### MSC

Name

ABN

Formed in

Address

Fax

Telephone

Email

Attention

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### Guarantee Amount

xx

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### Governing law

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**Date of Deed**      See Signing Page

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### Recitals

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# General terms

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## 1 Definitions

### 1.1 In this Deed unless the context otherwise requires:

**Act** means *Environmental Planning and Assessment Act 1979*;

**Agreement** means a Planning Agreement, which has monies allocated to the Community, Environment and Economic Development Fund (CEEDF), that is entered into between Muswellbrook Council and a Development Proponent, as amended from time to time;

**Approved Funding Proposal** means a Funding Proposal recommended by the Joint Management Board in accordance with clause 5.2 and approved by Muswellbrook Council in accordance with clause 5.3;

**Council** means Muswellbrook Shire Council;

**Council Representative** means a person appointed by Council to be a Joint Management Board Member in accordance with clause 3.2(b)i;

**Development Contributions** means the monies which are provided to Muswellbrook Shire Council in accordance with the terms of an Agreement;

**Fund** means the Muswellbrook Community, Environment and Economic Development Fund;

**Funding Proposal** means a proposal of Council to spend some of the Development Contributions paid and which satisfies the Funding Proposal Criteria;

**Funding Proposal Criteria** means the criteria set out in Schedule 1 and which a Funding Proposal must satisfy before it can be approved;

**Joint Management Board** means the board established under clause 3;

**Joint Management Board Member** means a member of the Joint Management Board;

**Joint Management Team** means the team established under clause 4;

**Joint Management Team Member** means a member of the Joint Management Team;

**Development Proponent** means an individual or company party to this Deed;

**Development Proponent Representative** means a person appointed by a Proponent to be a Joint Management Board or Joint Management Team Member in accordance with clause 3.2 (b)ii;

**Partnership** means the partnership formed between Muswellbrook Council and Proponents to deliver the Developing a Better Muswellbrook Program;

**Program** means the Developing a Better Muswellbrook Program as defined in clause 2;

**Recommended Funding Proposal** means a Funding Proposal recommended by the Joint Management Board in accordance with clause 5.2(d).

## 1.2 Interpretation

In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

- (a) **(headings)** clause heading and the table of contents are inserted for convenience only and do not affect interpretation of this deed.
- (b) **(Party)** a reference to a Party to a document includes that Party's personal representative, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns.
- (c) **(requirements)** a requirement to do anything includes a requirement to cause that thing to be done, and a requirement not to do anything includes a requirement to prevent that thing being done.
- (d) **(including) including** and **includes** are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind.
- (e) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning.
- (f) **(singular)** the singular includes the plural and vice-versa.
- (g) **(gender)** words importing one gender include all other genders.
- (h) **(rules of construction)** neither this deed nor any part of it is to be construed against a Party on the basis that the Party or its lawyers were responsible for its drafting.
- (i) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it.
- (j) **(replacement bodies)** a reference to a body (including an institute, association or Authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions.
- (k) **(month)** a reference to a month is a reference to a calendar month.
- (l) **(year)** a reference to a year is a reference to twelve consecutive calendar months.

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## 2 Developing a Better Muswellbrook Program

### 2.1 Vision

- (a) Muswellbrook Shire Council and the Development Proponents seek to work in partnership to ensure that the Muswellbrook community is not negatively impacted by development in the Muswellbrook Local Government Area both now and into the future, and that actions are taken to account for the closure of mines and power stations in the future. The parties recognise that collaborating to proactively manage the impacts of development – both positive and negative – will result in better outcomes for the Muswellbrook community.

## **2.2 Aim**

- (a) To proactively manage the impacts of development to secure a positive future for the communities of the Muswellbrook Local Government Area and to enhance the reputation of all Parties

## **2.3 Values**

In achieving our Vision and Aim, the Parties shall:

- (a) Demonstrate professionalism, high level commitment and personal accountability to ensure the future needs of the Muswellbrook Local Government Area are met.
- (b) Continuously improve our understanding of the required outcomes for the future of the Muswellbrook Local Government Area and provide cost-effective projects and programs to meet those outcomes.
- (c) Promote the highest levels of teamwork amongst all Parties, improving the transparency of the relationship between Council and Development Proponents.
- (d) Recognise the knowledge and experience that each party possesses and use these attributes to the overall benefit of the Program.
- (e) Maintain a balanced, flexible and outcomes focussed Partnership and operate with integrity in a pragmatic and solution-orientated fashion.
- (f) Employ open, honest and effective communication to build and maintain strong and trusting partnerships for the benefit of the Muswellbrook Local Government Area.

## **2.4 Purpose**

- (a) The purpose of this Partnership is to provide for the joint and equal management of the Developing a Better Muswellbrook Program.
- (b) It is recognised that parties to this Deed bring different and equal contributions that must be combined to realise meaningful outcomes for the Muswellbrook Shire Local Government Area.

## **2.5 Management Structure**

- (a) The Partnership management structure consists of:
  - (i) Joint Management Board whose roles and responsibilities are provided in clause 3;
  - (ii) Joint Management Team whose roles and responsibilities are provided in clause 4;
- (b) The conceptual operation of the management structure is illustrated in Figure 1.



Figure 1 Partnership Management Structure

- (c) This framework is to be read and interpreted in conjunction with the Muswellbrook Community, Environment and Economic Development Fund Policy (MSC052E) which sets out the criteria for the management of funding associated with the Program.

## 2.6 Objectives

- (a) The objectives of the Partnership are to:
- (i) Demonstrate professionalism, high level commitment and collective accountability to ensure the future needs of the Muswellbrook Local Government Area are met.
  - (ii) Continuously improve our understanding of the required outcomes for the future of Muswellbrook and provide cost-effective projects and programs to meet those outcomes.
  - (iii) Promote the highest levels of teamwork amongst all Parties.
  - (iv) Improve transparency of the relationship between Council and Development Proponents.
  - (v) Recognise the knowledge and experience that each Party possesses and use these attributes to the overall benefit of the Program.
  - (vi) Maintain a balanced, flexible and outcomes focused program.
  - (vii) Operate with integrity in a pragmatic and solution-orientated fashion.
  - (viii) Employ open, honest and effective communication to build and maintain strong and trusting partnerships for the benefit of the Muswellbrook Local Government Area.
- (b) All Joint Management Board Members and all Joint Management Team Members agree to:

- (i) Treat other members in a respectful and non-judgemental manner;
- (ii) Promote openness and trust, always acting in honesty and in good faith;
- (iii) Promote full discussion, where participants agree to disagree if necessary;
- (iv) Explore issues and problems with a view to finding solutions;
- (v) Respect our differences;
- (vi) Maintain confidentiality within the group;
- (vii) Refrain from acting in any way that would harm the reputation or wellbeing of other members.

## 2.7 Performance

- (a) The Joint Management Board will monitor performance of the Program across a range of socio-economic and environmental indicators that give an understanding of the current and future health of the Muswellbrook Shire. These indicators will be directly correlated to the Program Principles as shown in Table 1.

Ref	Principle	Lag Indicators
1	Creating an environment that supports business, promotes job creation, supports entrepreneurship and diversifies our industry base.	Economic Growth as indicated by: <ul style="list-style-type: none"> <li>• Gross Domestic Product</li> <li>• Industry Diversification</li> <li>• Employment</li> <li>• Jobs Growth</li> </ul>
2	Providing education and training opportunities for school, TAFE and University based students to maintain a prosperous economy as economic drivers change.	<ul style="list-style-type: none"> <li>• Employment</li> <li>• Jobs Growth</li> </ul>
3	Supporting and promoting activities that provide personal fulfilment for residents through arts and culture, and by creating attractive outdoor spaces.	<ul style="list-style-type: none"> <li>• Community Participation</li> <li>• Community Satisfaction</li> <li>• Community Health and Wellbeing</li> <li>• Community Cultural / Recreational Participation</li> </ul>
4	Undertaking community projects that enhance social, cultural and recreational wellbeing of local communities.	<ul style="list-style-type: none"> <li>• Social Cohesion</li> <li>• Access to Recreational Opportunities</li> <li>• Positive Feedback and Satisfaction</li> <li>• Wellbeing Indicators</li> </ul>
5	Supporting and promoting sporting activities and events that attract visitors to the Shire.	<ul style="list-style-type: none"> <li>• Community Health</li> <li>• Community Cultural / Recreational Participation</li> </ul>
6	Undertaking projects that allow the community to successfully adapt to the impacts of climate change.	<ul style="list-style-type: none"> <li>• Community Health</li> </ul>



Ref	Principle	Lag Indicators
7	Minimising adverse impacts on housing affordability and social issues arising from changes to the housing market.	<ul style="list-style-type: none"> <li>Affordable Housing Supply</li> <li>Housing Stress Levels</li> </ul>
8	Assisting with improvements to health outcomes and health services for the community.	<ul style="list-style-type: none"> <li>Community Health</li> </ul>
9	Introducing Smart Place technology and initiatives in the Shire.	<ul style="list-style-type: none"> <li>Smart Place Maturity</li> </ul>
10	Improving infrastructure in accordance with the Community Strategic Plan.	<ul style="list-style-type: none"> <li>Economic Infrastructure Attraction</li> <li>Social Infrastructure Attraction</li> </ul>
11	Promoting and supporting initiatives that preserve regional biodiversity and improve biodiversity corridors and connections.	<ul style="list-style-type: none"> <li>Biodiversity Improvement</li> <li>Habitat Restoration</li> <li>Connectivity Enhancement</li> </ul>
12	Supporting initiatives that minimise waste, improve long-term community sustainability and environmental outcomes for future generations.	<ul style="list-style-type: none"> <li>Community Connectivity</li> <li>Community Sustainability</li> </ul>
13	Supporting initiatives that build upon historic heritage and traditional Aboriginal values.	<ul style="list-style-type: none"> <li>Indigenous Employment</li> <li>Preservation of Cultural Sites</li> <li>Collaboration and Partnerships</li> <li>Cultural Education and Awareness</li> </ul>
14	Promoting and supporting initiatives that recognise other environmental aspects such as water resources, air quality, bushfire, greenhouse gas, soil and agriculture.	<ul style="list-style-type: none"> <li>Environmental Management</li> <li>Air Quality Improvement</li> <li>Greenhouse Gas Reduction</li> <li>Soil Health and Agriculture Sustainability</li> </ul>

Table 1 Principles and Performance Indicators

## 2.8 Financial Management

- (a) Financial management of any funds under the Program will be undertaken in accordance with the Muswellbrook Community, Environment and Economic Development Fund Policy (MSC052E)
- (b) Funds allocated to the Program will be:
  - (i) Separately managed to Council's other sources of funding
  - (ii) Accounted for transparently through this Partnership

## 3 Joint Management Board

### 3.1 The role of the Joint Management Board

- (a) Consider Funding Proposals endorsed by the Joint Management Team.
- (b) Recommend Funding Proposals for final Council approval. The Joint Management Board may not recommend a Funding Proposal unless it meets the Funding Proposal Criteria outlined in schedule 1;
- (c) Proactively manage relationships;

- (d) Set and agree Key Performance Indicators used to monitor the effectiveness of the Program in accordance with clause 2.7;
- (e) Review the performance of the Program for the year to date with a focus on:
  - (i) Program Scope
  - (ii) Program Budget performance
  - (iii) Program schedule performance
  - (iv) Agreed lag indicators in accordance with clause 2.7
- (f) Agree the forward program for the next two years for the Program; and
- (g) Resolve issues as required.

### 3.2 Establishment and membership

- (a) As soon as practicable after the commencement of this Deed, Council and Development Proponents must establish a Joint Management Board.
- (b) The membership of the Joint Management Board shall comprise:
  - (i) Three members appointed by Council (**Council Representatives** who shall be either a Councillor or an employee of Council);
  - (ii) Two members appointed by Council (**Community Representatives** who are not a Councillor or an employee of Council); and
  - (iii) One representative from each Development Proponent.

### 3.3 Chairperson

- (a) The Chairperson of the Joint Management Board must be one of the Council Representatives appointed by Council in accordance with clause 3.2(b)i
- (b) The Chairperson must be elected to the position of Chairperson by a majority vote of the Joint Management Board at the first meeting of the Joint Management Board. Council shall approve the appointment of Chairperson.
- (c) If the Chairperson ceases to be a Joint Management Board Member then a new Chairperson must be appointed by majority vote at the next Joint Management Board meeting. Council shall approve the appointment of a new Chairperson.
- (d) The Chairperson shall convene and chair the Joint Management Board meetings.
- (e) The Chairperson shall determine the agenda items.

### **3.4 Alternative Joint Management Board Member**

Development Proponents and Council may appoint alternate Joint Management Board Members who may exercise all powers of the Joint Management Board Member when attending in place of that Joint Management Board Member.

### **3.5 Term of Joint Management Board Members**

Development Proponent Representatives and Council Representatives are appointed to the Joint Management Board for the term of Council.

### **3.6 Replacement of Joint Management Board Members**

- (a) If a Joint Management Board Member ceases for any reason to be a member of the Joint Management Board or resigns as a member of the Joint Management Board:
  - (i) if the Joint Management Board Member is a Development Proponent representative, the Company must as soon as practicable appoint a new Joint Management Board Member;
  - (ii) if the Joint Management Board Member is a Council or Community Representative, Council must as soon as practicable appoint a new Joint Management Board Member; and
- (b) If a Joint Management Board Member:
  - (i) dies or becomes bankrupt; or
  - (ii) in the case of a Council Representative, ceases to be a Councillor or employee of Council, that Joint Management Board Member will cease to be a member of the Joint Management Board with immediate effect.
  - (iii) in the opinion of each of the other Joint Management Board Members, consistently fails to perform his or her duties in relation to the Joint Management Board, the Joint Management Board may make a recommendation to Council to have that member removed.

### **3.7 Meetings of the Joint Management Board**

- (a) The Joint Management Board shall determine the frequency of its meetings.
- (b) Despite clause 3.7(a) above, the Joint Management Board must meet at least once per year.
- (c) Only the Chairperson may call a meeting of the Joint Management Board.
- (d) Any Joint Management Board Member may request the Chairperson to convene an extraordinary meeting of the Joint Management Board to discuss any matter warranting urgent consideration. The Chairperson shall determine whether an extraordinary meeting is warranted.
- (e) At least two weeks' notice must be given to all members of any meeting of the Joint Management Board (except extraordinary meetings where one weeks' notice can be given).

- (f) The Council may determine the manner in which meetings of the Joint Management Board are to be convened and conducted.
- (g) Any Party may provide facilities for Joint Management Board meetings.
- (h) The quorum for meetings of the Joint Management Board shall be:
  - (i) Two Council Representatives;
  - (ii) Two Development Proponent Representatives. Where there is only one Development Proponent, one Company Representatives will be required to form a quorum.
- (i) Meetings of the Joint Management Board may be conducted by telephone or other electronic means provided all Joint Management Board Members are able to be heard and communicate effectively.
- (j) All meetings of the Joint Management Board shall be minuted. Council shall provide all secretariat support for the Joint Management Board.

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## **4 Joint Management Team**

### **4.1 The role of the Joint Management Team**

- (a) Evaluate and endorse Funding Proposals to be reviewed and recommended for approval by the Joint Management Board;
- (b) Implement Approved Funding Proposals;
- (c) Monitor and forecast performance of the Program on a project level including:
  - (i) Project scope management
  - (ii) Project cost management
  - (iii) Project schedule management
  - (iv) Achievement of identified outcomes for each project
  - (v) An assessment of program effectiveness against agreed lag indicators in accordance with clause 2.7
- (d) Report as required to the Joint Management Board
- (e) Elevate issues to the Joint Management Board for resolution and or consideration.
- (f) Prepare Annual Report to summarise expenditure and make available to parties to the Deed.

### **4.2 Establishment and membership**

- (a) As soon as practicable after the first Joint Management Board meeting, the Joint Management Board must establish a Joint Management Team.
- (b) The membership of the Joint Management Team shall comprise:

- (i) Three persons from Council; and
- (ii) Three persons representing the combined Development Proponents
- (c) A person who is a Joint Management Board Member shall not be a Joint Management Team Member and vice versa.

#### **4.3 Replacement of Joint Management Team Members**

- (a) Council or Companies may replace their respective Joint Management Team Members at any time.
- (b) Membership shall be transferred should there be a change of ownership of a Company that is a party to this deed.

#### **4.4 Meetings of the Joint Management Team**

- (a) The Joint Management Team must meet at least twice per annum.
- (b) Any Joint Management Team Member may request to convene an extraordinary meeting of the Joint Management Team to discuss any matter warranting urgent consideration subject to the requirements of clause 4.5 being met.
- (c) All meetings of the Joint Management Team shall be minuted. Council will provide all secretariat support for the Joint Management Team.

#### **4.5 Proceedings of Joint Management Team**

- (a) The quorum for meetings of the Joint Management Team shall be:
  - (i) Two Council Representatives;
  - (ii) Two Development Proponent Representatives. Where there is only one Development Proponent, one Company Representative will be required to form a quorum.
- (b) Meetings of the Joint Management Team may be conducted by telephone or other electronic means provided all Joint Management Team Members are able to be heard and communicate effectively.

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## **5 Funding Proposal**

### **5.1 Submitting Funding Proposal for consideration by Joint Management Team**

- (a) Any Joint Management Team Member may submit a Funding Proposal for consideration, if the Funding Proposal:
  - (i) satisfies the Funding Proposal Criteria outlined in schedule 1;
  - (ii) has been submitted on the funding proposal form contained in schedule 3; and
  - (iii) has been provided to all Joint Management Team Members at least two weeks before the meeting at which the Funding Proposal is to be considered.

- (b) Council will invite the community to nominate potential projects on an annual basis. Any project nominated will be submitted for initial consideration by the Joint Management Team where it satisfies the Funding Proposal Criteria outlined in schedule 1.
- (c) A community nominated project that is initially reviewed by the Joint Management Team and it is agreed that Council will undertake works required to take the nomination forward to a funding proposal as outlined in schedule 3, will then be provided to all Joint Management Team Members at least two weeks before the meeting at which the Funding Proposal is to be considered.

## **5.2 Consideration of Funding Proposal**

- (a) All Funding Proposals that satisfy clause 5.1 must be considered by the Joint Management Team.
- (b) All Funding Proposals endorsed by the Joint Management Team are to be reviewed by the Joint Management Board.
- (c) A Joint Management Board or Team Member may declare himself/herself ineligible to vote on a matter where the Joint Management Board or Team Member considers that he/she has a material personal interest in the outcome of the matter and that this may result in a conflict of interest. For the avoidance of doubt, where a Joint Management Board or Team Member is ineligible to vote at a meeting at which a decision is made, a vote of all remaining eligible Joint Management Board or Team Members will constitute a vote of the Joint Management Board or Team.
- (d) If a Funding Proposal is not endorsed by the Joint Management Team, the Funding Proposal may be submitted for consideration at a subsequent Joint Management Team Meeting for further consideration.

## **5.3 Approved Funding Proposal**

- (a) Council may approve a Recommended Funding Proposal within the timeframe and budget agreed by the Joint Management Board in relation to that specific Recommended Funding Proposal.
- (b) The timeframe to implement an Approved Funding Proposal may vary depending on the nature and complexity of the Approved Funding Proposal.
- (c) Council must report to the Joint Management Board at the next meeting of the Joint Management Board as to the progress and status of all Recommended Funding Proposals, including the current balance of the Fund and where funds have been allocated and spent.
- (d) If, at the termination of this Deed there are funds that have not been allocated, the Joint Management Board will continue to operate until all funds have been expended in accordance with clause 5.2 of this Deed and which satisfies the Funding Proposal Criteria.

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## **6 Limitation of liability**

- (a) If a member of the Joint Management Board or Joint Management Team acts in good faith (which shall not preclude acting in the interests of or under the direction of the person appointing that member), he or

she is not responsible or liable in any manner to any other member, the Council or other Parties for any loss or expense.

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## **7 Miscellaneous**

### **7.1 Counterparts**

This Deed may be executed in counterparts. All executed counterparts constitute one document

### **7.2 Amendment**

This Deed may only be amended by a supplemental Deed executed by all Parties.

### **7.3 Termination**

This Deed terminates upon the termination of the Agreement.



## Signing page

**DATED:** \_\_\_\_\_

**EXECUTED** by **xx** in accordance with  
section 127 of the *Corporations Act 2001*:

.....  
Signature of Director/Secretary

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

.....  
Signature of Director/Secretary

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

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

.....  
Signature of witness

.....  
Name of witness (block letters)

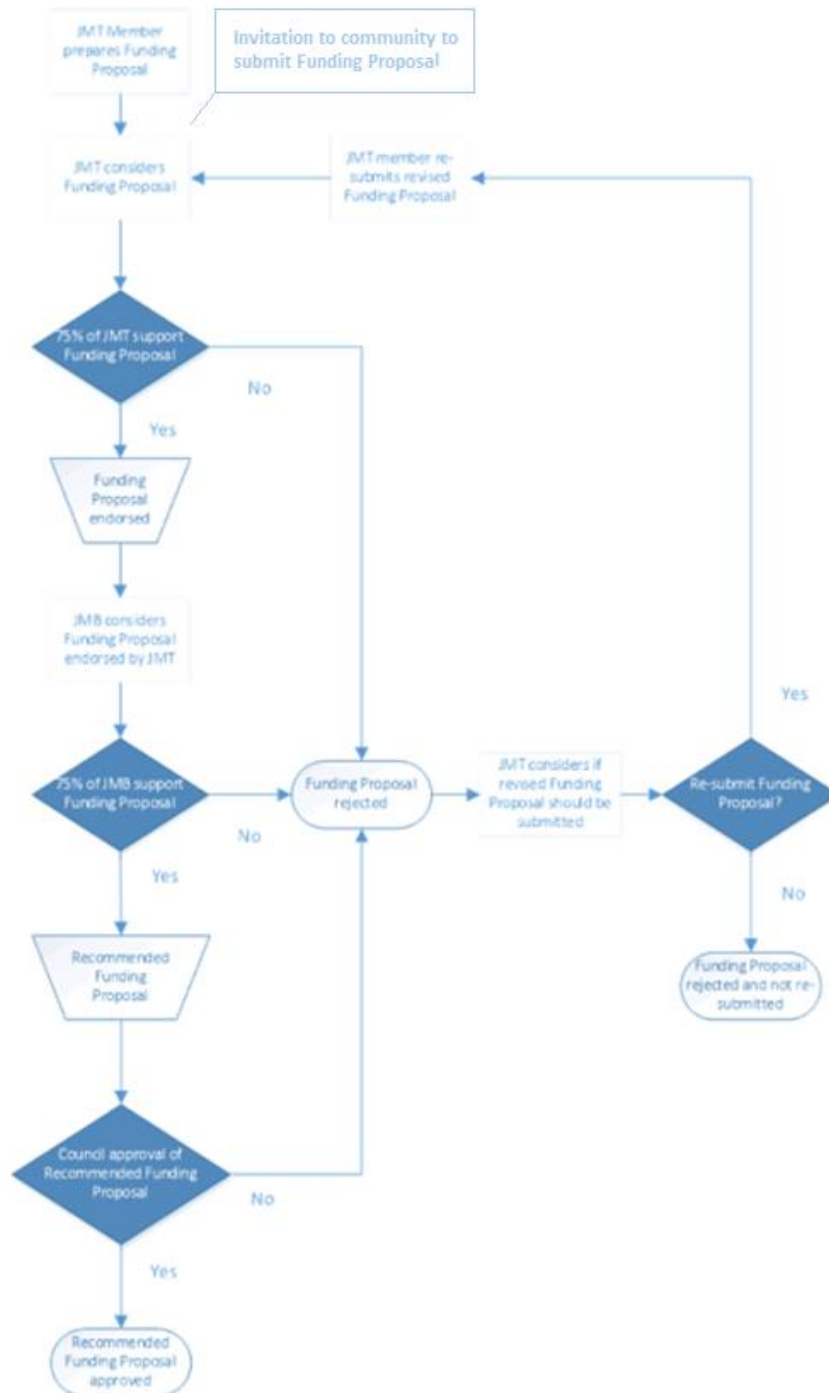
.....  
Signature of General Manager

.....  
Name of General Manager (print)

## Schedule 1 Funding Proposal Criteria

1. A Funding Proposal must have a demonstrated economic, social or environmental benefit for the community within the Muswellbrook Shire and must:
  - a. Be for a public purpose as defined by s93F(2) of the Act
  - b. Meet the intent of the Program
2. A Funding Proposal may include:
  - a. Socio-economic programs and services
  - b. The construction and/or maintenance of infrastructure
  - c. Environmental conservation works
  - d. Research, training or education
  - e. Community welfare
  - f. Community events
3. A Funding Proposal submitted to the Joint Management Board for consideration must:
  - a. Describe the proposed expenditure including:
    - i. An overview of its benefit to the Muswellbrook Shire community;
    - ii. How it meets the intent of the Program; and
    - iii. The reasons why Development Contributions should be spent on the Funding Proposal.
  - b. Set out an indicative costing for the proposed expenditure including any ongoing costs.
4. A Funding Proposal must not be submitted to the Joint Management Board for consideration which:
  - a. Benefits private companies or individuals;
  - b. Seeks finance for individual business activities;
  - c. Seeks to finance endeavours solely for personal gain; or
  - d. Benefits discriminatory and/or exclusive organisations.

## Schedule 2 Funding Proposal Flow Chart



### Schedule 3 Funding Application

Proposed Project / Activity Information		
Proposed Project / Activity Name		
Which of the program principles does the project / activity address?		
Supporting business, promoting job creation, supporting entrepreneurship and diversifying our industry base.	<input type="checkbox"/>	
Providing education and training opportunities to school, TAFE, and University students to maintain a prosperous economy.	<input type="checkbox"/>	
Supporting and promoting activities that provide personal fulfilment for residents through arts and culture, and by creating beautiful outdoor spaces.	<input type="checkbox"/>	
Undertaking community projects that enhance social, cultural and recreational wellbeing of local communities.	<input type="checkbox"/>	
Supporting and promoting sporting activities and events that attract visitors to the Shire.	<input type="checkbox"/>	
Undertaking projects that the community to successfully adapt to the impacts of climate change	<input type="checkbox"/>	
Minimising impacts on housing affordability and social issues arising from changes to the housing market.	<input type="checkbox"/>	
Assisting with improvements to health outcomes and health services for the community.	<input type="checkbox"/>	
Introducing Smart Place technology and initiatives in the Shire.	<input type="checkbox"/>	
Improving infrastructure in accordance with the Community Strategic Plan.	<input type="checkbox"/>	
Promoting and supporting initiatives that preserve regional biodiversity and improve biodiversity corridors and connections	<input type="checkbox"/>	
Supporting initiatives that minimise waste, improve long-term community sustainability and environmental outcomes for future generations.	<input type="checkbox"/>	
Supporting initiatives that build upon historic heritage and traditional Aboriginal values.	<input type="checkbox"/>	
Promoting and supporting initiatives that recognise other environmental aspects such as water resources, air quality, bushfire, greenhouse gas, soil and agriculture.	<input type="checkbox"/>	

Provide a brief summary of the proposed project / activity?
Who will be the primary beneficiary of the project / activity?
What need is being addressed by the project / activity?
Provide evidence to substantiate this need.
How will the project / activity address the need?
Describe the expected benefit of the project / activity.

Project / Activity Funding		
Provide details of project / activity expenditure.		
Project / activity component	Amount (\$)	Year
Total		

Project / Activity Plan			
When will the project / activity commence?			
When will the project / activity be completed?			
How will the Parties be recognised for funding this project / activity?			
Outline here (or attach additional information) the components of the Project.			
Component	Person Responsible	Timing	Deliverable
List each component of the project / activity	Who will be responsible to deliver this component?	When will this component commence and when will it be completed?	What is being delivered (what is the outcome) by completing this component?



### 10.1.3. Major Landcare Projects

<b>Attachments:</b>	Nil
<b>Responsible Officer:</b>	Sharon Pope - Director - Planning & Environment
<b>Author:</b>	Michael Brady (Sustainability Officer - Waste)
<b>Community Plan Issue:</b>	3 - <i>Environmental Sustainability</i>
<b>Community Plan Goal:</b>	An environmentally sensitive and sustainable community
<b>Community Plan Strategy:</b>	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.

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#### PURPOSE

To request Council's consideration of the proposed projects funded through the Major Landcare Projects budget.

#### OFFICER'S RECOMMENDATION

Council APPROVES the allocations for the 2023-24 Major Landcare budget as proposed in Table 1 of the report.

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

#### BACKGROUND

Each year, Council allocates funding for Major Landcare Projects. In 2023-24 the Major Landcare Projects budget is \$125,000.

#### CONSULTATION

Director – Planning and Environment

Technical Officer Natural Areas

#### REPORT

Staff have identified several projects for funding in 2023-24. The aim is to include sites across MUswellbrook Shire and to deliver outcomes that support the goals in the Community Strategic Plan.

The proposed projects are listed in Table 1 below:

**Table 1 - Spending Proposal for 2023/2024 financial year**

<b>Name</b>	<b>Details</b>	<b>Amount</b>
Cultural burn (carry over from 2022/2023 FY)	Weed control and reduction of fuel through cultural burning. Possibly located on land between the Denman Lookout and Rosemount Road, and involving the Wanaruah Local Aboriginal Land Council.	\$13,500
Muscle Creek and Denman Infill Plantings	Planting 3000 native seedlings, weed control, and soft erosion control along Muscle Creek and in Hyde Park, Denman.	\$44,000
Landcare Grants	Support 3 community groups with grants of up to \$10,000 (dollar for dollar matched, in-kind contributions considered but not preferred).	\$30,000
Seedlings for Land	Native seedlings offered free to residents to establish more native vegetation on private land.	\$6000
Hunter Floodplain Red Gum Woodland - Knowledge for Restoration and Seed Collection Project	This community is very limited due to past land clearing, and unique as the most eastern occurring distribution of River Red Gum. This project will collect seeds from remaining trees and carry out genetic testing to ensure seeds used for propagation have a wide genetic diversity. This means that plantings carried out in Muswellbrook Shire will be genetically diverse and less susceptible to disease.	\$15,000
Asset repairs and Sustainability Hub improvements	Maintaining previously funded capital Landcare projects and the Sustainability Hub nursery.	\$10,000
Local Land Services Travelling Stock Reserve – River Red Gum Habitat Project	Support for Local Land Services to protect a critical stand of River Red Gums in Sandy Hollow.	\$1,000
Landcare on rural land project	Staff will engage with rural communities to investigate an appropriate landcare project in a rural area and the possible establishment of a new Landcare group.	\$9,000





Name	Details	Amount
Weed tree removal for Flying Fox	Removal of weed trees on Council land that are used for feeding by Flying Foxes and, as a result, their seeds germinate on other sites via fecal deposits.	\$10,000
<b>Total</b>		<b>\$125,000</b>

### **Cultural Burning**

This important project involves working with the local Indigenous community and cultural burning professionals to carry out a cultural burn on appropriate land. The Denman Lookout area on Rosemount Road will be investigated as a potential site. This work will help to reduce weeds, enhance native habitat, reduce the threat of a hot, uncontrolled fire, and provide an opportunity for cultural connections.

### **Muscle Creek and Denman Infill Plantings**

This project will involve planting 3000 native groundcover seedlings, weed control, and soft erosion control along Muscle Creek and in Hyde Park, Denman. The Muscle Creek work is identified in the Council endorsed Muswellbrook Urban Riparian Landcare Master Plan. The work in Denman is a continuation of many years work as part of National Tree Day.

Within the riparian areas of Muscle Creek and in the natural areas around the Denman wetland, the most effective method of revegetation is to establish a dominant cover of native plants, which takes between 5 and 7 years to mature. As native plants become established, less maintenance will be required. This revegetation work is undertaken with the aim of doing as much work as possible with minimal resources. The project will focus on creating a layer of groundcovers between established and previously planted native shrubs and trees.

The Sustainability Unit is responsible for revegetation work on slopes on Muscle Creek. These sloped areas are challenging environments requiring special equipment and training. Weed suppression with mulch is difficult in these areas, and weeds continue to regrow until the native seedlings dominate. Poor soil occurs in these sloped areas, and it is difficult to water new plants. Despite these challenges, once established, plants stabilise the bank and provide habitat.

### **Landcare Grants**

Grants will be available to Landcare, community, and educational groups within Muswellbrook Shire. These grants will be managed using the same methods as last financial year. These grants will be assessed using the criteria below:

- the improvement the project will have on the environment; and/or
- the impact the project will have on increasing environmental awareness and educating the community about environmental issues.

The first round of grant funding will be targeted towards larger Landcare projects. If funds remain after this round, another funding round will target educational groups.

### **Seedlings for Land**

Up to 2000 native seedlings will be offered free to residents of Muswellbrook Shire. These seedlings will grow to provide shade and habitat. There will be a limit to the number each property owner will receive. Different native species will be offered, depending on property location and size. Seedlings will be given away as part of a Sustainability Hub opening event



to provide Council with an opportunity to educate residents on sustainability related matters. Last financial year, this project proved to be very popular, as 2000 native seedlings were given to residents.

### **Hunter Floodplain Red Gum Woodland - Knowledge for Restoration and Seed Collection Project**

This project will use genetic testing and seed collection to ensure seedlings planted in our Shire are genetically diverse. This work will also be used as the in-kind portion of the new NSW Environmental Trust funded 'Restoration of Muscle Creek through Environmental and Educational Action' project.

River Red Gum (*Eucalyptus camaldulensis*) is among the most iconic of Australia's eucalypts. It is the dominant tree in many riparian and floodplain ecosystems across Australia, but naturally occurs in only one coastal catchment, the Hunter.

As the only coastal population, it is of significant conservation value, reflected by its conservation status as an endangered population and as the dominant canopy species within the Hunter Floodplain Red Gum Woodland Endangered Ecological Community (HFRW) as listed under the *NSW Biodiversity Conservation Act 2016*.

This is a woodland type Council staff have been trying to re-establish in many of the Shire's natural areas. Council will be one of several partners, including the Sydney Royal Botanic Gardens and Saving Our Species, to contribute to this project.

### **Asset repairs and Sustainability Hub Improvements**

Over many years, Council's Sustainability Unit has completed projects using the Major Landcare Projects budget. An amount of funding has also been utilised on maintaining these assets. This project will help carry out maintenance on assets such as the Haydon and Gyarran Street Nature Trails, Platypus Track, and Denman Nature Walk. This project will also help fund assets needed for the new Sustainability Hub.

### **Local Land Services Travelling Stock Reserve – River Red Gum Habitat Project**

Support for a Local Land Services project to protect a critical stand of River Red Gums in Sandy Hollow. This will involve weed removal, infill planting and signs.

### **Rural Landcare Project**

To support Landcare work on rural land, staff will work with rural communities to investigate an appropriate Landcare project in a rural area. This project would aim to encourage the establishment of more Landcare groups in the Shire.

### **Weed tree removal for Flying Fox**

This project will involve the control of weed trees on Council land that are favoured by Flying Foxes. These actions are endorsed through Council's Flying Fox Camp Management Plan.

## **OPTIONS**

1. Accept the Spending Proposal for 2023-24 in Table 1 contained in the report.
2. Amend the Spending Proposal for 2023-24 fiscal in Table 1 contained in the report.

## **CONCLUSION**

In order to continue to provide a high level of service to the community, staff recommend that Council accepts the recommendations contained in the report.

## **SOCIAL IMPLICATIONS**

Improving natural areas improves opportunities for recreational activities for residents,



liveability, and wellbeing.

## **FINANCIAL IMPLICATIONS**

### **Ongoing Operational and Maintenance Costs Implications Associated with Capital Project**

#### **1. Financial Implications – Capital**

The recommended projects will be paid from the Major Landcare Projects budget allocation.

#### **2. Financial Implications – Operational**

All projects recommended are planned to create minimal maintenance, that can be completed by existing staff and resources.

## **POLICY IMPLICATIONS**

Environmental Sustainability Policy S32/1

Key Sustainability Principles

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

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

## **STATUTORY IMPLICATIONS**

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

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

## **LEGAL IMPLICATIONS**

Not applicable.

## **OPERATIONAL PLAN IMPLICATIONS**

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

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

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

3.2.1.1 Provide funds for local Landcare activities.

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

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



3.3.1 Implement funded actions of the adopted Urban Riparian Masterplan.

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

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

#### **COMMUNITY CONSULTATION/MEDIA IMPLICATIONS**

Staff will work with the communications team to help promote all Major Landcare Budget funded projects.



<b>10.1.4.</b>	<b>Monthly Report to Council - Planning, Environment and Regulatory Services</b>
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<b>Attachments:</b>	Nil
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**Responsible Officer:** Sharon Pope - Director - Planning & Environment

**Author:** Tracy Ward (Sustainability Officer), Michael Brady (Sustainability Officer - Waste), Kelly Lynch (Administration 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 (8/6/2023-30/6/2023)***

DA No.	DESCRIPTION	PROPERTY	VALUE
2021.035.003	S4.55 (1A) Modification - Community Centre Extension	5 Jersey Place, Muswellbrook	-
2023.051.001	Dwelling	2 Herdsmen Close, Muswellbrook	\$895,572
2023.050.001	Swimming Pool	31 Babbler Crescent, Muscle Creek	\$39,890
2023.046.001	Inground Swimming Pool	51 Virginia Street, Denman	\$49,100
2023.042.001	Ancillary Development - Shed	56 Stockyard Parade, Muswellbrook	\$33,005
2023.036.001	Construction of Single Storey Dwelling with Attached Garage	5 Stockyard Parade Muswellbrook	\$579,540
2023.029.001	Dwelling House	6 Stable Close, Muswellbrook	\$538,860



DA No.	DESCRIPTION	PROPERTY	VALUE
2023.028.001	Dwelling House	27 Stockyard Parade, Muswellbrook	\$597,955
2023.030.001	Shed	43 Stockyard Parade, Muswellbrook	\$16,110
2023.023.001	Shed	5 Mussel Street, Muswellbrook	\$18,600
2023.005.001	Change of use - Home Occupation	22 Roger Street, Muswellbrook	\$3,000
2022.151.001	Residential Shed	60 Stockyard Parade, Muswellbrook	\$40,000
2022.128.001	Single Storey Dwelling	60 Stockyard Parade, Muswellbrook	\$426,445

**TOTAL = 13*****Schedule 2: Development Applications Currently Being Assessed******As at 30/6/2023***

DA No.	DESCRIPTION	PROPERTY	VALUE
2023. 076.001	Two (2) Lot Subdivision	280 Scrumlo Road, Hebden	\$28,600
2023.079.001	Camping ground, Community building, Amenities	66 Palace Street, Denman	\$250,000
2021.159.002	S4.55(1A) Modification - Ancillary Development-Pool decks fencing shed	2A Bimbadeen Drive, Muswellbrook	-
2023.077.001	Subdivision (Boundary Adjustment)	13 Brentwood Street, Muswellbrook	\$25,000
2023.068.001	Shed	11 Bloodwood Road, Muswellbrook	\$25,000
2023.075.001	Dual Occupancy - Detached duplexes	50 Forbes Street, Muswellbrook	\$687,344
2022.125.002	S4.55(1) Modification - Dwelling	207 Ferndale Road, Yarrawa	-
2023.073.001	Single Storey Dwelling with Detached Secondary Dwelling	16A Martindale Street, Denman	\$727,670
2023.072.001	Demolition of Existing Structures & Construction of Childcare Centre	200 Bridge Street, Muswellbrook	\$2,960,280
2023.067.001	Demolition of Existing Shed and Construction of Shed	56 Sowerby Street, Muswellbrook	\$50,355
2023.059.001	Inground Swimming Pool	12 Octagonal Way, Muswellbrook	\$50,750
2023.066.001	Battery Energy Storage System and Associated Shed Structures	105 Merriwa Road, Denman	\$16,900,000



DA No.	DESCRIPTION	PROPERTY	VALUE
2023.057.001	Battery Energy Storage System & Shed Structures	981 New England Highway, Aberdeen	\$16,900,000
2023.069.001	Shed	7 Peberdys Road, Sandy Hollow	\$36,800
2023.063.001	Inground Swimming Pool with associated safety barriers	13 Barrett Street, Muswellbrook	\$52,320
2023.065.001	2 Relocatable Modular Units/Deck/Roof Workers Accommodation	10 Ogilvie Street, Denman	\$42,900
2023.064.001	Shed	6 Babbington Street, Denman	\$45,000
2023.061.001	Three (3) Lot Subdivision	Golden Hwy, Giants Creek	\$20,031
2023.062.001	Detached Shed with Awning	27 Stockyard Parade, Muswellbrook	\$62,477
2023.058.001	Shed	107 Queen Street, Muswellbrook	\$39,956
2023.053.001	Double-sided LED sign	1581 Merriwa Road, Sandy Hollow	\$34,029
2023.047.001	Industrial Sheds and Lunchroom	26 Glen Munro Road, Muswellbrook	\$117,381
2023.038.001	Construction of thirty (30) multi-dwelling housing (inc.4 adaptable) with associated car parking and landscaping	59 Tindale Street, Muswellbrook	\$4,462,000
2023.049.001	Double Carport	14 Wilson Street, Muswellbrook	\$13,530
2023.056.001	Geotechnical investigations & Clearing of .908 ha of native vegetation	Limestone Road, Muswellbrook	\$993,939
2023.054.001	Commercial Storage Building	39-41 Ogilvie Street, Denman	\$121,391
2023.052.001	Shed and Inground Swimming Pool	242-244 Queen Street, Muswellbrook	\$100,000
2021.094.002	S4.55(1A) Modification Second Storey Addition, Inground Pool Alfresco	20 Cypress Place, Muswellbrook	-
2023.055.001	Swimming Pool	10 Chablis Close, Muswellbrook	\$52,000
2023.048.001	Granny flat, Double garage and Driveway	11 Ogilvie Street, Denman	\$150,000
2023.045.001	Ancillary Development - Shed & Demolition of Existing Shed	73 Ford Street, Muswellbrook	\$63,000
2012.184.003	S4.55(1A)Modification-Change of Use-Metal Recycling Transfer Facility	31 Strathmore Road, Muswellbrook	-





DA No.	DESCRIPTION	PROPERTY	VALUE
2023.037.001	Change of Use Health Consulting Room & Additions of an Accessible Ramp	86 Sydney Street, Muswellbrook	\$25,000
2023.041.001	Steel Frame Industrial structure	12 Wallarah Road, Muswellbrook	\$100,000
2023.040.001	Steel frame Industrial Structure	4 Wallarah Road, Muswellbrook	\$100,000
2023.026.001	Refurbishment and additions to the Campbell's Corner building including new Council Chambers and Meeting Room, takeaway food shop fitout, new entryway and modified cafe space, fresh produce shop, commercial office fitout and a heritage tile display space	60-82 Bridge Street, Muswellbrook	\$1,261,252
2023.039.001	Shed with attached awning	188 Skellatar Stock Route, Muswellbrook	\$19,465
2023.035.001	Change of use to allow for the ground floor operation of a food bank.	75 Bridge Street, Muswellbrook	-
2023.017.001	Replace Existing Retaining Wall	4 Doyle Street, Muswellbrook	\$53,369
2023. 031.001	Alterations & Additions to Existing Dwelling to Create a Dual Occupancy with Swimming Pool	84 Palace Street, Denman	\$400,000
2023.014.001	Storage Complex - 103 self storage units and 12 open storage bays	Turner Street, Denman	\$3,555,527
2022.147.001	Change of Use - Tyre Recycling Facility	12 Carramere Road, Muswellbrook	\$2,200,000
2023.004.001	Alterations and additions to commercial (Veterinary Hospital)	14 Aberdeen Street, Muswellbrook	\$181,650
2022.116.001	Farm Building	161A-161B Goulburn Drive, Sandy Hollow	\$24,139
2022.129.001	Home Based Hair & Beauty Business	100 Yarrowa Deviation Rd, Yarrowa	\$5,000
2022. 132.001	Sixty Eight (68) Lot Subdivision and Child Care Centre	9036 New England Highway, Muswellbrook	\$6,705,835
2022.124.001	Shed for Community Facility	17-19 Maitland Street, Muswellbrook	\$182,720
2022. 118.001	Ancillary Development - Shed	7 Shaw Crescent, Muswellbrook	\$48,300
2017.018.003	S4.55 (1A) Modification - Modification to Outdoor Gaming Area and Car Park Arrangement	15 Sydney Street, Muswellbrook	-



DA No.	DESCRIPTION	PROPERTY	VALUE
2022.095.001	Staged Demolition of Existing Buildings and Construction of New Grandstand and Amenities.	3 Wilkinson Avenue, Muswellbrook	\$9,455,600
2022.092.001	Subdivision of One (1) Lot into One Hundred & Ninety Four (194) Residential Lots	Almond Street, Denman	\$18,284,734
2022.080.001	Remediation and Earthworks	Coal Road, Muswellbrook	\$2,516,829
2022.045.001	Manufactured Home and Associated Structures	120 Yarraman Road, Muswellbrook	\$417,100
2002.205.009	S4.55 (1A) Modification - Changes in Mine Rehabilitation Framework	Muscle Creek Road, Muscle Creek	-
2022.030.001	Steel Framed Deck & Internal Fit Out	93A Hill Street, Muswellbrook	\$30,000
2021.137.001	Change Of Use to Educational Facility	820 Rosemount Road, Denman	-
2021.073.001	Temporary use of the land for receival and dismantling of rail wagons with off-site disposal	18 Strathmore Road, Muswellbrook	\$50,000
2020.102.001	Hotel Accommodation (Royal Hotel)	10 Ogilvie Street, Denman	\$20,000
2020.083.001	Subdivision of one lot (1) into three (3)	60-62 Palace Street, Denman	\$10,000
2020.007.001	Additions and Alterations to existing Hotel	184 Bridge Street, Muswellbrook	\$110,000
2019.053.001	Subdivision of Two (2) Lots into Seventy Five (75) Lots	9027 New England Highway, Muswellbrook	\$4,875,600
2023.084.001	Shed	1554 Golden Hwy, Sandy Hollow	\$70,000
2023.083.001	Three (3) Lot Subdivision	Golden Hwy, Giants Creek	\$20,031
2023.082.001	Grade/create a racing mower track site, flatten/mow area for member parking, temporary and transportable storage space	Bylong Valley Way, Baerami	\$5,000
2023.080.001	Replacement of front door of commercial building.	Ellis Parish, County Brisbane	\$6,900
2022.018.002	S4.55(1) - Modify Condition 17 to reduce static water supply volume	71 Babbler Crescent, Muscle Creek	-

**Total = 66**



**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)**

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

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

	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23	Feb 23	Mar 23	Apr 23	May 23	Jun 23
Applications Received (new businesses)	1	3	3	7	1	1	3	3	13	10	1	13	0
Inspections (new businesses)	3	1	0	8	1	3	1	1	2	2	0	0	0
Inspections (existing businesses)	13	0	0	0	0	5	0	15	3	4	13	16	10
Reinspections	0	0	0	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 (2022/2023)**

	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23	Feb 23	Mar 23	Apr 23	May 23	Jun 23
Total Sites Inspected	9	0	0	0	23	19	17	17	15	12	11	9	7
Total non-compliant and educated	0	0	0	0	0	0	0	0	0	0	0		0
Total compliance after education	0	0	0	0	23	19	0	0	15	12	0		0
Total Penalty Notices Issued	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 (2022/2023)**

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



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

### 13 Month Analysis (2022-23) – as at 30/6/2023

	Jun	Jul	Aug	Sep	Oct	N ov	Dec	Jan 23	Feb 23	Ma r 23	Ap r 23	Ma y 23	Jun 23	Total
Applications for Compliance Certs.	3	1	5	3	3	5	3	1	2	3	0	0	0	36

Total compliance inspections (not inc. finals for OCs)	0	24	18	17	9	4	10	5	11	8	7	4	8	125
Initial Inspections	0	18	11	8	8	1	7	1	3	5	2	1	2	66
Re-inspections	0	6	7	9	1	3	3	4	8	3	5	3	5	45

Compliance Certs / Occ. Certs issued	1	5	13	7	2	3	1	1	1	7	3	6	5	45
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### Total Pools in Council's SPR = 975

(Note: 1113 records in SPR but 135 have been notified as demolished, 2 are Council's Public Pools and 1 is on Crown Land)

Current Compliance = 28%

### SUSTAINABILITY

#### 19 May to 16 June 2023

#### War on Waste Awards

Congratulations Muswellbrook Preschool Kindergarten, Martindale Public School and Muswellbrook South Public School for winning a Muswellbrook Shire Council Community War on Waste Award.

Sharon Rivers, Principal of Martindale Public School said the school has a mission to teach children about recycling and actively recycling any components they can in their rural location.

"Our new endeavour, supported by the War on Waste project, is to collect return and earn drink containers. Students as young as kindergarten are careful to correctly gather these containers so that the recycling process can earn us some dollars towards items such plants for our veggie garden," she said.



Tara Jeans, Muswellbrook South Public School's P&C Grants Officer, said staff and students take part in programs that significantly reduce the amount of waste going to landfill.

The War on Waste project is supported by the NSW Environment Protection Authority Waste Less, Recycle More initiative, funded from the waste levy.



### **Rehabilitation of Muscle Creek for Community and Environmental Benefit Project**

A three-year rehabilitation project at Muscle Creek by Council with the help of a wide range of volunteers has been completed.



The one-hectare project site, a long, narrow corridor with steep sloping land, lies between Muscle Creek and the railway corridor. On-ground works involved planning 3000 native seedlings and the control of weed species. Despite supplier shortages due to COVID 19, and creek flooding, all on-ground works and community engagement activities have been successfully delivered. A massive thanks to all our volunteers. This project has been assisted by the NSW Government through its Environmental Trust.

### **Plastic Recycling Workshop**

Students from 6 schools/preschools enjoyed a 'Resourceful Living' workshop. A hands-on workshop that made students think about their recycling journey and what can be done to reuse plastics and reduce the amount of landfill we produce.

### **Upper Hunter Youth Services Visit Sustainability Hub**

Upper Hunter Youth Service visited the Sustainability Hub again. Sowing a variety of seeds for the youth to grow, plant, look after and eventually cook and eat. We also went for a walk to Muscle Creek. This is part of a regular series of activities.



### **Muswellbrook Connect**

A Muswellbrook Connect meeting was held in June with another scheduled for August.

### **Waste extension**

Consultation with the community in relation to waste services in non-urban areas is continuing.

### **Electric Vehicles**

Sustainability staff have attended webinars to learn about the NSW government's plan for a transition to electric vehicles. Sustainability staff have been assisting policy development in this area.





Sustainability staff have met with EV (Electric Vehicle) providers to discuss where EV chargers can be placed in the Muswellbrook LGA (Local Government Area).

**Giants Leap walking trail**

Works have been completed to clear the walking trail of obstructions and overhanging vegetation, and to better mark the trail through rocky areas. New signs have also been installed. Facebook messages indicate this work has increased awareness of the trail with more people indicating they intend to try the walk.

**Vehicle access barrier – Rosemount Rd Denman**

The final concrete blocks have been installed to limit 4WD access from Rosemount Road to the Denman nature Trail reserve. Wire rope fencing was installed in 22/23 FY and the concrete blocks create a barrier in the remaining section that was difficult to fence.

**Openair Project**

The Openair project continues in collaboration with several universities, the National Smart Sensing Network, and other Councils. The clarity sensors have already highlighted the differences in air quality in parts of the Muswellbrook township.

At the end of Winter, the sensors will be returned to the Department of Environment Air Quality Monitoring Station in Bowman Park for another calibration session. They will then be placed at strategic locations along the New England Highway to measure Nitrogen Dioxide (NO<sub>2</sub>) emissions to obtain background levels before the Muswellbrook Bypass is completed. NO<sub>2</sub> is emitted by diesel engines.

**Flying Fox Policy and Camp Management Plan review**

Staff undertook a comprehensive review of Muswellbrook's Camp Management Plan and updated it where necessary; the plan is on public exhibition.

**Net Zero**

Sustainability and Planning staff met with the Net Zero Coordinator from the Hunter Joint Organisation to collaborate on Council's plans to meet Net Zero by 2050.

**Sustainable Futures – Muswellbrook**

The popularity of the Sustainable Futures – Muswellbrook Facebook page continues to grow. It has now received 1,674 page likes and 1,818 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.



## 10.2. Community Infrastructure

### 10.2.1. Draft Recycled Water Policy MSC23E for Public Exhibition

<b>Attachments:</b>	1. DRAFT Recycled Water Policy MSC23E [10.2.1.1 - 4 pages]
<b>Responsible Officer:</b>	Derek Finnigan - General Manager
<b>Author:</b>	Irene Chetty (Operations Manager: Water and Wastewater), Madeleine St John (Business Improvement Officer), Chloe Wuiske (Business Improvement Officer)
<b>Community Plan Issue:</b>	5 - Community Infrastructure
<b>Community Plan Goal:</b>	Effective and efficient infrastructure that is appropriate to the needs of our community.
<b>Community Plan Strategy:</b>	5.3.1 - Water, sewerage and waste services are provided in compliance with regulatory requirements.  5.3.1.1 - Ensure legislative compliance with Health Guidelines and Environment Protection Authority (EPA) Licence requirements

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#### PURPOSE

To request endorsement from Council to place the attached *DRAFT Recycled Water Policy* on public exhibition for a period of 28 days.

#### OFFICER'S RECOMMENDATION

Council:

1. Endorses the attached *DRAFT Recycled Water Policy* to be placed on public exhibition via Council's website for a period of 28 days; and
2. Requests a further report be submitted to Council for consideration of submissions received during the exhibition period.

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

#### BACKGROUND

Muswellbrook Shire Council's *Recycled Water Policy MSC23E* was developed in line with the *Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1)-2006* and formalises Council's commitment to safe, responsible, and sustainable use of recycled water.

The *Recycled Water Policy* was last adopted by Council on 28 September 2021. The policy has been reviewed to allow time for the public exhibition and adoption process prior to the Policy's review date due in September 2023.



## CONSULTATION

MANEX

Operations Manager Water and Wastewater

Business Improvement Officer(s)

## REPORT

A review of the *Recycled Water Policy* has been conducted and the amendments are shown as tracked changes in attachment 1.

Amendments include:

- Separated Policy from Policy Statement.
- Added additional required Acts to the Legislation section.
- Added policy sections: Risks being addressed, Scope, Dispute Resolution and Related Documents.
- Formatting into Council's current policy template.

## OPTIONS

Council may:

1. Resolve to endorse the attached *DRAFT Recycled Water Policy* for public exhibition; or
2. Request amendments to the attached *DRAFT Recycled Water Policy* prior to public exhibition.

## CONCLUSION

It is recommended that Council endorses the attached *DRAFT Recycled Water Policy* for public exhibition.

## SOCIAL IMPLICATIONS

Nil known.

## FINANCIAL IMPLICATIONS

Nil known.

## POLICY IMPLICATIONS

The policy has been reviewed in line with Council's Policy Management Framework.

## STATUTORY IMPLICATIONS

Legislation relating to the *DRAFT Recycled Water Policy* includes:

- Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1) (2006).
- Protection of the Environment Operations Act 1997.
- Muswellbrook Shire Environmental Protection Licences.
- Public Health Act 2010.
- Work Health and Safety Act 2011.

## LEGAL IMPLICATIONS

Nil known.



### **OPERATIONAL PLAN IMPLICATIONS**

5.3.1.1 Ensure legislative compliance with Health Guidelines and Environment Protection Authority (EPA) Licence requirements.

5.3.1.2 Ensure performance monitoring of water supply and sewage services aligns with the new NSW Department of Planning and Environment (DPE) Regulatory and Assurance Framework for Local Water Utilities.

6.2.5.2 Develop and review policies in accordance with statutory and operational requirements.

### **RISK MANAGEMENT IMPLICATIONS**

The policy embraces the twelve elements of the risk management framework in the Australian Guidelines for Water Recycling to identify major health and environmental risks when using recycled water, and to implement preventative measures to reduce such risks to acceptable lower risks.

### **WASTE MANAGEMENT IMPLICATIONS**

Nil known.

### **COMMUNITY CONSULTATION/MEDIA IMPLICATIONS**

Public exhibition of 28 days via Council's website will provide the Community with an opportunity to make submissions.



**muswellbrook  
shire council**

## **DRAFT Recycled Water Policy** MSC23E

### **Authorisation Details**

<b>Authorised by:</b>		<b>Internal/External:</b>	External
<b>Date:</b>		<b>Minute No:</b>	
<b>Review timeframe:</b>	<u>4 years</u>	<b>Review due date:</b>	
<b>Department:</b>	Community Infrastructure Services		
<b>Document Owner:</b>	Operations Manager Water & Wastewater		
<b>Community Strategic Plan Goal</b>	5. Effective and efficient infrastructure that is appropriate to the needs of our community		
<b>Community Strategic Plan Strategy</b>	5.3 Provide safe, secure and reliable water supply and sewer services		

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## 1. Policy Objective

Muswellbrook Shire Council's Recycled Water Policy has been developed in line with the *Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1)*-2006 and formalises ~~Council's~~ commitment to safe, responsible and sustainable use of recycled water. All ~~partners, contractors and partnership agencies~~ stakeholders should be made aware of the policy.

## 2. Risks being addressed

This policy embraces the twelve elements of the risk management framework in the Australian Guidelines for Water Recycling to identify major health and environmental risks when using recycled water, and to implement preventative measures to reduce such risks to acceptable lower risks. The twelve elements are arranged in four main areas:

1. commitment to responsible use and management of recycled water;
2. system analysis and management;
3. supporting requirements; and
4. Review;

These requirements are detailed in the policy, below.

## 2.3. Scope

All managers and employees involved in the supply of recycled water are responsible for understanding, implementing, maintaining, and continuously improving the recycled water management system.

This policy applies to all relevant stakeholders.

## 3.4. Policy Statement

Muswellbrook Shire Council supports and promotes the responsible use of recycled water and the application of a management approach that consistently meets the Australian Guidelines for Water Recycling, as well as recycled water user and regulatory requirements.

## 5. Policy

To achieve this Muswellbrook Shire Council, together with the NSW Health Authorities, NSW Environment Protection Authority, and relevant stakeholders we will:

- Ensure that protection of public and environmental health is recognised as being of principal importance.
- Maintain communication and partnerships with all relevant agencies involved in management of water resources, including waters that can be recycled.
- Engage appropriate scientific expertise in developing recycled water schemes.
- Recognise the importance of community participation in decision-making processes and the need to ensure that community expectations are met.

- Manage recycled water quality at all points along the delivery chain from source to the recycled water user.
- Use a risk-based approach in which potential threats to water quality are identified and controlled.
- Integrate the needs and expectations of our users of recycled water, communities and other stakeholders, regulators, and employees into planning processes.
- Establish regular monitoring of control measures and recycled water quality, and establish effective reporting mechanisms to provide relevant and timely information, and promote confidence in the recycled water supply and its management.
- Develop appropriate contingency planning and incident-response capability.
- Participate in and support appropriate research and development activities to ensure continuous improvement and continued understanding of recycled water issues and performance.
- Contribute to the development of industry regulations and guidelines, and other standards relevant to public health and the water cycle.
- Continually improve Council's practices by assessing performance against corporate commitments and stakeholder expectations.

Muswellbrook Shire Council will implement and maintain recycled water management systems consistent with the *Australian Guidelines for Water Recycling* and *the Integrated Water Cycle Management Strategy* to effectively manage the risks to public and environmental health.

## 6. Dispute Resolution

The Operations Manager Water & Wastewater is the interpreter of this policy.

## 7. Related Documents

### 8.1 Legislation and Guidelines

- Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1) (2006)
- Protection of the Environment Operations Act 1997
- Muswellbrook Shire Environmental Protection Licences
- Public Health Act 2010
- Work Health and Safety Act 2011

### 8.2 Policies and Procedures

- [Drinking Water Policy](#)
- Liquid Trade Waste Policy
- DRAFT Recycled Water Management Plan (Pending)
- Denman - Pollution Incident Response Management Plan (PIRMP)
- Muswellbrook - Pollution Incident Response Management Plan (PIRMP)



### 8.3 Other Supporting Documents

- Environment Protection Licence 1593 (Muswellbrook)
- Environment Protection Licence 5059 (Denman)

## 8. 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>28/09/21</u>	<u>Operations Manager</u>	<u>Adopted by Council 28/9/21, minute number 97</u>
<u>2</u>	<u>05/07/22</u>	<u>Business Improvement Officer</u>	<u>Added policy number and authorisation details.</u>
<u>3</u>	<u>04/07/2023</u>	<u>Operations Manager Water &amp; Wastewater</u>	<u>Separated Policy from Policy Statement and added more Acts to Legislation. Added sections: Risks being addressed, Scope, Dispute Resolution and Related Documents.</u>

**10.2.2. s.138 Roads Act 1993 - Bengalla Mining Company Installation of Water Pipeline under Bengalla Road Bridge****Attachments:**

1. Bengalla Mine Scour Rock and Pipeline [**10.2.2.1** - 1 page]
2. Bengalla Mining Company s 138 Application for Water Diversion Works Addn Info [**10.2.2.2** - 4 pages]
3. Letter from MACH Energy to Council re BMC section 138 Application [**10.2.2.3** - 1 page]
4. Bengalla Mine Bengalla Link Road Pipeline and Rock Scour Special Condition (2) [**10.2.2.4** - 3 pages]

**Responsible Officer:** Derek Finnigan - General Manager**Author:** Imelda Williams (Traffic & Roads Status Officer)**Community Plan Issue:** 5 - Community Infrastructure**Community Plan Goal:** Effective and efficient infrastructure that is appropriate to the needs of our community.**Community Plan Strategy:** 5.1.3 - Facilitate investment in high quality community infrastructure necessary to a Regional Centre.

Not applicable

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**PURPOSE**

To delegate to the General Manager authority to sign the s.138 *Roads Act 1993* approval for the installation of a water pipeline and scour rock installation under the Bengalla Link Road bridge.

**OFFICER'S RECOMMENDATION**

Council delegates to the General Manager authority to sign a s.138 Roads Act 1993 approval for the installation of a water pipeline and scour rock as proposed by Bengalla Mining Company (BMC) generally in accordance with the Special Conditions set out in the report, including the following matters:

1. The consent be provisional on a suitable form of security to be provided by BMC prior to the commencement of construction of the mine owned asset infrastructure within Council's road reserve;
2. The security bond to be held by Council until the infrastructure is removed from the road reserve;
3. Insurances, detailed design, and traffic guidance plans (as necessary) are to be submitted and certified by suitably qualified consultants; and

The General Manager be authorised to negotiate the terms of the Deed and 88b instrument to effect the registration of the easement and to sign documentation, under the seal of Council if necessary.

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_



## BACKGROUND

The NSW Department of Planning and Environment determined the Bengalla Mining Company Pty Limited (BMC) application State Significant Development 5170 Modification 5 (Mod 5) on 24 February 2023. Mod 5 enables BMC to realign the western diversion levee (WDL) within the project disturbance boundary, among other matters. BMC is now proposing to carry out the water diversion works comprising a pipeline and rock scour protection (Water Diversion Works) within the Bengalla Link Road reserve underneath the existing bridge overpass that was previously constructed to facilitate the former Mount Pleasant Mine rail loop.

## CONSULTATION

Roads Drainage & Technical Services

Bengalla Mining Company

Councils Legal Advisor

General Manager

## REPORT

Council has received a S138 application from Bengalla Mining Company which proposes to undertake Water Diversion Works within a section of Bengalla Link Road. The work will involve the diversion of clean water surface water flows through the former rail cutting and under the existing bridge on Bengalla Link Road.

The proposed works are triggered as a result of Modification 5 to State significant development consent SSD-5170 for BMC granted 24 February 2023 (Mod 5). Among other things, Mod 5 authorises the realignment of the development's Western Diversion Levee (WDL) which diverts clean water around disturbed areas at Bengalla Mine. The WDL needs to be realigned to facilitate the western progression of mining, and the Water Diversion Works need to be completed to facilitate that realignment.

BMC has applied for consent under section 138 of the Roads Act 1993 NSW for the Water Diversion Works and Muswellbrook Shire Council (Council), as the roads authority, is required to determine the consent in terms substantially consistent with SSD-5170 (as modified) under section 4.42 of the Environmental Planning and Assessment Act 1979 NSW.

The diversion of water is proposed to utilise the now redundant void under the existing concrete bridge at approximately ch 6.5 Km on Bengalla Link Road, as all rail infrastructure has now been removed from the cutting by neighbouring mining company MACH Energy. A commercial agreement was reached with Mach Energy and BMC, supported by Council, whereby the road rail bridge was to remain in place until BMC mines through the area and permanently diverts Bengalla Link Road in accordance with the development consent granted for SSD5170, dated 3 March 2015 for the Bengalla Continuation Project. (See attached letters of support from MACH Energy and precis of commercial agreement and proposal from BMC attached.)

The existing cutting, where it crosses under the bridge within the Bengalla Link Road reserve, will have rock scour protection installed to enable protection of the cutting from erosion. BMC has advised that the rock scour protection will be designed in accordance with the *Guide to Road design part 5B: Drainage-Open Channels, Culverts and Floodways*. Scour protection has been sized for the 1% AEP peak flow event. It is proposed that dumped rock rip-rap lining 500mm thick, D50=200mm (150mm minimum size and 300mm maximum size) will be placed on the base of the cutting and 1.5m up the side wall batters. The rip-rap will be laid over a geotextile separation layer. In addition to facilitating surface water flows, the cutting will be utilised to convey water from the Bengalla Dams Precinct



west of the Bengalla Link Road to east of the road reserve for the purpose, predominantly, for dust control via a polypipe running along the surface of the ground. These arrangements will be in place until the bridge overpass in the Bengalla Link Road is removed. (Details shown on the attached plan)

The infrastructure will be contained within, and covered by, a defined three (3) dimensional easement to be created in favour of Bengalla's land adjoining the road corridor limited as to height and depth beneath the road surface so as to exclude any interference with the road use and maintenance described above. Council will also enter into a Deed of Agreement with BMC on reasonable terms outlining the maintenance and removal responsibilities for the Western Diversion Works.

## OPTIONS

Council may decide to:

1. Approve a delegation to the General Manager to issue consent for the works within the road reserve 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, and to negotiate the terms of the easement and Deed with Bengalla Mining Company as outlined in the report;
2. Request modifications to the conditions; or
3. Refuse the delegation.

## CONCLUSION

It is recommended that Council approves the delegation to the General Manager as outlined in Option 1 above and as described in the report.

## SOCIAL IMPLICATIONS

There will be minimal impact to the road users of Bengalla Link Road at this location, as the majority of works will be undertaken within the Bengalla Mine site and under the existing bridge overpass of Bengalla Link Road.

## FINANCIAL IMPLICATIONS

The cost of the works undertaken will be the responsibility of the applicant. Council will cover its costs through the s.138 Roads Act consent fees.

### **Ongoing Operational and Maintenance Costs Implications Associated with Capital Project**

#### **1. Financial Implications – Capital**

Not applicable.

#### **2. Financial Implications – Operational**

The maintenance of this portion of road, including the overbridge, falls within the maintenance responsibility of MACH Energy.

## POLICY IMPLICATIONS

Not applicable.

## STATUTORY IMPLICATIONS

Council is the roads authority for Bengalla Link Road and is acting within its powers under the Roads Act 1993.



## **LEGAL IMPLICATIONS**

The approval conditions will require the applicant to enter into a Deed of Agreement with Council. Council is the roads authority for Bengalla Link Road and is acting within its powers under the Roads Act 1993.

## **OPERATIONAL PLAN IMPLICATIONS**

Submission of the report complies generally with item 19.3.4 of the Operational Plan: "Investigate and recommend appropriate Management treatment for road safety and traffic management".

## **RISK MANAGEMENT IMPLICATIONS**

Works within the road reserve are required to comply with the appropriate standards, particularly Austroads Standards and Transport for NSW guidelines "Traffic Control at Worksites" traffic management guidelines. A security removal bond will be imposed under the conditions of consent for the removal of the infrastructure within Council's Road reserve.

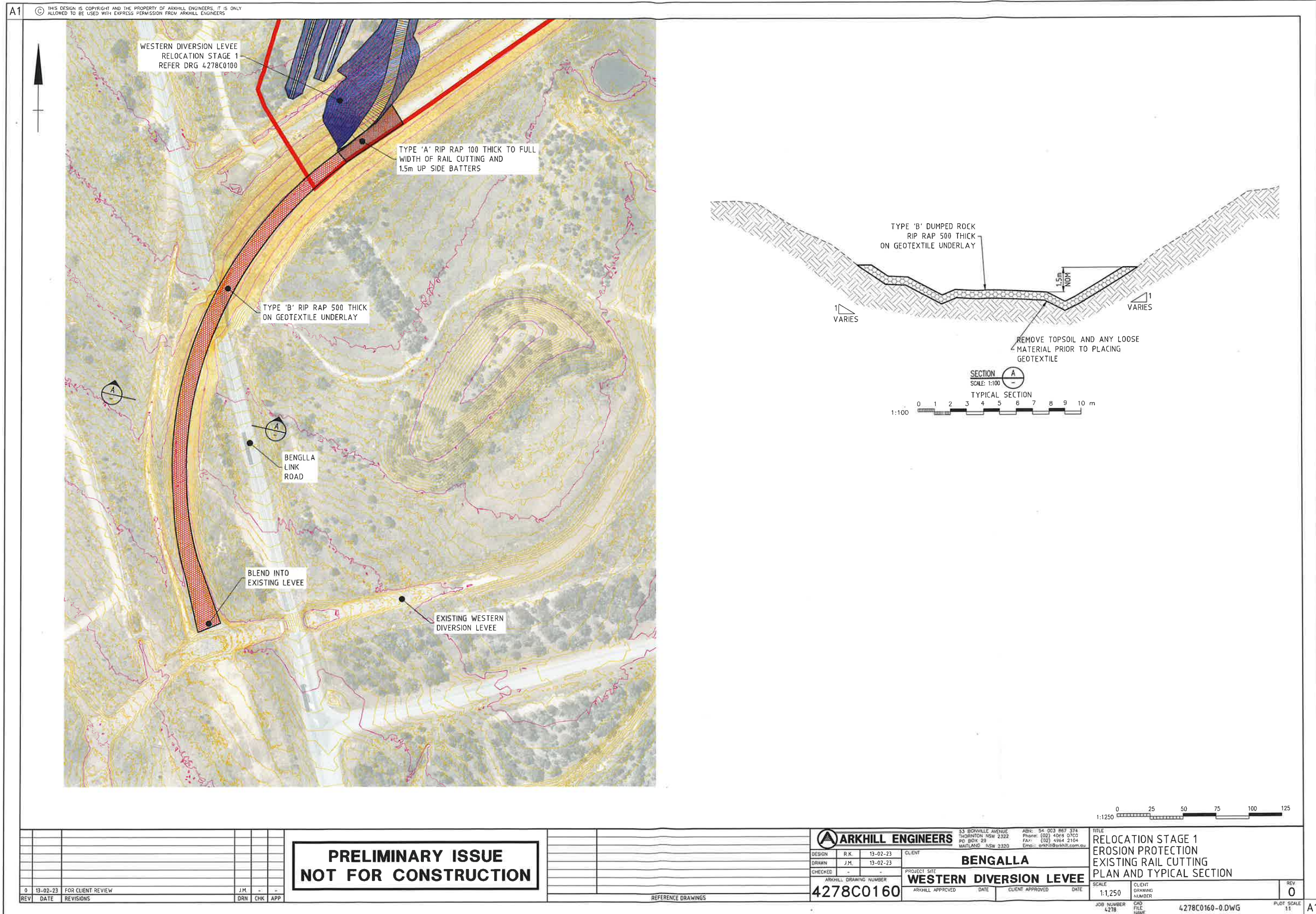
## **WASTE MANAGEMENT IMPLICATIONS**

Not applicable.

## **COMMUNITY CONSULTATION/MEDIA IMPLICATIONS**

Public consultation will be undertaken by BMC prior to and during the construction phase to notify road users of any impacts or changed traffic conditions required as a result of the works.









NEW HOPE  
GROUP

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12 July 2023

Imelda Williams  
Muswellbrook Shire Council  
PO Box 122  
Muswellbrook NSW 2333

By Email:  
[Imelda.Williams@muswellbrook.nsw.gov.au](mailto:Imelda.Williams@muswellbrook.nsw.gov.au)  
[Kellie.Scholes@muswellbrook.nsw.gov.au](mailto:Kellie.Scholes@muswellbrook.nsw.gov.au)

Dear Imelda

**Bengalla Mining Company Pty Limited (BMC)**  
**Application for Section 138 Consent – Proposed Water Diversion Works**

I refer to our meeting on 6 July 2023 regarding BMC's application lodged on 8 March 2023 for consent under section 138 of the *Roads Act 1993* NSW (**Roads Act**) to carry out certain water diversion works within the Bengalla Link Road reserve underneath a bridge overpass that was constructed in connection with the former Mount Pleasant rail (**s138 Application**).

As requested, this letter provides relevant background information about responsibilities for maintenance and removal of each of BMC's proposed works and the existing bridge overpass to assist in Council's consideration of the s138 Application.

**MACH Energy's Rail Bridge Overpass**

The existing bridge overpass and cutting were constructed by MACH Energy Australia Pty Ltd (**MACH Energy**) in connection with the former rail spur for Mount Pleasant and form part of the Council public road known as Bengalla Link Road. BMC understands from our recent discussions that Council granted consent to MACH Energy under section 138 of the Roads Act for construction of that infrastructure and entered into a deed and security arrangements with MACH Energy regarding maintenance responsibilities for the bridge.

MACH Energy has now constructed a new rail spur for Mount Pleasant to the east of Bengalla Mine (**Bengalla**). As required by conditions in the Mount Pleasant development consent, MACH Energy has removed the former rail spur except for certain items which BMC agreed could remain in situ ('**Remain in Situ Items**').<sup>1</sup>

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<sup>1</sup> Refer to Schedule 3 Condition 37 of DA92/97 for Mount Pleasant (as modified) and Condition B94 of SSD-10418 for the Mount Pleasant Optimisation Project.



One of the Remain in Situ Items is the Bengalla Link Road bridge overpass and cutting (**Rail Bridge Infrastructure**). BMC and MACH Energy have entered into a commercial agreement about the future removal of the Rail Bridge Infrastructure, under which (relevantly):

- a) BMC may at any time give notice to MACH Energy that BMC intends to construct a realignment of Bengalla Link Road and issue a notice requiring MACH Energy to remove the Rail Bridge Infrastructure. Indicatively, BMC expects that it would issue the notice when Bengalla Link Road is realigned to facilitate mining at Bengalla further to the west.<sup>2</sup>
- b) BMC must apply for and use its reasonable endeavours to obtain necessary approvals for the removal of the Rail Bridge Infrastructure (which would include a section 138 consent).
- c) After BMC has completed the realignment of Bengalla Link Road and obtained all necessary approvals for removal of the Rail Bridge Infrastructure, MACH Energy must remove (at its cost) the Rail Bridge Infrastructure. After that removal, responsibility for rehabilitation of the land will pass to BMC.

Accordingly, MACH Energy will remain responsible for maintenance of the Rail Bridge Infrastructure until such time as that infrastructure is removed by MACH Energy under the commercial agreement referred to above. BMC expects that the existing arrangements between Muswellbrook Shire Council (**Council**) and MACH Energy for the maintenance of the Rail Bridge Infrastructure by MACH Energy<sup>3</sup> remain in place until that occurs.

This position appears to be consistent with the following conditions in State Significant Development consent SSD-10418 for the Mount Pleasant Optimisation Project:

- a) Condition B55 – *“Following the completion of the Bengalla Link Road under SSD-5170 [for Bengalla], or as otherwise directed by the Planning Secretary, the Applicant [MACH Energy] must demolish the Bengalla Link Road bridge and, unless otherwise agreed by the Planning Secretary, reinstate the road reserve to the satisfaction of Council”*.<sup>4</sup>
- b) Conditions B103-B104 – *“During the development, the Applicant [MACH Energy] must maintain the roads and intersections between the Bengalla Mine main entrance and the Mount Pleasant Mine main entrance, including ... part of the Bengalla Link Road ... The Applicant must develop a Maintenance Management Plan in respect of these roads, to the satisfaction of Council”*.<sup>5</sup>

#### **BMC’s Proposed Works**

The s138 Application describes BMC’s proposed works in the cutting underneath the rail bridge overpass being scour rock and a water pipeline (**Water Diversion Works**). BMC subsequently provided further information about the Water Diversion Works to Council by emails dated 10 March 2023, 14 March 2023 and 10 May 2023 in response to queries from Council.

In summary, the Water Diversion Works involve the diversion of clean water surface water flows through the former rail cutting underneath the bridge overpass via a pipeline. Scour rock will be installed to prevent erosion. When MACH Energy removed the former Mount Pleasant rail from the

<sup>2</sup> Schedule 3 Condition 34 of SSD-5170 for Bengalla requires BMC to design and construct the realigned Bengalla Link Road prior to mining within 200 metres of it to the satisfaction of Council.

<sup>3</sup> Which BMC understands comprise a section 138 consent and accompanying maintenance deed and security arrangements.

<sup>4</sup> A similar condition is in Schedule 3 Condition 37(e) of DA92/97 for Mount Pleasant (as modified).

<sup>5</sup> A similar condition is in Schedule 3 Condition 41 of DA92/97 for Mount Pleasant (as modified).

vicinity, it was required by a commercial agreement with BMC to do so in such a way that clean surface water run off flows would be maintained through the area of the cutting. As such, the cutting is already designed to receive clean water.

The Water Diversion Works are required as a result of Modification (**Mod**) 5 to State significant development consent SSD-5170 for Bengalla (granted on 24 February 2023). Among other things, Mod 5 authorises the realignment of the Western Diversion Levee (**WDL**) within the disturbance boundary of SSD-5170. The purpose of the WDL is to divert clean water around disturbed areas at Bengalla. The WDL (or parts of it) need to be realigned from time to time to accommodate the westward progression of mining.

The realignment of the WDL is now becoming increasingly urgent and the Water Diversion Works need to be completed to facilitate that realignment. BMC notes that under section 4.42 of the *Environmental Planning and Assessment Act 1979 NSW (EPA Act)*, a consent under section 138 of the Roads Act cannot be refused if it is necessary for carrying out State significant development that is authorised by a development consent and is to be substantially consistent with the consent.

#### **Council's Proposal**

Council's letter to BMC of 27 June 2023 describes Council's proposal to:

- a) grant an easement in favour of BMC controlled lands adjoining the Bengalla Link Road reserve for the Water Diversion Works (at BMC's expense);
- b) enter into a Deed with BMC under which BMC *"accepts the area as is, including any prior MACH items, and which orchestrates the steps required to effect registration of the easement and the ongoing commitments and obligations of Bengalla for the use of the area ..."*; and
- c) require BMC to *"provide a security in support of its obligations ... take over the maintenance and ... make good responsibilities of the easement site by way of a ... schedule to be incorporated into the Deed"* following which the *"arrangements currently held by Council with MACH Energy may be released"*.

Although they are in the same general area, BMC's proposed Water Diversion Works are separate to the existing rail bridge overpass. For the reasons described earlier in this letter, BMC expects that it would be appropriate for Council's existing arrangements with MACH Energy to continue until such time as the Rail Bridge Infrastructure is removed.

BMC is prepared to enter into separate arrangements with Council for its Water Diversion Works by providing security for rehabilitation of its works and entering into a deed with Council on reasonable terms regarding maintenance and removal responsibilities for the Water Diversion Works. BMC suggests that this is appropriately implemented by way of conditions in a consent issued by Council to BMC in response to the s138 Application.

This approach would be consistent with other section 138 consents issued by Council to BMC in the past for works within Council road reserves. If Council wishes to also grant an easement for the Water Diversion Works in favour of BMC controlled lands, BMC is happy for that to be implemented at a later date after the section 138 consent has been issued (to enable the Water Diversion Works to proceed in the meantime).

BMC notes that there are also provisions in the Roads Act which provide protection for Council in respect of any damage to the Bengalla Link Road due to the Water Diversion Works. For example,

section 102(1) states “A person who causes damage to a public road ... is liable to pay to the appropriate roads authority the cost incurred by that authority in making good the damage” and section 91 imposes a duty of care on owners of adjoining land to provide support for land on which a public road is situated.

### Conclusion

In summary, BMC suggests the following next steps in respect of its s138 Application:

- a) Council to grant section 138 consent pursuant to section 4.42 of the EPA Act and include conditions in the consent requiring BMC to:
  - i. provide security in the amount of \$5,000 for rehabilitation of the Water Diversion Works (as outlined in BMC’s email to Council of 14 March 2023); and
  - ii. enter into a Deed with Council on reasonable terms regarding maintenance and removal responsibilities for the Water Diversion Works.
- b) The existing arrangements between Council and MACH Energy for the existing rail bridge overpass continue until such time as the Rail Bridge Infrastructure is removed. This would be consistent with a commercial agreement between BMC and MACH Energy and relevant conditions in the Mount Pleasant development consent.
- c) If Council wishes to also grant an easement for the Water Diversion Works in favour of BMC controlled lands, this could be implemented at a later date after the section 138 consent has been issued (to enable the Water Diversion Works to proceed in the meantime).

Please do not hesitate to contact me if you have any questions or would like to further discuss.

Yours faithfully



Craig White  
Environment Superintendent  
Bengalla Mining Company Pty Limited  
Bengalla Road, Muswellbrook NSW 2333 Australia  
T: (02) 6542 9525 | M: 0428 429 525 | E: [craig.white@newhopegroup.com.au](mailto:craig.white@newhopegroup.com.au)

12 July 2023

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

Dear Sir

**Bengalla Mining Company Pty Limited (BMC)**  
**Application for Section 138 Consent – Proposed Water Diversion Works under Bengalla Link Road Bridge Overpass**

BMC has provided MACH Energy Australia Pty Ltd (**MACH Energy**) with a copy of:

- a) BMC's application lodged on 8 March 2023 for consent under section 138 of the *Roads Act 1993* NSW to carry out certain water diversion works within the Bengalla Link Road reserve underneath a bridge overpass that was constructed in connection with the former Mount Pleasant rail (**s138 Application**).
- b) BMC's letter to Muswellbrook Shire Council (**Council**) which sets out relevant background information about responsibilities for maintenance and removal of each of BMC's proposed works and the existing bridge overpass (the **Letter**).

MACH Energy understands that Council has requested a 'letter of support' from MACH Energy in support of BMC's s138 Application. By this letter, MACH Energy confirms that it supports the s138 Application and concurs with the arrangements in respect of BMC's proposed works and the existing bridge overpass described in the Letter.

Yours faithfully



Michael Howard  
General Counsel and Company Secretary  
**MACH Energy Australia Pty Ltd**

JQC\JQC\90164553\1

## Schedule of Details

1. The Works	The works within the Road Reserve of Bengalla Link Road located in the vicinity of the existing overbridge (formally used for the now redundant MACH Energy rail loop) at approximate chainage 6675m as detailed in the application from Bengalla Mining Company and the concept plans and documents attached to the application.	
2. The Site	Bengalla Link Road (Council) chainage 6675.	
3. Estimated Cost of the Works	Removal Bond Required	\$5,000.00
4. Estimated Council Costs	<p>Plan Approval, Report, Meetings Deed Prep.    \$3,300.00 (+GST)</p> <p>Construction Observation and</p> <p>Traffic Control Plans                                \$834.12 (+GST)</p> <p>Final Acceptance (WAE review etc)            \$330.00 (+GST)</p> <p style="text-align: right;">Total    \$4,464.12 (+GST)</p>	
5. Defects Liability Period	12 Months	
6. Consent Holder's Representative	<p>Name.....Craig White .....</p> <p>Position..... Environmental Superintendent .....</p> <p>Mobile Phone.....0428 429525.....</p> <p>Office Phone.....0265429525.....</p> <p>Email    craig.white@newhopegroup.com.au</p>	
7. Council's Representative	<p>Name.....Kellie Scholes.....</p> <p>Position.....Manager Roads Drainage &amp; Technical</p> <p>Services..... Mobile Phone..... 0407 252</p> <p>142..... Office Phone.. ..02 6549</p> <p>3756.....</p> <p>Email ..... <a href="mailto:Kellie.scholes@muswellbrook.nsw.gov.au">Kellie.scholes@muswellbrook.nsw.gov.au</a>.....</p>	



### **Special Conditions**

1. This permit is not valid until all fees listed in the Schedule of Details and any bond amounts paid.
2. Prior to the commencement of construction BMC is to provide in principle written agreement, for Council to grant an easement in favour of BMC's land adjoining the defined 3 dimensional space within the Bengalla Link Road corridor covering the location of the rock scour and water pipeline.
3. The Consent Holder is to advise Council's Technical Officer, Roads & Drainage on 0418 110 010 or Council on 65493700 one week (7 Days) prior to commencing work to confirm inspections prior to commencement.
4. The existing and any new accesses are to be located (in consultation with Council), designed, constructed and maintained to meet the minimum requirements of Muswellbrook Shire Council's Rural Property Access Drawing 0041/1 Revisions A dated 16/7/2012 and are to be sealed to the property boundary unless otherwise agreed by Council.
5. Any constructed temporary accesses are to be removed and decommissioned upon completion of construction, boundary fence reinstated and all areas of disturbances within the road reserve to be reestablished to AUS-SPEC standard including top soiling, grass seeding, reshaping of table drains and scour protection where required to the satisfaction of Council.
6. BMC is to provide Council with a vehicle movement plan outlining the number and type of traffic movements and the nominated access points to the site prior to commencement of the works.
7. All Traffic Guidance Schemes (TGS) 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 TGS will require submission to Council prior to the implementation of the changes.
8. The design of the work is to be in accordance with Austroad Guidelines – Guide to Road Design (including Part 5A) and the relevant Australian and AUS SPEC standards - and be lodged with Council for acceptance.
9. BMC must devise an inspection and maintenance regime for the infrastructure under the bridge including the bridge abutment protection and detailing their area of responsibility in relation to the bridge infrastructure. This is to be undertaken in consultation with and to the satisfaction of Council.
10. BMC to enter into a Deed of Agreement which orchestrates the steps required to effect registration of the easement and the ongoing commitments, obligations and maintenance requirements of BMC for the use of the area contained within the easement.

11. This approval 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.
12. Standard hours of operation are:
  - 7:30am to 5:00pm Monday to Friday
  - 7:30am to 1:00pm Saturdays; and
  - No work to occur on Sundays or Public Holidaysunless otherwise agreed with Council. See also condition relating to School bus times
13. The occupation of the Road should be undertaken in a safe manner, with adequate dust control.
14. Construction traffic is not to operate on Bengalla Link Road during the school bus times. School bus times are to be confirmed by the applicant in consultation with the relevant bus companies.
15. The Consent Holder shall check for other services and is responsible for any damage to services and Council Infrastructure. Dial before you dig 1100.
16. The Consent Holder must ensure that mud and dust from the Works is not carried on to the Road. (It is suggested that a device (from the Soil management book) may be required to remove such materials prior to entering the roads. Note: If required a shake down device should be placed off the existing road so that the public do not need to travel on it.).
17. All due care and diligence must be exercised whilst undertaking the proposed works on Council's road reserve. Also, due care should be taken to protect Council and other utility authorities' assets/properties within the area of operation.
18. If any damages are caused to Council's assets or any other assets, The consent holder will be responsible for all the costs incurred to rectify them. It is in BMC's interest to ensure that they have adequate Public Liability Insurance to cover the works.
19. This consent may be revoked if these conditions are not complied with.