



muswellbrook  
shire council

Muswellbrook Shire Council

# ORDINARY COUNCIL MEETING

BUSINESS PAPER

TUESDAY 28 NOVEMBER 2023



**MUSWELLBROOK SHIRE COUNCIL**

P.O Box 122  
MUSWELLBROOK  
22 November, 2023

Councillors,

You are hereby requested to attend the Ordinary Council Meeting to be held in the Training Room, Level 2, University of Newcastle - Upper Hunter Campus, 87 Hill Street, Muswellbrook, NSW 2333 Australia on **Tuesday 28 November 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.



# Order of Business

<b>1. Applications for Attendance via Audio Visual Link</b>	<b>9</b>
<b>2. Acknowledgement of Country</b>	<b>9</b>
<b>3. Civic Prayer</b>	<b>9</b>
<b>4. Apologies and Applications for a Leave of Absence</b>	<b>9</b>
<b>5. Confirmation of Minutes</b>	<b>9</b>
<b>6. Disclosure of any Pecuniary or Non-Pecuniary Interests</b>	<b>9</b>
<b>7. Mayoral Minute</b>	<b>9</b>
<b>8. Public Participation</b>	<b>9</b>
<b>9. Business Arising (From Previous Meetings)</b>	<b>9</b>
9.1. Development Application Assessment Times	9
9.2. Trigger Points for Management of Tree Assets	12
<b>10. Business (Specific Reports)</b>	<b>14</b>
10.1. Planning and Environment	14
10.1.1. DA 2022-132 - 67 Lot Subdivision and Childcare Centre - 9036 New England Highway Muswellbrook	14
10.1.2. Local Heritage Grants	148
10.1.3. Monthly Report to Council - Planning, Environment and Regulatory Services	153
10.2. Community Infrastructure	167
10.2.1. Mangoola Coal Continued Operations - Yarraman Road Upgrade Project	167
10.2.2. Section 138 Roads Act 1993 Approval Replacement of Effluent Pump Thomas Mitchell Drive	169
10.2.3. 2023-24 Large Plant Replacement Programme	172
10.2.4. Water and Wastewater Levels of Service for FY 2023-24 Q1	176
10.3. Property and Place	184
10.3.1. Denman Christmas Markets - Fee Waiver Request	184
10.3.2. Upper Hunter Community Services - Fee Waiver Request	188
10.3.3. Waagan Galga Community Christmas Event - Fee Waiver Request	203



10.3.4.	Christmas Food and Toy Appeal - Fee Waiver Request .....	207
10.3.5.	Major Projects Status Report .....	210
10.4.	Corporate Services .....	218
10.4.1.	2023 Christmas Closure .....	218
10.4.2.	Public Interest Disclosure Policy MSC16E for ADOPTION .....	223
10.4.3.	DRAFT Awarding of Sponsorship, Grants and Contributions and DRAFT Council Seeking Sponsorship Policy for Public Exhibition.....	251
10.4.4.	DRAFT Section 355 Committee Guidelines MSC22E for Public Exhibition.....	314
10.4.5.	2022/2023 Annual Report.....	334
10.4.6.	General Manager's performance priorities.....	337
10.4.7.	September 2023 Quarterly Budget Review .....	348
10.4.8.	Report on Investments held as at 31 October 2023 .....	360
10.4.9.	Monthly Financial Report - October 2023 .....	372
10.5.	Community and Economy.....	385
10.5.1.	Denman Chamber of Commerce - Denman Christmas Markets .....	385
10.5.2.	Community Services .....	388
10.5.3.	Report on Council Grant Funding and Community Engagement.....	391
<b>11.</b>	<b>Minutes of Committee Meetings.....</b>	<b>399</b>
11.1.	Finance Review Advisory Committee - 19 September, 2023 and 17 October, 2023 .....	399
11.2.	Regional Entertainment Centre Development Advisory Committee - 18 October, 2023 .....	404
11.3.	Grants Review Committee - 12 October, 2023 and 9 November, 2023 .....	407
11.4.	Local Traffic Committee Minutes - 14 November, 2023 .....	413
<b>12.</b>	<b>Notices of Motion.....</b>	<b>416</b>
12.1.	Electric Vehicle Strategy and Feasibility Plan.....	416
12.2.	Enhancing Public Asset Protection through CCTV Surveillance .....	418
12.3.	Commencement of Town Beautification Plan upon Completion of Town Bypass .....	427
<b>13.</b>	<b>Councillors Reports .....</b>	<b>429</b>
<b>14.</b>	<b>Written Questions .....</b>	<b>429</b>
14.1.	Financial Implications of Enhancing Bin Capacity from 120L to 240L .....	429
<b>15.</b>	<b>Questions for Next Meeting .....</b>	<b>430</b>



**16. Adjournment into Closed Council.....430**

**17. Closed Council.....430**

    17.1. Contract 2022-2023-0575 - Facility Renovations - Victoria Park.....430

    17.2. Regional Entertainment Centre - QS Review of FJCT Studio's Variation Proposal for  
        Design Development .....430

    17.3. Offer to Join Hunter Resource Recovery.....431

    17.4. Review of Workplace Structure .....431

    17.5. 54 Kunapalari Street Throsby - Wonderschool - Tenant Review.....431

**18. Resumption of Open Council .....431**

**19. Closure .....431**



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 24 October, 2023**

**Extra-Ordinary Council Meeting held on 16 November, 2023**

**RECOMMENDATION**

The Minutes of the **Ordinary Council Meeting** held on **24 October, 2023**, and the **Extra-Ordinary Council Meeting** held on **16 November, 2023**, copies 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 (From Previous Meetings)

### 9.1. Development Application Assessment Times

---

<b>Attachments:</b>	Nil
<b>Responsible Officer:</b>	Derek Finnigan - General Manager
<b>Author:</b>	Sharon Pope (Director - Planning & Environment)

---

#### OFFICER'S RECOMMENDATION

Council notes the information provided.

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

#### BACKGROUND

Cr Dunn noted that a number of development applications listed in one of the reports to Council were dated 2021, 2002 and inquired whether there were many others from this period that had not been assessed and the possible reasons why this would occur?

#### CONSULTATION

Development Coordinator

#### REPORT

The monthly Planning, Environment and Regulatory Services report to Council includes a list of all applications currently being assessed.

The first four digits of the DA number indicates the year the application was lodged, or in the case of a s4.55 modification, the year the original application was lodged. So, as an example, DA 2002.205.009 was originally lodged in 2002. This is the Muswellbrook Coal Mine approval, and nine modifications have been lodged since DA 2002-205 was approved. The ninth modification has required input from TfNSW and the NSW Resources Regulator. Draft conditions of approval for this modification are currently with the applicant for feedback.

There are currently 14 applications or modifications from the year 2022 or earlier awaiting assessment. Eight of these are on hold waiting on the applicant to supply more information. One is in the Land and Environment Court for determination, four are subdivisions that have had external referrals, requests for additional information, public notification, and require input from engineering sections of Council – so would be considered complex applications. Complex applications tend to take many months to reach a point where they are determined.

Even for applications lodged in 2023 there are several waiting for the applicant to supply more information, or for planning staff to receive feedback from internal and external agencies/staff.

Since the introduction of the ePlanning Portal the State Government has had the ability to track the length of time taken to process applications across the state. Approximately 30% of all applications are lodged with insufficient information requiring a request for more information. It takes an average of 45 days for additional information to be lodged. As a result, the State Government has committed \$5.6million to look for options to use Artificial



Intelligence to help applicants understand the types of information that needs to be submitted with a development application, and in some cases to not accept the application unless the information is included.

Across the State there is also a shortage of urban planners, engineers, and building surveyors. In the Planning and Environment team we currently have 4 of eleven positions vacant. Vacancies have an impact on DA processing times. One staff position is focused full time on managing responses to State Significant Development (SSD), an exceptional situation for a rural council. Responding to SSD also has an impact on the engineering and community services staff of Council.

Staff are constantly looking for ways to use technology to improve work efficiency and deliver improvements in customer service, but this does require funding for IT software and IT staff. We have taken advantage of grant funding opportunities from the State Government over the past 18 months to better integrate Council's systems with the planning portal.



## 9.2. Trigger Points for Management of Tree Assets

---

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

---

### PURPOSE

To provide a response to the Question for Next Meeting provided by Councillor McNeill at the 24 October 2023 Ordinary Council Meeting.

### OFFICER'S RECOMMENDATION

The information be received and NOTED.

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

### BACKGROUND

At the Ordinary Council Meeting held on 24 October 2023, Cr McNeill thanked Ms Pope for the comprehensive report on the management of tree assets which indicated ongoing monitoring trigger points. Cr McNeill inquired what the trigger points mentioned in the report were at?

### REPORT

Generally, intervention in providing additional watering beyond establishment period (3 months) for newly planted trees includes visual identification a combination of the following:

- Significant leaf wilt;
- Dieback of stems;
- No evidence of new growth;
- Site conditions, for example, little mulch, or free draining area; and
- Environmental conditions, for example, heat wave, before and aftereffects.

For established trees, the response is a tree assessment looking for the cause of decline as unlikely to be lack of water, for example, pest or ongoing damage sustained by a storm an entry point for disease.



## 10. Business (Specific Reports)

### 10.1. Planning and Environment

#### 10.1.1. DA 2022-132 - 67 Lot Subdivision and Childcare Centre - 9036 New England Highway Muswellbrook

- Attachments:**
1. Attach A - DA 2022-132 - Section 4.15 Assessment Report (Regional Housing Squad) [**10.1.1.1** - 64 pages]
  2. Attach B - DA 2022-132 - Recommended Conditions of Consent [**10.1.1.2** - 32 pages]
  3. Attach C - proposed subdivision plans [**10.1.1.3** - 4 pages]
  4. Attach D - Child Care Centre Plans [**10.1.1.4** - 9 pages]
  5. Attach E - Proposed New England Highway Intersection Design [**10.1.1.5** - 5 pages]
  6. Attach F - proposed park plans [**10.1.1.6** - 6 pages]
  7. Attach G - Redacted Submission [**10.1.1.7** - 2 pages]
  8. Attach H - Adjoining Subdivision approval (DA 2008-336) [**10.1.1.8** - 2 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:** 6.2.4 - Regulatory activities undertaken to maintain public safety and companion animal wellbeing.

Not applicable

---

### APPLICATION DETAILS

**Applicant:** MM Hyndes Bailey & Co

**Owner:** QC Muswellbrook 9036 Pty Ltd

**Proposal:** Subdivision of 1 lot into 67 lots and the erection of a Childcare Centre

**Location:** 9036 New England Highway (Lot 1 DP 1203294) Muswellbrook

**Permissibility:** The proposed development is permissible with development consent through the provisions of Clause 2.3, while the centre based child care facility is permitted with consent within the R1 Residential land use zone. **Zone**

---

**PURPOSE**

This report has been prepared to assist Council in the determination of DA 2022-132, for the subdivision of Lot 1 DP 1203294 into sixty-seven (67) Lots and the establishment of a centre based childcare facility. The development application has been reported to Council for determination as the General Manager does not have delegations for subdivisions of this size.

The assessment of this application has been completed by the NSW State Government's Regional Housing Flying Squad.

**OFFICER'S RECOMMENDATION**

Development Application No. 2022-132 for Subdivision of 1 lot into 67 lots and the construction of a Childcare Centre, at 9036 New England Highway (Lot 1 DP 1203294) Muswellbrook, be approved subject to the conditions in Appendix B.

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

This application seeks development consent for the subdivision of Lot 1 DP 1203294 into sixty-seven (67) Lots and the construction of a centre based childcare facility. Under the proposal the subdivision would be carried out in Stages comprised of:

Stage 1 – 24 lots

Stage 1A – 110 space childcare centre

Stage 2 – 20 lots

Stage 3 – 24 lots



The image below identifies the location of the subject site.



The proposed subdivision layout and childcare centre plans are provided in attachments C & D respectively.

### ASSESSMENT SUMMARY

Several technical documents were submitted to inform the development application. Given the volume of documentation, this information has not been included as attachments to this Council Report. Copies of the report can be circulated to Councillors under separate cover if requested.

A list of the key reports submitted with the development application has been included below for Council's information.

- Aboriginal Archaeological Due Diligence Assessment
- Access Report
- Drainage Strategy
- Traffic Impact Assessment
- Noise Impact Assessment
- Park and Childcare Centre Landscape Plans
- Preliminary Contamination Assessment
- BCA Assessment
- Bushfire Threat Assessment
- Childcare Centre Plan of Management



The Regional Housing Flying Squad have assessed the proposal under Section 4.15 of the Environmental Planning and Assessment Act 1979 (see Attachment A). Key section 4.15 findings include:

- The land is zoned R1 General Residential under the Muswellbrook Local Environmental Plan (LEP) 2009. The proposed development is permissible with consent under the plan and all lots comply with the relevant 600m<sup>2</sup> minimum lot size.
- The proposed development complies with all other relevant provisions of the Muswellbrook LEP 2009.
- The development of land is consistent with the requirement of Muswellbrook DCP 2009.
- A Preliminary Site Contamination Assessment concludes that the site is suitable for the proposed use.
- Clauses 2.100 and 2.120 of the SEPP (Infrastructure and Transport) 2021 requires certain development situated near rail corridors and highways to have regard to the potential noise and vibration impacts on the proposed development. A Noise Impact Assessment was prepared and concludes that the subdivision and lot layout could comply with the relevant noise standards subject to mitigation measures which include acoustic attenuation measures for future dwellings and the installation of an acoustic fence at the highway boundary of proposed Lot 117.
- Chapter 3 of the SEPP (Transport and Infrastructure) 2021 requires the proposed child care centre to be considered against provisions related to the establishment of childcare facilities set out in the SEPP and the Childcare Centre Planning Guideline. The proposed childcare centre complies with the relevant design standards.
- The proposed development is integrated development and has General Terms of Approval from the following Government Agencies:
  - Department of Planning and Environment – Water;
  - NSW Rural Fire Service; and
  - Transport for NSW.
- The proposed development was referred to the Australian Rail Track Corporation and AUSGRID for comment. These Agencies did not raise an objection to the proposed development.
- A Traffic Impact Assessment was prepared and submitted in relation to the proposed development and the proposed New England Highway intersection. This report concluded that the proposed subdivision road and intersection design is adequate to support the proposed development (more detail is provided below).
- An Ecological Assessment Report was prepared in relation to the proposed development. This report submits that the proposed development would not exceed the native vegetation disturbance that would require biodiversity offsets under the Biodiversity Conservation Act 2016. The development assessment report raises no issue with the ecological assessment completed or the related impact of the proposed development.
- Aboriginal Archaeological Due Diligence Assessment was prepared in relation to the proposed development. The report did not identify any aboriginal objects or cultural significant landscape features, and concluded that there were no requirements for an Aboriginal Heritage Impact Permit.
- The proposed water and waste sewer servicing strategy has been reviewed by Council Engineers who have advised that the proposed servicing arrangement is acceptable.
- A Drainage Strategy was prepared in relation to the proposed development. The drainage strategy identifies the need for two stormwater detention basins.



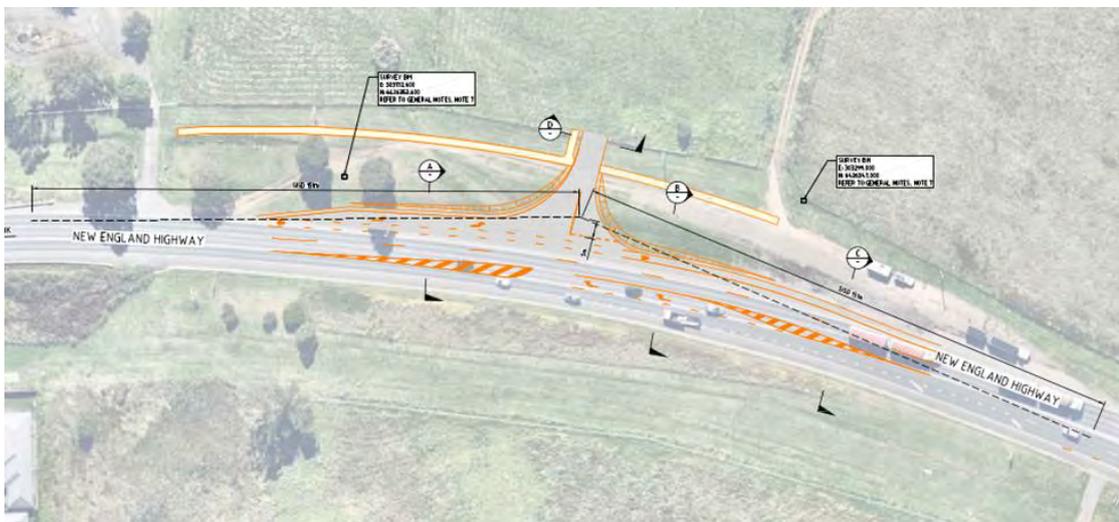
One submission was received in relation to the proposed development. A redacted copy of the submission has been included in attachment G. Matters raised by the submission were considered and the Assessing Officer is of the view that the matters raised did not present any reasoning which may substantiate a recommendation for the refusal of the proposed development. The design of the development and recommended conditions of consent address the issues raised.

Further elaboration on key issues is provided below:

### **New England Highway**

A new intersection access from the New England Highway to the site has been proposed.

The image below from the proposed civil plans provides detail of the proposed intersection design arrangement. The related design plan has been included as an attachment to this report.



The highway intersection proposes:

- 60m long auxiliary lane to provide a lane to deceleration and left hand turning movements into the site for traffic traveling the Highway from west to east (Muswellbrook toward Singleton).
- New turn lane to facilitate right hand turning movements into the site for traffic travelling the New England Highway west to east (Singleton to Muswellbrook direction). Turn lane to length would be a total of 62.5m length and comprise 15m storage length and 47.5m diverge length.
- Bicycle Lane.
- Give way sign at the intersection exiting onto the Highway
- New line marking.
- Modest realignment of the conclusion of the west to east (Singleton toward Muswellbrook) over taking lane to move adjust the lane merging location further east, further away from the start of the intersection and turning lane.
- The Highway two lane width in the east to west direction (Muswellbrook toward Singleton) would be retained across the sites frontage.

The intersection design has been reviewed by both Transport for NSW and Council Engineers and is adequate to support the proposed development.



### **Road Hierarchy Inter-lot connectivity**

Council Officers have required the developer to give consideration connectivity to adjoining land to limit the need for new intersections with the New England Highway.

Stage 1 of the development will provide a Road connection point to the Lots immediately east and west of the development and construct a roundabout as a traffic management calming device at a key intersection point within the subdivision design. While also required for the management of traffic within the subdivision, the roundabout and its location will assist with traffic management requirements for any future development within the broader precinct.

Council Engineers have also had regard to potential traffic from that precinct in setting the road hierarchy requirements. The road reserve width to the connection point for any future subdivision to the east of the development site (the larger portion of the urban release area precinct) has been required to have a road reserve width of 20m and pavement width of 11m. The width requirements for this road reserve were informed by the likely/potential lot yield in that part of the precinct and related Austroads guidelines. The road reserve width of 20m and proposed 11m pavement width would also be in place between the roundabout and New England Highway intersection. The connection point to the west was accepted as a 9m road width (a width consistent with road widths for the development's other internal local roads given the limited land size of that area and smaller anticipated lot yield).

The proposed road arrangement and hierarchy has been supported by Council's Engineers.

### **Childcare centre parking and access**

The proposed childcare would be constructed to cater for a maximum of 110 children and include 18 staff. Under the development application the facility would be provided with thirty-one (31) off-street car parking spaces.

A Traffic Impact Assessment was prepared in relation to the proposed development which informed the rate of car parking proposed, design of the parking area and subdivision layout. Related commentary on the issue can be viewed in the sub-headings of the assessment report titled the '*SEPP (Transport and Infrastructure) 2021 – Chapter 3 educational establishments and child care facilities*' and *Section 5 of the Muswellbrook DCP Assessment*.

The following matters are highlighted:

- The proposed thirty-one (31) off-street car parking spaces are consistent with the relevant assessment guidelines and adequate to manage the typical operating requirements for the development.
- The Highway intersection and childcare access arrangement were supported by Transport for NSW.
- Council Roads and Drainage Engineers provided referral comments on the issue of the childcare centre access and vehicle storage and advised:

*The proposed local road to the roundabout and taken east is 11-13m in width consistent with Aus-spec Sub-Arterial road hierarchy. It is considered there is adequate space for traffic movement and storage, as long as it is nominated both sides of the entry road to the roundabout as being "no stopping" zones except for an appropriate bus stop location on each side.*

*This would manage any potential traffic congestion associated with the childcare facility and backing onto the New England Highway. The no stopping signage*



*incorporated on both sides of the entry road up to the roundabout will be a required condition of consent.*

- Condition of consent has been imposed to ensure a no stopping zone is established in the related location (see condition 24).

### **Pedestrian Connectivity**

Footpaths are to be provided within the site generally in accordance with the requirements of MDCP 2009.

Council Engineers supported the proposed footpath arrangement subject to conditions of consent to manage the provision and approval of detailed construction plans with the Subdivision Works Certificate, which include footpaths to be of a minimum 1.5m width construction.

Externally to the site, footpath connectivity between the development site and the established Council footpath network has been a consideration. At present, Council footpath infrastructure does not extend to the site with the nearest points of potential connection being:

- The Highway is constructed with a sealed shoulder suitable for walking and cycling from the Eastbrook Links Caravan Park site toward Rutherford Road. There is also adjacent to the Hunt Place medium density housing development, a modest distance from the site, but with no safe connection point across the New England Highway.
- The Rutherford Road/Maitland Street intersection traffic lights are the location closest to the site where the Highway can be crossed to access the existing footpath network. These traffic lights are located approximately 1km from the site.

Providing a connection point to the existing footpath network by either a strategy to cross the Highway or extend a footpath back to town was considered a challenging issue for the development. The Assessing Officer has ultimately recommended a condition of consent to require the construction of a footpath between Council's existing footpath network and the development site (see condition 22). Given the logistics, variable scope, potential cost and benefit of the works to other land within the adjoining residential precinct, the Applicant may object to this requirement.

#### Arguments against footpath requirement

- A preliminary conservative estimate of the works is \$350,000 - \$400,000.
- In imposing a condition of consent, Council must ensure that a condition should ensure the condition is reasonable, related to the development and can be complied with.
- The subject site and adjoining properties have been zoned for residential development for a considerable period of time. Provision of a footpath would ideally have been included in a Development Contribution Plan to apportion the cost to the various property owners along the length of the footpath.
- Under the proposed condition the cost of providing this infrastructure would be borne entirely by the developer, while at the same time the work would be to the benefit of adjoining residential zoned land, opening up its subdivision potential at no cost.

#### Arguments supportive of footpath requirement

- It was considered that the establishment of the subdivision in the absence of a safe pedestrian linkage to town could result in pedestrian safety risks. The New England Highway between the site and the pedestrian network is 60km/hr, undulating in parts, and lacks a shoulder at a consistent and safe grade. To reach the established pedestrian network from the site, an individual's path of travel may cause them to walk on the road shoulder (which has safety/traffic connotations), walk within or along a stormwater drain for a period of the distance, or trespass over privately owned land.



- It is considered that residents in the subdivision would expect passive recreation opportunities for walking and running for individuals and their pets.
- An adequate walking and cycle network is significant for the support and growth of healthy communities.
- Section 6.2 of the Muswellbrook LEP 2009 inhibits the granting of consent to a proposed development for land within an 'urban release area' except where:

*Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.*

Council's road and footpath network may be viewed as utility infrastructure and a connection between the site and the established footpath network infrastructure required to support the development.

### **Park Design and Location**

The proposed Community Park was referred to and endorsed by Council's Parks and Recreation Team.

Through the referral process, design changes were negotiated to the park location (See attachment F). There was a swap between the park and childcare centre locations to improve accessibility and useability of the park, and a widened road to provide on-street parking adjacent to the park.

The final park design and utilities supported by Council Parks and Recreation Officers is required to be generally consistent with the Applicant's plan and, subject to recommended condition 29, shall also include:

- rubber finish play mat over wood mulch;
- Perimeter fence;
- Electric BBQ; and
- Drinking fountain.

### **Crown Reserve**

A Crown Land Reserve is located immediately east of the subject site for its entire length between the New England Highway and the ARTC rail corridor. This reserve is currently utilised by ARTC to access the railway line for maintenance purposes.

The image below identifies the location of the Crown Reserve.



At the Council Briefing in August, Councillors wanted to manage the possibility that Lots backing onto the Crown Reserve may seek to use it as an unofficial access to the rear of their properties, potentially making unsafe vehicle movements from the Highway, damaging Council's footpath verge, or creating dust/noise nuisance issues for other neighbours.

Council Officers have proposed a condition of consent to require the registration of an 88B instrument to restrict the proposed lots that adjoin the Crown Reserve from using this area for vehicle access (see condition 82).

## **CONSULTATION**

### Community Consultation

The development was also publicly notified from 19 December 2022 to 11 January 2023 with letters to adjoining owners, social media posts, and information available on Council's website.

One (1) submission was received during the notification period. The submission has been included in attachment G. The submission raised matters related to the way that the proposed development may impact a development application approved by Council (DA 2008-336) for the subdivision of adjoining land at 9070 New England Highway. Adequate road connections have been provided to the site from the current proposal.

### Internal Consultation

The application was referred to Community Infrastructure, Water and Wastewater, Parks and Recreation, Building Surveyor, Environmental Health Officers.

Each Council Officer/Section to whom the application was forwarded have given their support in relation to the proposed development application.

Referrals were also sent to the following external Government Agencies who have provided commentary supportive of the application proceeding subject to their assessment function:

- Transport for NSW;



- NSW Rural Fire Service;
- Department of Planning and Environment – Water;
- Australian Rail Track Corporation; and
- AUSGRID.

The recommended conditions of consent have adopted requirements and General Terms of Approval from relevant Government Agencies as appropriate.

## **OPTIONS**

Council may:

### **Option A**

Approve the proposed development subject to the recommended conditions of consent. This is the recommended option based on the s4.15 assessment.

### **Option B**

Approve the proposed development subject to alternative conditions of consent.

### **Option C**

Refuse the proposed development and in doing so provide reasons for refusal. Where a decision is taken to refuse the proposed development considered thought should be given to any such recommendation and the reasoning informing that determination as the applicant would have the right to appeal such a determination through the Land and Environment Court.

## **CONCLUSION**

Council Officers recommend that the development application be approved subject to conditions.

## **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.

Department of Planning and Environment  
dpe.nsw.gov.au



## Subdivision of 1 lot into 67 Lot Torrens Title Subdivision with roads and associated infrastructure, Child Care Facility and tree removal (16 Trees)

DA2022-132, PAN-279065

Muswellbrook Shire Council

11 October 2023

Subdivision of 1 lot into 67 Lot Torrens Title Subdivision with roads and associated infrastructure, Child Care Facility and tree removal (16 Trees)

DA-2022-132, PAN-279065

Muswellbrook Shire Council

	Name	Date
<b>Written by</b>	Ian Clark	11 October 2023
<b>Checked by</b>	Lydia Markham	15 October 2023

**Copyright and disclaimer**

Disclaimer The information contained in this publication is based on knowledge and understanding at the time of writing (August 2023) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

TMP-MC-R-SC-V1.2

## Glossary

Abbreviation	Definition
AHD	Australian Height Datum
Applicant	ML and JM Cole Pty Ltd
BCA	Building Code of Australia
BDAR	Biodiversity Development Assessment Report
Council	Insert relevant council name
DA	Development Application
Demolition	The removal of buildings, sheds and other structures on the site
Development	The development as described in the SEE and RFI for DA-2022/132, PAN-279065
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
LEP	Local Environmental Plan
RFI	Response for Information
SEPP	State Environmental Planning Policy
SEE	Statement of Environmental Effects

# Executive Summary

## Application Details

<b>Application No:</b>	DA2022-132
<b>Date Lodged:</b>	22 November 2022
<b>Description of Development:</b>	Subdivision of 1 lot into 67 Lot Torrens Title Subdivision with roads and associated infrastructure, Child Care Facility and tree removal (16 Trees)
<b>Property Description:</b>	Lot 1 DP 1203294, 9036 New England Highway, Muswellbrook
<b>Applicant:</b>	ML and JM Cole Pty Limited
<b>Cost of Works:</b>	\$4,700,000 subdivision Child care facility \$2,005,835 Total - \$6,705,835
<b>DPE Report Author:</b>	Ian Clark
<b>Council Assessing Officer:</b>	Hamish McTaggart
<b>Date of Report:</b>	11 October 2023

## Summary

<b>Key Issues:</b>	<ul style="list-style-type: none"><li>• Bushfire</li><li>• Road opening onto New England Highway (intersection)</li><li>• Recreation area location</li><li>• Drafting site-specific DCP section</li><li>• Lot sizes</li><li>• Public submission comments</li><li>• Relationship with adjoining property Lot 18 DP 530787, existing stock route.</li><li>• Childcare facility driveway access and interaction with highway intersection.</li><li>• Landscaping of Muscle Creek</li><li>• Footpaths and connectivity</li></ul>
--------------------	--

<b>Notification period :</b>	28 days - 19.12.2022 to 11.01.2023
<b>Number of Submissions:</b>	1
<b>Recommendation:</b>	Approval

## Introduction

This report details Muswellbrook Shire Council's (Council's) assessment of the Development Application (DA-2022-132) under section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act) which has been lodged by ML and JM Cole Pty Limited (the Applicant).

DA-2022-132 was lodged seeking approval for '*Subdivision of 1 lot into 67 Lot Torrens Title Subdivision with roads and associated infrastructure, Child Care Facility and tree removal (16 Trees)*' in three stages.

The Applicant submitted a draft site-specific Development Control Plan (DCP) section. The draft DCP section is a requirement in response to Clause 6.3 of *Muswellbrook Local Environmental Plan 2009* (MLEP2009). The draft DCP section was considered by Council at its meeting on 22 August 2022 and deferred, and at the Council meeting on 26 Sept 2023 where it was adopted.

The site is identified as part of an urban release area as mapped within the MLEP2009 and adjoins previously approved development sites for similar residential subdivisions.

The main planning instruments, approvals and guidelines that are relevant to the development include:

- State Environmental Planning Policy (Biodiversity & Conservation) 2021
- State Environmental Planning Policy (Resilience & Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Muswellbrook Local Environmental Plan 2009
- Muswellbrook Development Control Plan 2009
- Draft DCP Section - Site Specific Controls - New England Highway (NEH) 9036 Urban Release Area

State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 4: Koala Habitat Protection 2021 <ul style="list-style-type: none"> <li>• <b>Clause 4.9(2)</b> - whether the development is likely to have any impact on koalas or koala habitat</li> </ul>
State Environmental Planning Policy (Resilience & Hazards) 2021	Chapter 4: Remediation of Land <ul style="list-style-type: none"> <li>• <b>Section 4.6</b> - A Remediation Action Plan has been prepared for the development site and the proposal is satisfactory subject to conditions.</li> </ul>
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> <li>• <b>Section 2.48(2)</b> (Determination of development applications- other development) - electricity transmission</li> <li>• <b>Section 2.122(4)</b> - Development that is of a specified size or capacity and/or that has direct vehicular or pedestrian access to a classified road.</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Section 2.98</b> – Development adjacent to rail corridors</li> <li>• <b>Section 2.100(2)</b> – Impact of rail noise or vibration on no-rail development. Consent authority is satisfied appropriate measures will be taken that LAeq are not exceeded for residential accommodation.</li> <li>• <b>Section 3.23</b> – Centre-based child care facility – matters for consideration by consent authorities.</li> <li>• <b>Section 3.26</b> – Centre-based child care facility – non-discretionary development standards.</li> </ul>
Muswellbrook Local Environmental Plan 2009 (MLEP2009)	<ul style="list-style-type: none"> <li>• <b>Clause 2.3</b> – Zone Objectives and Land Use Table</li> <li>• <b>Clause 4.1</b> – Minimum subdivision lot size</li> <li>• <b>Clause 5.10</b> – Heritage conservation</li> <li>• <b>Clause 5.21</b> – Consideration of flood impacts</li> <li>• <b>Clause 6.2</b> – Public utility infrastructure</li> <li>• <b>Clause 6.3</b> – Development control plan</li> <li>• <b>Clause 7.6</b> – Earthworks</li> </ul>

The development is characterised and defined as a 'Subdivision', 'Centre-based Child Care Facility' and 'recreation area' which are permissible land uses with consent in the relevant land zone (R1) – General Residential zone under MLEP2009.

The application is an integrated development application and was referred to Department of Planning and Environment-Water as works occur within 40m of a water course. No concerns or objections were raised, and General Terms of Approval (GTA) were issued on 18 July 2023.

The integrated development application was also referred to NSW Rural Fire Service in accordance with s100b of the Rural Fires Act, 1997. No concerns or objections were raised and GTA were issued on 14 July 2023.

The application was referred to Ausgrid, Transport for NSW (TfNSW) and Australian Rail Track Corporation (ARTC) in accordance with s2.122, s2.48 and 2.98 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

Ausgrid considered the development, and a letter of response was issued on 22 December 2022. No concerns or objections were raised by Ausgrid.

TfNSW has assessed the potential off-site traffic impacts and provided feedback on the design of the proposed access via the classified road (New England Highway). TfNSW has advised that they do not object to the proposed development and provided an email confirming such on 03 May 2023.

ARTC has considered the development, and a letter of response was issued on 16 December 2022. No concerns or objections were raised by ARTC.

The 'key issues' arising from the assessment of the development include off-site traffic impacts associated with road opening design, bush fire, recreation area location, public submission comments and drafting site-specific DCP section.

The 'key issues' of concern identified during the assessment of the application includes a Request for Further Information (RFI) letter issued by Council. Amended plans were submitted 03 August 2023 and has been satisfactorily resolved 'key issues' by the Applicant's responses or have been addressed in the recommended conditions of consent.

### Site Context

The site is located approximately 2.5 kilometres (km) southeast of Muswellbrook central business district and covers approximately 10 hectares (ha) of R1 General Residential zoned land under the Muswellbrook Shire Local Environmental Plan 2009 (MLEP2009).

The site fronts onto New England Highway which is a classified State Road.

The site is adjacent to lots zoned R1 General Residential to the west and east. These adjacent sites maintain agriculture uses. The site to the west maintains an active development consent, DA 336-2008 – 35 Lot Subdivision.

A low-density low rise single dwelling development exists to the southeast and southwest of the site across the New England Highway.

Muscle Creek flows through the north part of the site and has a significant riparian zone within the site. The Main Northern Rail line also to the north is adjacent to the rear of the site.

The site and immediate adjacent lots and subdivision developments to the south are all located within an 'Urban Release Area'.

### The Development

The development is for a subdivision to be constructed in 3 stages, associated civil works, tree removal (16 trees), and construction of a childcare facility and community park.

The development has a cost of work of \$6,705,835.

### Public Participation

The development was notified to adjoining and nearby occupants and landowners from 19 December 2022 to 11 January 2023 in accordance with the requirements of the 'Type C' development within the Muswellbrook Shire Council Community Participation Plan 2020. Council received one submission objecting to the development. Key issues raised related to:

- Stormwater management
- Access from New England Highway
- Sewerage connection considerations

### Assessment

Council's assessment of the development has fully considered all relevant matters under section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the objects of the EP&A Act, and the principles of ecologically sustainable development. Council has also identified the key issues for assessment including the road opening design onto the New England Highway, bushfire related matters, recreation area location, public submissions and the requirement for the preparation of a site-specific DCP section.

### Summary

The Council's assessment concluded that the impacts of the development can be mitigated and/or managed to ensure an acceptable level of environmental performance, subject to the recommended conditions of consent.

Consequently, Council considers the development to be in the public interest and is recommended for approval, subject to conditions.

# Contents

<b>1</b>	<b>Site History</b>	<b>12</b>
<b>2</b>	<b>Site Description</b>	<b>12</b>
<b>3</b>	<b>The Development</b>	<b>15</b>
<b>4</b>	<b>Strategic Context</b>	<b>23</b>
<b>5</b>	<b>Statutory Assessment</b>	<b>24</b>
5.1	Relevant Commonwealth Legislation	24
5.2	Relevant State (NSW) Legislation	25
5.3	State Environmental Planning Policies	26
5.4	Muswellbrook Local Environmental Plan 2009	41
5.5	Draft Environmental Planning Instruments (EPIs)	50
5.6	Muswellbrook Development Control Plan 2009 (MDCP2009)	50
5.7	Provisions of any Planning Agreements	70
5.8	Any Matters Prescribed by the Regulations	70
5.9	Provisions of any coastal zone management plan	70
5.10	All Likely Impacts of the Development	70
5.11	Site Suitability	72
5.12	Other Statutory Considerations	72
5.13	Public Participation	74
5.14	The Public Interest	75
<b>6</b>	<b>Conclusion</b>	<b>75</b>
<b>7</b>	<b>Recommendation</b>	<b>76</b>
7.1	Reasons for the Determination	76

---

## 1 Site History

The site has an extended history of operation for agricultural purposes.

Previous approval on the site was DA 2007-350 for a restaurant and motel. While geotechnical works, survey works, consolidating Lots 171 & 172 and demolition of the house occurred, no other action was taken. The consent was surrendered on 22 June 2023.

---

## 2 Site Description

The site comprises 100,000 m<sup>2</sup> (10ha) of R1 General Residential zoned land pursuant to the Muswellbrook Local Environmental Plan 2009 (MLEP2009) and is located at 9036 New England Highway Muswellbrook (refer to **Figure 1**) and is legally described as Lot 1 on DP 1203294 (the site). The site is located approximately 2.5 km south-east of the Muswellbrook CBD (refer to **Figure 2**) and is located within the Muswellbrook Local Government Area (LGA).



**Figure 1** Location of the Site

The site generally slopes up from the southern boundary to the former location of the dwelling before sloping down towards the railway. There are some other minor topographical changes across the site.

The surrounding area is characterised as primarily rural residential/agricultural. Lots on either side of the site are zoned residential part of the Muswellbrook Urban Release area for the planned expansion of the Muswellbrook township, this site included.

The Pinaroo Leisure Park is located on RE2 Public Recreational Area zoned land close to the site.

A small portion of the site are identified as flood-prone, this is not an area for dwelling development and is the rear portion of a large irregular lot, proposed Lot 306 (refer to Figure 2).

The site is identified as bushfire-prone – Vegetation Category 3.

The site contains no heritage items, is not in a heritage conservation area, and is not in close proximity to a heritage item, as confirmed through a 200m wide Aboriginal Heritage Information Management System (AHIMS) search and an Aboriginal Archaeological Due Diligence Assessment dated October 2022.

The site is not burdened by any easements or restrictions.



**Figure 2:** Flood Hazard Map 1% Annual Exceedance Probability



Figure 3: Location of the site from a local contact

### 3 The Development

The Applicant is seeking development consent for the subdivision into 67 Torrens title lots including a child care facility and tree removal (Sixteen Trees) to be constructed in 3 stages (refer to **Error! Reference source not found.5 to 7**).



Figure 4: Site Plan (Extracted from Subdivision Plans)

The development includes:

**Stage 1 (refer to Figure 5) –**

22 lots (19 residential, 1 child care facility, 1 recreation area and 1 drainage reserve including drainage path)

Lot 101 – 3,566m <sup>2</sup> childcare facility	Lot 102 – 1,862m <sup>2</sup> Park	Lot 103 – 700.4m <sup>2</sup> Residential	Lot 104 – 700.9m <sup>2</sup> Residential
Lot 105 – 701.1m <sup>2</sup> Residential	Lot 106 – Drainage Reserve Basin	Lot 107 – 708m <sup>2</sup> Residential	Lot 108 – 700m <sup>2</sup> Residential
Lot 109 – 759m <sup>2</sup> Residential	Lot 110 – 759m <sup>2</sup> Residential	Lot 111 – 724m <sup>2</sup> Residential	Lot 112 – 1080m <sup>2</sup> Residential
Lot 113 – 624m <sup>2</sup> Residential	Lot 114 – 696m <sup>2</sup> Residential	Lot 115 – 754m <sup>2</sup> Residential	Lot 116 – 720m <sup>2</sup> Residential
Lot 117 – 841.9m <sup>2</sup> Residential	Lot 118 – 688.4m <sup>2</sup> Residential	Lot 119 – 751m <sup>2</sup> Residential	Lot 120 – 842m <sup>2</sup> Residential

Lot 121 – 874m <sup>2</sup> Residential	Lot 122 – 701.4m <sup>2</sup> Residential	Drainage Path part of Lot 106	
--	--	-------------------------------	--

- New access to New England Highway (refer to **Figure 8**).
- Drainage reserve serving stage 1.
- Recreation area.
- Associated civil works.
- Relevant services.
- Identification of asset protection zones for planning for bushfire protection requirements.
- Provisions for access to adjoining land when developed into the future.

**Stage 1A – Childcare facility**

The proposed 110-place childcare facility includes 18 staff and an onsite chef (refer to **Figure 9** childcare facility plan). A total of thirty-one car parking spaces will be provided for the facility, including 18 staff car parking spaces and 13 car parking spaces for visitors. This is to be constructed following the completion of Stage 1.



**Figure 5:** Stage One Site Plan (Extracted from Subdivision Plans)

**Stage 2 (refer to **Figure 6**)**

21 lots (20 residential)

Lot 201 – 703m <sup>2</sup> Residential	Lot 202 – 745m <sup>2</sup> Residential	Lot 203 – 725m <sup>2</sup> Residential	Lot 204 – 794m <sup>2</sup> Residential
Lot 205 – 852.3m <sup>2</sup> Residential	Lot 206 – 720m <sup>2</sup> Residential	Lot 207 – 720m <sup>2</sup> Residential	Lot 208 – 802m <sup>2</sup> Residential
Lot 209 – 798m <sup>2</sup> Residential	Lot 210 – 703m <sup>2</sup> Residential	Lot 211 – 703m <sup>2</sup> Residential	Lot 212 – 703m <sup>2</sup> Residential
Lot 213 – 732m <sup>2</sup> Residential	Lot 214 – 702m <sup>2</sup> Residential	Lot 215 – 701m <sup>2</sup> Residential	Lot 216 – 700.9m <sup>2</sup> Residential
Lot 217 – 700.7m <sup>2</sup> Residential	Lot 218 – 700.1m <sup>2</sup> Residential	Lot 219 – 701.2m <sup>2</sup> Residential	Lot 220 – 701m <sup>2</sup> Residential

- Provisions of drainage reserve to serve stage 2 and 3 lots.
- Associated civil works.
- Relevant services.
- Identification of asset protection zones for planning for bushfire protection requirements.



Figure 6: Stage Two Site Plan (Extracted from Subdivision Plans)

**Stage 3 (refer to Figure 7)**

25 lots (24 residential and 1 drainage reserve)

Lot 301 – 1,443m <sup>2</sup> Residential	Lot 302 – 962m <sup>2</sup> Residential	Lot 303 – 951m <sup>2</sup> Residential	Lot 304 – 881m <sup>2</sup> Residential
Lot 305 – 1,973m <sup>2</sup> Residential	Lot pt306 – 8,653m <sup>2</sup> Lot pt306 – 9,560m <sup>2</sup> Total 1.82ha Residential	Lot 307 – 790.7m <sup>2</sup> Residential	Lot 308 – 792.8m <sup>2</sup> Residential
Lot 309 – 791.4m <sup>2</sup> Residential	Lot 310 – 946.8m <sup>2</sup> Residential	Lot 311 – 941.7m <sup>2</sup> Residential	Lot 312 – 700m <sup>2</sup> Residential
Lot 313 – 898m <sup>2</sup> Residential	Lot 314 – 642m <sup>2</sup> Residential	Lot 315 – 615m <sup>2</sup> Residential	Lot 316 – 831.7m <sup>2</sup> Residential
Lot 317 – 702m <sup>2</sup> Residential	Lot 318 – 700.1m <sup>2</sup> Residential	Lot 319 – 702.9m <sup>2</sup> Residential	Lot 320 – 700.3m <sup>2</sup> Residential
Lot 321 – 710.1m <sup>2</sup> Residential	Lot 322 – 710.5m <sup>2</sup> Residential	Lot 323 – 773.4m <sup>2</sup> Residential	Lot 324 – 1,464m <sup>2</sup> Residential
Part of Lot 325 Drainage reserve between Lots 321 and 322	Lot 325 Drainage Reserve (constructed in stage 2)		

- Associated civil works.
- Relevant services.
- Riparian buffer identified in relevant lots.
- Identification of asset protection zones for planning for bushfire protection requirements.



Figure 7: Stage Three Site Plan (Extracted from Subdivision Plans)

**Tree Removal**

The removal of sixteen trees is required as part of the development (refer to Figure 10).

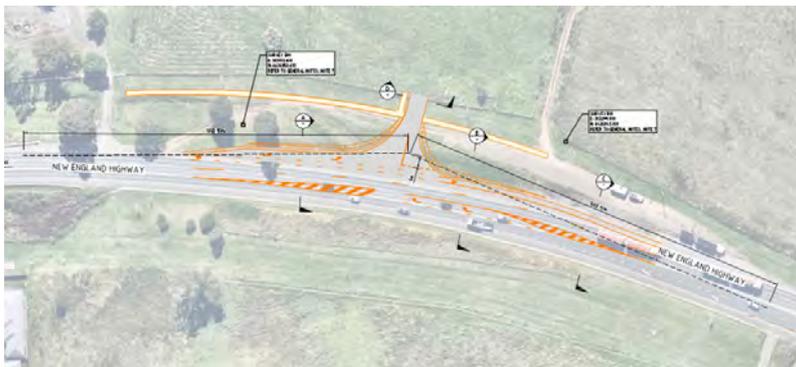


Figure 8: New England Highway Access Plan (Extracted from Civil Plans)



Figure 9: Child care facility site plan (Extracted from Child care facility Architectural Plans)



Figure 10: Tree removal plan (Extracted from Arborist Report)

**Internal Referrals:**

The development was referred to internally:

Officer	Response summary
Parks and Recreation	<ul style="list-style-type: none"> <li>Communal open space (park)</li> </ul>
Development Engineers	<ul style="list-style-type: none"> <li>Road geometry and access.</li> <li>Stormwater, water quality and basin.</li> <li>Stage construction (stormwater).</li> <li>Erosion and sediment control.</li> <li>Landscaping and Park area.</li> <li>Ancillary associated requirements (easements and retaining walls).</li> </ul>

Water and Waste Engineers	<ul style="list-style-type: none"> <li>Water and sewerage infrastructure.</li> </ul>
Building Surveyor (Child care facility)	<ul style="list-style-type: none"> <li>BCA report review</li> <li>Bushfire</li> <li>Construction</li> </ul>
Environmental Health	<ul style="list-style-type: none"> <li>Acoustics</li> <li>Contamination</li> </ul>
Consultant Urban Planner	Draft DCP section required with regard to Clause 6.3 Muswellbrook Local Environmental Plan 2009 (MLEP2009).

#### External Referrals:

The development was referred to externally:

Agency	Referral reasons
Department of Planning and Environment Water (DPE)	Integrated Development – s91 controlled activity – <i>Water Management Act 2000</i>
NSW Rural Fire (NSWRFS)	Integrated Development – s100b <i>Rural Fires Act 1997</i>
Transport for NSW (TfNSW)	State Environmental Planning Policy (Transport and Infrastructure) 2021, s2.122
Ausgrid	State Environmental Planning Policy (Transport and Infrastructure) 2021, s2.48
Australian Rail Track Corporation (ARTC)	State Environmental Planning Policy (Transport and Infrastructure) 2021, s2.48

## 4 Strategic Context

The development is consistent with Objectives 3, 5 and 6 of Hunter Regional Plan 2041 as it provides additional housing to meet the needs of the growing population of The Hunter Region.

The development is consistent with the 'Local Strategic Vision' of Muswellbrook Local Strategic Planning Statement 2020-2040 as it provides an opportunity for diverse housing options for Muswellbrook.

## 5 Statutory Assessment

Section 4.15 of the EP&A Act, as amended, sets out the matters to be considered in the evaluation of a development application (DA). The following assessment addresses the relevant matters for consideration under section 4.15(1).

| 20

## 5.1 Relevant Commonwealth Legislation

<i>Environment Protection and Biodiversity Conservation Act 1999</i>	No referral was necessary under <i>Environment Protection and Biodiversity Act 1999</i> (EPBC Act) as the development does not constitute a controlled action.
<i>Native Title Act 1993</i>	The site is not affected by any native title or Indigenous Land Use agreements under the provisions of the <i>Native Title Act 1993</i> (NT Act) and its associated registers (The National Native Title Register, the Register of Native Title Claims and the Register of Indigenous Land Use Agreements).
<i>Roads Act 1993 (Roads Act)</i>	The development requires construction work within New England Highway which is a classified road within the Muswellbrook LGA.  Road works are required within the New England Highway.  A road occupancy license is required for any activity likely to impact traffic flow, even if that activity takes place off-road.
<i>Protection of the Environment Operations Act 1997 (POEO Act)</i>	The development would not trigger the requirement for an Environmental Protection Licence under the POEO Act. Notwithstanding, the POEO Act requires proponents to manage and limit the potential to cause water, noise, air pollution and potential waste streams during construction.
<i>Crown Land Management Act 2016 (CLM Act)</i>	The development does not impact any Crown land.
<i>Water Management Act 2000 (WM Act)</i>	It is considered that the proposed riparian corridor setbacks to Muscle Creek are appropriate and consistent with the submitted Plans, NSW Office of Water Guidelines for Controlled Activities (refer FEAR1.13) and land use zones.  The proposal will require a controlled activity approval under Section 91(2) given that there will be works within 40 metres of waterfront and.  The development is unlikely to encounter or intercept groundwater of significant quantity.
<i>Biosecurity Act 2015 (Biosecurity Act)</i>	Under Section 21 of the Biosecurity Act, any person who deals with any plant, who knows (or ought to know) of any biosecurity risk, must ensure the risk is prevented, eliminated or minimised as is reasonably practicable.  The Biosecurity Act and Regulations provide specific legal requirements for high-risk activities and State level-priority weeds.

	If present, priority weeds on the site would need to be assessed and controlled to fulfill the General Biosecurity Duty and minimise biosecurity risks. A Vegetation Management Plan has been prepared by the applicant that includes provisions for weed removal and management.
--	---

## 5.2 Relevant State (NSW) Legislation

In addition to the Environmental Planning and Assessment Act 1979, the following State (NSW) legislation has been considered. Where relevant, further detailed assessment of the development against the various Acts is included throughout this report.

<i>Biodiversity Conservation Act 2016</i> (BCAct)	BCAct must be considered in the assessment of development.
---	--

## 5.3 State Environmental Planning Policies

Section 4.15(1)(a)(i) of the EP&A Act requires the consent authority to consider the provisions of environmental planning instruments (EPIs), which includes State Environmental Planning Policies (SEPPs).

EPI	MATTERS FOR CONSIDERATION	COMPLY (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas <ul style="list-style-type: none"> <li><b>Section 2.14</b> - does not apply in this instance as consent is being sought for the removal of vegetation.</li> </ul>	Yes
	Chapter 4: Koala Habitat Protection 2021 <b>Section 4.9(2)</b> - whether the development is likely to have any impact on koalas or koala habitat	Yes
State Environmental Planning Policy (Resilience & Hazards) 2021	Chapter 4: Remediation of Land <ul style="list-style-type: none"> <li><b>Section 4.6</b> - A Preliminary Site Investigation Report has been prepared for the development site and the proposal is satisfactory subject to conditions.</li> </ul>	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> <li><b>Section 2.48(2)</b> (Determination of development applications---other development) electricity transmission - the proposal is satisfactory subject to conditions.</li> </ul>	Yes
		Yes

	<ul style="list-style-type: none"> <li>• <b>Section 2.122(4)</b> - Development that is of a specified size or capacity and/or that has direct vehicular or pedestrian access to a classified road.</li> <li>• <b>Section 2.98</b> - Development adjacent to rail corridors.</li> <li>• <b>Section 2.100</b> - Impact of rail noise or vibration on non-rail development.</li> <li>• <b>Section 3.23</b> - Centre-based child care facility – matters for consideration by consent authorities (consideration of any applicable provisions of the <i>Child Care Planning Guideline</i>).</li> <li>• <b>Section 3.26</b> – Centre-based child care facility – non-discretionary development standards</li> <li>• <b>Section 3.27</b> – Centre-based child care facility – development control plans</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
State Environmental Planning Policy (Industry and Employment) 2021	<p>Chapter 3: Advertising and signage</p> <ul style="list-style-type: none"> <li>• <b>Section 3.6</b> – Granting of consent to signage</li> <li>• <b>Schedule 5 Assessment criteria</b></li> </ul>	Yes
Muswellbrook Local Environmental Plan 2009 (MLEP2009)	<ul style="list-style-type: none"> <li>• <b>Clause 2.3</b> – Zone Objectives and Land Use Table</li> <li>• <b>Clause 4.1</b> – Minimum Subdivision lot size</li> <li>• <b>Clause 4.3</b> – Height of buildings</li> <li>• <b>Clause 4.4</b> – Floor space ratio</li> <li>• <b>Clause 5.10</b> - Heritage conservation</li> <li>• <b>Clause 5.21</b> – Flood planning</li> <li>• <b>Clause 6.2</b> – Arrangements for State Public Infrastructure</li> <li>• <b>Clause 6.3</b> – Development control plan</li> <li>• <b>Clause 7.6</b> – Earthworks</li> <li>• <b>Clause 8.3</b> – Development Control Plan (Urban Release Area)</li> </ul>	Yes

### 5.3.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

#### Chapter Four: Koala Habitat Protection 2021

Chapter Four – Koala Habitat Protection 2021 of the B&C SEPP applies to the development pursuant to clause 4.4 and aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Table 1 - Chapter Three: Koala Habitat Protection 2021 Assessment

Control	Development	Outcome
<b>Clause 4.8</b> - Does the site have a KPOM?	No	Determination of the DA must be consistent with the KPOM. If no, proceed to Clause 4.9.
<b>Clause 4.9</b> - Does the site have a site area greater than 1.0 Ha or does the site form part of a landholding greater than 1.0 Ha in area?	Yes	Assessment under B&C SEPP required.
<b>Clause 4.9</b> - Is the development likely to have any impact on koalas or koala habitat.	No	Development satisfactory under B&C SEPP. Information, prepared by a suitably qualified and experienced person, that demonstrates that the land does not include any trees belonging to the koala use tree species listed in Schedule 3 for the relevant koala management area.

The development has been assessed against the requirements of Chapter Four of the B&C SEPP (see **Table 1**) and it has been determined that the development would not meet the requirements and objectives of the B&C SEPP on the following grounds:

- The applicant submitted an Ecological Assessment Report prepared by *RestoreAG Pty Ltd* and pages 41 and 42 of the report considered the former SEPP (Koala Habitat Protection) 2021. The consideration is consistent with the requirements of Chapter Four: Koala Habitat Protection 2021. The ecologist conducted a detailed survey of Koalas and Koala habitat on the site. Consideration was also given to NSW Department of Planning and Environment: Koala Habitat Protection Guidelines 2021 and records of Koalas within a 2.5km radius over the last 18 years. There was only one sighting recorded in February 2020 which was not within the site area. No core Koala habitat was recorded, therefore the proposal is considered consistent with the Koala Habitat Protection 2021.

### 5.3.2 State Environmental Planning Policy (Resilience and Hazards) 2021

#### Chapter Four: Remediation of Land

Chapter Four of the R&H SEPP applies to the site pursuant to clause 4.4 which aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 4.6 requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use to be carried out.

A search of Council's records and aerial photos indicates the site has a history as grazing. A preliminary Site (Contamination) Assessment was prepared by RCA Australia, dated May 2023. The submitted report noted sampling across the site concluded to be nil detection contaminants of concern with particular

attention provided to the development area for the childcare facility. The submitted report provides the following conclusion:

*'The site was vacant, potentially agricultural land, until between 1967 and 1974 when a residential dwelling was constructed and remained relatively unchanged until the demolition, with specific consideration and clearance of asbestos materials, of the structures in 2015. The site has appeared to have remained unoccupied and vacant since then. The primary contaminants of concern are considered as hydrocarbons and metals.*

*The surrounding area is primarily residential or unoccupied land except for the Great Northern Railway situated on the northern boundary and the New England Highway situated on the southern boundary. The potential for contamination from nearby lands was considered to be restricted to the placement of fill or use of the site for stockpiling, especially in association with significant soil disturbance identified on the opposite side of the Railway in 2009 only, and petroleum impacted runoff from the Highway which may have caused contamination of surface water.*

*Surface soil samples were collected at fourteen (14) locations within the proposed residential development stages and two (2) targeted specifically at the proposed child care footprint (S13 and S14). RCA further sampled soils from 0.5m below the surface at five (5) locations to assess the potential for fill to be present and the consistency of the underlying soils.*

*No hydrocarbon, metal, pesticides or herbicides contamination has been identified in any of the soil samples nor in the water sample collected from the dam considered to have the most potential for contamination from the New England Highway. Concentrations of nickel were in excess of the ecological criterion however this is considered, based on RCA's experience with Upper Hunter soils, to be representative of natural soil rather than potential contamination.*

*RCA considers, based on the site history assessment, site observations and analytical results of soil and surface water samples that the site is suitable for the proposed use without further contaminated land site assessment, remediation or formal management required.'*

It is therefore unlikely due to the site's past use that the site has experienced any known contamination. It is therefore considered that the site is suitable for occupation by the development and further assessment is not necessary.

### 5.3.3 State Environmental Planning Policy (Transport and Infrastructure) 2021

#### Chapter Two: Infrastructure

Chapter Two - State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP) applies to the development pursuant to clause 2.2 and aims to facilitate the effective delivery of infrastructure across the State.

Clause 2.48 - Development impacted by an electricity tower, electricity easement, substation, power line

Clause 2.48 of the T&I SEPP requires certain development to be referred to the relevant electricity supply authority and any response is to be considered as part of the assessment.

The proposal was required to be referred to Ausgrid in accordance with Clause 2.48 of Transport and Infrastructure SEPP. The referral to Ausgrid generated no major concerns in respect of the application. The Ausgrid advice is to be forwarded to the applicant for their information and future action.

#### Clause 2.98 - Development adjacent to a rail corridor

Clause 2.98 of the T&I SEPP requires development on land that is in or immediately adjacent to a rail corridor to be referred to the relevant rail authority and any response is to be considered and any guidelines issued by the Planning Secretary as part of the assessment. The development involves subdivision adjacent to 'North Railway' and has been referred to ARTC for comment under clause 2.98(2)(a).

- Is likely to have an adverse effect on rail safety
- Involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains
- Involves the use of a crane in air space above any rail corridor
- Is located within 50m of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.

The response received from ARTC under clause 2.98(2)(b) has indicated that the development is satisfactory and has recommended conditions to be included in the development consent. The assessment has also considered the *Development near rail corridors and busy roads -interim guideline*.

#### Clause 2.100 - Impact of rail noise or vibration on non-rail development

Clause 2.100 of the T&I SEPP applies to the development as it is a form of residential accommodation that may be adversely affected by rail noise or vibration. Pursuant to clause 2.100(2), before determining the development, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary.

The assessment has considered the *Rail Infrastructure Noise Guideline* and *Development near rail corridors and busy roads -interim guideline*. It is noted the subdivision lot layouts provide for development that can ensure mitigation measures can be included to ensure in any bedroom in the residential accommodation—35 dB(A) at any time between 10 00 pm and 7 00 am. Further consideration would be provided to dwellings when individual development applications are lodged for each site.

#### Clause 2.119 -Development with frontage to a classified road

Clause 2.119 of the T&I SEPP requires that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
  - (i) the design of the vehicular access to the land, or
  - (ii) the emission of smoke or dust from the development, or

- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Transport for NSW have responded to the initial civil plans lodged with the application and provided comments for the applicant to amend the development. The applicant responded with amended plans (NL221837\_MUSWELLBROOK\_SC\_RE-ISSUED FOR APPROVAL\_ver C). Transport for NSW provided the final comments via email:

- *'In the inset A on the civil works plan - NL221837\_MUSWELLBROOK\_SC\_RE-ISSUED FOR APPROVAL\_ver C. The westbound highway merge needs to result in a wide shoulder rather than the wide lane shown. This will effectively shift the end of the merge taper 3.5m to the centre of the westbound lanes. This wide shoulder at the end of the merge may require no stopping signs to deter parking and a clear merge runout area.*
- *As the merge is moved on to the crest a check that the existing crest has stopping sight distance to the line marking at the design speed will be required.*

*As such, TfNSW is happy for the project to enter into WAD'*

It is considered Transport for NSW have considered the development and are satisfied with the development and road opening onto the New England Highway.

#### Clause 2.120 - Impact of road noise or vibration on non-road development

Clause 2.120 of the T&I SEPP policy applies to the development as it is a form of residential accommodation and is on land in, or adjacent to a road corridor with an average daily traffic volume of more than 20,000 vehicles and that the consent authority considers is likely to be adversely affected by road noise or vibration.

Pursuant to clause 2.120(2), before determining the development, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary. The assessment has considered the *Development near rail corridors and busy roads -interim guideline* and a noise report has been submitted. Council Environmental Health Officer is satisfied with the development and lot layout regarding noise and vibration associated with New England Highway, condition to be included with consent.

#### Chapter 3 Educational establishments and childcare facilities

The aim of this Chapter is to facilitate the effective delivery of educational establishments and early education and care facilities. Part 3.3 Early education and care facilities—includes specific development controls that need to be considered. The proposal has been assessed against the relevant provisions and requirements of this policy and is considered acceptable. Refer to detailed consideration below:

Requirement	Discussion	Compliance
<p><b>3.22</b>  <i>Centre-based childcare facility—  concurrence of Regulatory Authority  required for certain development</i></p>	<p>The SEPP states that when the requirements of the National Regulations relating to the amount of unencumbered indoor or outdoor space are not met in a DA in NSW, the concurrence of the regulatory authority (NSW Department of Education) will be required. The proposal complies with the indoor floor area (357.5m<sup>2</sup> required and 370.5m<sup>2</sup> provided) and outdoor space (770m<sup>2</sup> required and 1,238m<sup>2</sup> provided) requirements of the Education and Care Service National Regulations, thereby not requiring concurrence with the Regulatory Authority</p> <p>The proposed outdoor areas meet the minimum required as prescribed in Figure 11 from NSW DP E – Childcare Planning Guideline – October 2021.</p> <p><i>Figure 11: Covered areas included as outdoor space</i></p>	<p>Yes</p>

Requirement	Discussion		Compliance
<b>3.23</b> Centre-based childcare facility— matters for consideration by consent authorities	The development complies with the requirements of the Child Care Planning Guideline as detailed below:		Yes
	<b>Considerations</b>	<b>Compliance</b>	<b>Comment</b>
	3.1 Site selection and location	Yes	This report, and supporting documentation, outlines how the site's location will not present an unsafe risk to children, staff or visitors.  An acoustic assessment accompanies this application and is deemed to respond to the requirement for a Noise Management Plan.
	3.2 Local character, Streetscape	Yes	The development has been considered as part of the future streetscape and is considered to respond to the future character of the area.
	3.2 The public interface.	Yes	The development height, FSR and setbacks of the development are considered to be acceptable.
	3.3 Building Envelope & Design	Yes	The building height, FSR and setbacks of the development are considered to be acceptable.
	3.3 Form and Articulation	Yes	The development is a design that responds to the low scale and low-density future development within the urban release area. The building design is satisfactory in terms of form and articulation.
	3.3 Orientation	Yes	The design of the proposal allows ample solar access and is considered satisfactory.
	3.3 Accessible Design	Yes	The building has been designed to ensure accessibility to and within the building in accordance with the relevant requirements of AS1428.1. The applicant

Requirement	Discussion		Compliance
			provided an adequate accessibility report.
	3.4 Landscaping	Yes	The proposed landscaping areas are adequate and satisfy DCP controls.
	3.5 Visual Privacy	Yes	The childcare facility development is on a lot close to proposed residential lots. The proposed park will be located on the adjacent lot.  The layout and design will provide adequate visual privacy to future residents.
	3.5, 3.6 & 3.7 Acoustic Privacy, Noise & Air Pollution & Hours of Operation	Yes	The proposed hours of operation are 7:00am to 7:00pm weekdays. The submitted Acoustic Report provided consideration of the hours of operation of the Childcare Facility and the hours are acceptable for a residential environment. The development is acceptable in terms of air pollution.
	3.8 Traffic, Parking & Pedestrian Circulation	Yes	The development will: <ul style="list-style-type: none"> <li>• Provide separate vehicle and pedestrian entries from the street.</li> <li>• Staff parking is to be located in the car parking area allocated for the childcare facility.</li> <li>• All vehicles will enter and leave the site in a forward direction. Deliveries to the site will generally be via light vans and will occur outside typical drop off and pick up times (9:00am and 3:00pm), further addressed in recommended</li> </ul>

Requirement	Discussion			Compliance
			conditions of consent. <ul style="list-style-type: none"> <li>Further comments regarding carparking areas provided within this report addressing Section 18 Child Care Centres of Muswellbrook Shire Council DCP 2009</li> <li>The parking and traffic arrangements are considered satisfactory.</li> </ul>	
	3.8 Car and Bicycle Parking	Yes	The development is considered acceptable on traffic grounds (parking, access and maneuverability) and is suitable for local traffic conditions. Bicycle parking and access is acceptable.	
<b>3.24</b> Centre-based childcare in IN1 or N2 – additional matters for consideration by the consent authority.	The site is located in a R1 General Residential Zone and this provision does not apply.			N/A
<b>3.25</b> Centre-based childcare facility—floor space ratio (R2 Low Density Residential Zone)	The site is located within a R1 General Residential zone and this provision doesn't apply.			N/A

Requirement	Discussion	Compliance
<p><b>3.26</b> Centre-based childcare facility—non-discretionary development standards under subclause (2):</p> <ul style="list-style-type: none"> <li>a) location—the development may be located at any distance from an existing or proposed early education and care facility.</li> <li>b) indoor or outdoor space <ul style="list-style-type: none"> <li>(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</li> <li>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause</li> </ul> </li> <li>c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,</li> <li>d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</li> </ul>	<p>The proposal complies with all non-discretionary standards including the indoor and outdoor space requirements under clause 3.22 above.</p>	<p>Yes</p>

### 5.3.4 State Environmental Planning Policy (Industry and Employment) 2021

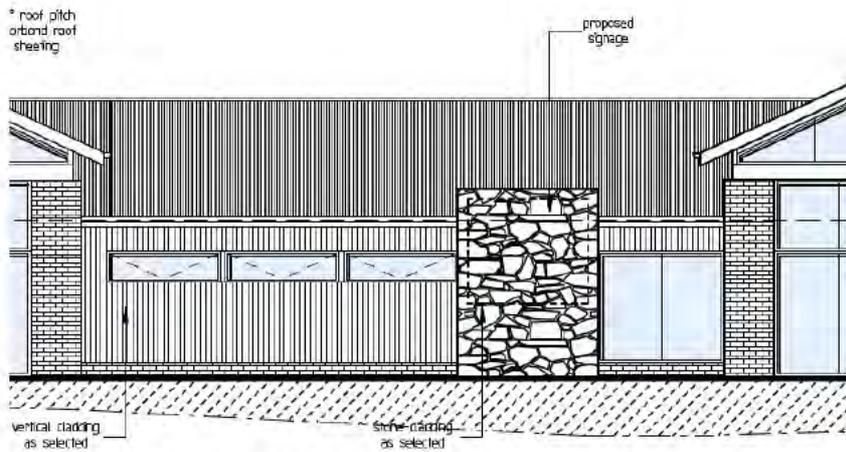
#### Chapter Three: Advertising and signage

This chapter of SEPP(I&E) 2021 applies to all signage that:

a) Can be displayed with or without development consent under another environmental planning instrument that applies to the signage, and

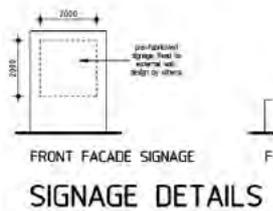
b) Is visible from any public place or public reserve, except as provided by the policy.

The development includes a childcare facility and will include two business identification signs on the southeast elevation (façade) refer to **Figure 12** and front corner fence, refer to **Figure 13**.

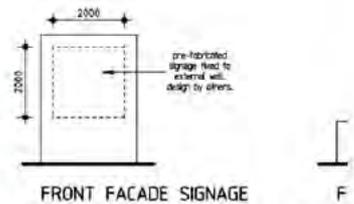


## SOUTH EAST ELEVATION 1:100

Figure 12: Business identification signage



Commented [LM1]: 2 x business identification signs?



**Figure 13:** Business identification signage

The advertising and signage will be consistent with the objectives of the Policy and with the relevant assessment criteria in Schedule 1.

**Character of the area**

The development includes two business identification signage.

The signage will be compatible with development (Childcare facility) and of a low scale for a residential area. The development is consistent with the MDCP 2010 and as such, meets the requirements for the future character of the area.

**Special areas**

There are no specific visually important areas that the sign will detract from.

**Views and vistas**

The development does not detract from any important views.

**Streetscape, setting or landscape**

The scale and proportion of the signs are consistent with the building design. The development will not unreasonably dominate the streetscape or detract from the residential nature of the area.

**Site and building**

The signs are compatible with the scale, proportion and other characteristics of the site. The proposed sign will not detract from any important features of the site or any buildings.

No ancillary devices are proposed to be installed on the sign structures.

**Illumination**

No internal or external illumination is proposed.

**Safety**

The location of the signs is consistent with other signage for this type of development and is not considered to have any major safety implications for the area.

**Heritage**

The site is not within a heritage conservation area or associated with a heritage item.

The proposed signage is acceptable having regard to SEPP (I&E) requirements and the nature of the development.

## 5.4 Muswellbrook Local Environmental Plan 2009

Section 4.15(1)(a)(i) of the EP&A Act requires the consent authority to consider the provisions of environmental planning instruments (EPIs), which includes Local Environmental Plans (LEPs). The

Muswellbrook Local Environmental Plan 2009 (MLEP2009) applies to all land within the Muswellbrook Local Government Area (LGA). An assessment of the development against the relevant sections of the MLEP2009 is provided below in **Table 2**.

**Table 2** – MLEP2009 Assessment

MLEP2009 Clauses	Requirement	Development	Compliance
---------------------	-------------	-------------	------------

<p>Clause 1.2 Aims of Plan</p>	<p>(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,</p> <p>(a) to encourage the proper management of the natural and human-made resources of Muswellbrook by protecting, enhancing or conserving—</p> <p>(i) productive agricultural land, and</p> <p>(ii) timber, minerals, soils, water and other natural resources, and</p> <p>(iii) areas of significance for nature conservation, and</p> <p>(iv) areas of high scenic or recreational value, and</p> <p>(v) places and buildings of archaeological or heritage significance,</p> <p>(b) to manage the urban areas of Muswellbrook by strengthening retail hierarchies and employment opportunities, promoting appropriate tourism development, guiding affordable urban form and providing for the protection of heritage items and precincts,</p> <p>(c) to promote ecologically sustainable urban and rural development,</p> <p>(d) to manage development in flood-prone areas by ensuring any obstruction, re-direction or pollution of flood waters will not have adverse consequences for the environment or increase the risk of endangering life or property,</p> <p>(e) to enhance the urban amenity and habitat for flora and fauna,</p> <p>(f) to protect and conserve—</p> <p>(i) soil stability by controlling development in accordance with land capability, and</p> <p>(ii) remnant native vegetation, and</p> <p>(iii) water resources, water quality and wetland areas, natural flow patterns and their catchments and buffer areas,</p> <p>(g) to provide a secure future for agriculture by expanding Muswellbrook's economic base and minimising the loss or fragmentation of productive agricultural land,</p> <p>(h) to allow flexibility in the planning framework so as to encourage orderly, economic and equitable development while safeguarding the community's interests and residential amenity, and to achieve the objectives of each zone mentioned in Part 2 of this Plan.</p>	<p>The development is generally consistent with the aims and objectives of the MLEP2009.</p>	<p>Yes</p>
<p>Clause 2.2 Zoning of land to which Plan applies</p>		<p>The land is located within the R1 General Residential zone.</p>	<p>Yes</p>

<p>Clause 2.3 Zone objectives and Land Use Table</p>	<ul style="list-style-type: none"> <li>• To provide for the housing needs of the community.</li> <li>• To provide for a variety of housing types and densities.</li> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>• To enable sensitive infill development of other housing types.</li> <li>• To allow people to carry out a reasonable range of activities from their homes, where such activities do not adversely affect the living environment of neighbours.</li> <li>• To promote the principles of ecological sustainable development including energy and water-efficient subdivision and housing design.</li> <li>• To minimise the impact of non-residential uses and ensure these are in character and compatible with surrounding development.</li> <li>• To ensure that development is carried out in a way that is compatible with the flood risk of the area</li> </ul>	<p>According to the definitions contained in the MLEP2009 'Dictionary' the development is defined as 'Roads', 'Public Recreation Area' and 'Child Care Facility' and is permissible within the R1 General Residential zone.</p> <p>The development is considered to be consistent with the objectives of the R1 General Residential zone.</p>	<p>Yes</p>
<p>Clause 4.1 Minimum subdivision lot size</p>	<p>1) The objectives of this clause are as follows—</p> <ul style="list-style-type: none"> <li>a) to ensure that new subdivisions reflect characteristic lot sizes and patterns in the surrounding locality,</li> <li>b) to ensure that lot sizes that create a dwelling entitlement are consistent with lot sizes on adjoining lands,</li> <li>c) to ensure that lot sizes have a practical and efficient layout to meet intended use,</li> <li>d) to prevent the fragmentation of rural lands.</li> </ul> <p>The minimum lots size across the site is 600m2.</p>	<p>Each lot within the development is greater than 600m2.</p>	<p>Yes</p>
<p>Clause 4.3 - Height of buildings</p>	<p>1) The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> <li>a) to limit the height of buildings,</li> <li>b) to promote development that is compatible with the height of surrounding development and conforms to and reflects natural landforms by stepping development on sloping land to follow the natural gradient,</li> <li>c) to promote the retention and, if appropriate, sharing of existing views,</li> <li>d) to maintain solar access to new and existing dwellings and public recreation areas and to promote solar access to new buildings,</li> </ul>	<p>The maximum height of childcare facility is 7.1 metres.</p>	<p>Yes</p>

	<p>e) to maintain privacy for residents of existing dwellings and promote privacy for residents of new buildings.</p> <p>The maximum height of building on the site is 8.5m.</p>		
<p>Clause 4.4 Floor space ratio (FSR) (refer to definition and method of calculation under clause 4.5)</p>	<p>1) The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> <li>a) to ensure a degree of equity in relation to development potential for sites of different sizes and for sites located in different parts of Muswellbrook,</li> <li>b) to ensure that proposals for new buildings are assessed with due regard to the context of surrounding development,</li> <li>c) to ensure that the bulk and scale of proposed buildings are compatible with surrounding (or intended future) development,</li> <li>d) to provide sufficient floor space for high quality development for the foreseeable future,</li> <li>e) to regulate density of development and generation of vehicular and pedestrian traffic,</li> <li>f) to ensure the preservation of reasonable amenity on surrounding land.</li> </ul> <p>The maximum FSR for the site is 0.5:1.</p>	<p>The proposed lot area of Lot 101 – 3,566m<sup>2</sup></p> <p>The gross floor area of the childcare facility is 680m<sup>2</sup>.</p> <p>The FSR is 0.19:1</p>	<p>Yes</p>
<p>Clause 5.10 Heritage conservation</p>	<p>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.</p>	<p>No items of State or Local heritage significance are located on or in the vicinity of the development site.</p> <p>An Aboriginal Archaeological Due Diligence Assessment report has been submitted and an AHIMS search did not identify any Aboriginal objects or culturally significant landscape features on/near the site.</p>	<p>Yes</p>
<p>Clause 5.21 Flood planning</p>	<p>1) The objectives of this clause are as follows—</p> <ul style="list-style-type: none"> <li>a) to minimise the flood risk to life and property associated with the use of land,</li> <li>b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,</li> <li>c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</li> <li>d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</li> </ul>	<p>The applicant provided the following note:</p> <p><i>'Land is affected- Negligible impact on development.'</i></p> <p>The extent of the site impacted by Flood Hazard of 1% Annual Exceedance Probability (AEP) is referred to in <b>Figure 12</b>.</p>	<p>Yes</p>

			
<p>Clause 6.2</p>	<ol style="list-style-type: none"> <li>1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.</li> <li>2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.</li> </ol>	<p>The development has been considered by the Council Development Engineer regarding water and reticulated sewage infrastructure. No concerns have been raised regarding the connection of water infrastructure and the proposed sewerage infrastructure (including a pump house) into existing infrastructure available along New England Highway.</p> <p>Augmentation of the respective utilities will be undertaken by the developer during construction of each stage.</p>	<p>Yes</p>

Figure 13: Flood Hazard Map 1% AEP

Consideration of Council flood mitigation within the catchment and council policy indicates the flood impacts associated with the site are minor. The 1% Flood Hazard AEP map indicates the portion of the site and proposed lots impacted is minor for flood hazard.

The development is not expected to have any noticeable adverse impacts on flood behavior or increase risk to life or property.

<p>Clause 6.3</p>	<p>The site is located within a 'Urban Release Area' Refer to Figure 13.</p>  <p><i>Figure 13: Site within 'Urban Release area'</i></p> <ol style="list-style-type: none"> <li>1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.</li> <li>2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.</li> <li>3) The development control plan must provide for all of the following— <ol style="list-style-type: none"> <li>a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,</li> <li>b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,</li> <li>c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,</li> <li>d) a network of passive and active recreational areas,</li> <li>e) stormwater and water quality management controls,</li> <li>f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,</li> <li>g) detailed urban design controls for significant development sites,</li> </ol> </li> </ol>	<p>The development requires a draft site-specific development control with provisions of this clause applied. Consultant Urban Planner reviewed the submitted draft DCP section and provided feedback. The amended draft DCP was considered by Council and formally endorsed at Council meeting on 26 September 2023.</p>
-------------------	--	---

	<ul style="list-style-type: none"> <li>h) measures to encourage higher density living around transport, open space and service nodes,</li> <li>i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,</li> <li>j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.</li> </ul>		
Clause 7.6 Earthworks	<p>Before granting development consent for earthworks, the consent authority must consider the following matters—</p> <ul style="list-style-type: none"> <li>a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</li> <li>b) the effect of the proposed development on the likely future use or redevelopment of the land,</li> <li>c) the quality of the fill or of the soil to be excavated, or both,</li> <li>d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</li> <li>e) the source of any fill material or the destination of any excavated material,</li> <li>f) the likelihood of disturbing relics,</li> <li>g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</li> </ul>	<p>Traditionally residential developments require reasonably level sites for construction.</p> <p>Submitted plans do not indicate benching and cut/fill on residential lots. This will result in significant slopes on many sites, which will require resolution and addressing at approval stage for individual dwellings.</p> <p>Significant filling at the rear of childcare facility will require geotechnical considered prior to the release of a Construction Certificate. Conditions are recommended.</p> <p>Fill may be required to be imported and a condition has been included to ensure the fill is adequate and suitable for the development.</p> <p>There are no known relics on the land that would be affected by the proposed earthworks.</p> <p>It is considered that the earthworks can be conducted without significant environmental impact, geotechnical reporting will be required prior to construction certification.</p> <p>The proposed earthworks are not considered to have any adverse impacts on neighbouring properties or classified roads, are unlikely to intercept groundwater and will not impact drinking water catchments.</p> <p>Erosion and sedimentation will be controlled by appropriate conditions of consent.</p>	Yes

## 5.5 Draft Environmental Planning Instruments (EPIs)

Section 4.15(1)(a)(ii) of the EP&A Act requires the consent authority to consider the provisions of draft EPIs that have been publicly exhibited.

There are no draft EPIs applicable to the site or development.

## 5.6 Muswellbrook Development Control Plan 2009 (MDCP2009)

Section 4.15(1)(a)(iii) of the EP&A Act requires Council to consider the provisions of applicable development control plans (DCPs).

The development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Muswellbrook Development Control Plan 2009 (MDCP2009). An assessment of the development against the relevant sections of the MDCP2009 is provided below in **Table 3**.

Table 3 – MDCP2009 Assessment

Section 3 - Site Analysis			
MDCP2009 Clause	Requirement	Comment	Compliance
3.2 Site Analysis Required	Site analysis required	The applicant submitted details throughout the documentation including the Statement of Environmental Effects (SOE) and amended plan set prepared by HM Hyndes Bailey & Co. Issue L outlining the characteristics of the site including topography features such as gullies and ridge lines. An extract of the deposited plan indicated no easements exist on the site.	Yes
Section 5 - Subdivision			
MDCP2009 Clause	Requirement	Comment	Compliance
5.1.1 Application	Consideration of section 138 of <i>Roads Act 1993</i>	The site is zoned R1 – General Residential. This section applies to the development.  The development has been supported by an Amended Traffic Impact Assessment prepared by Intersect Traffic dated March 2023.  Council development engineer is satisfied with the conception design and provided the following comments recommended conditions of consent:  <u>Internal Roads and Footpaths</u>	Yes
5.5 – Residential Subdivision		1) <i>A detailed road design including longitudinal and sectional views for all road areas at minimum 15m centres is to be provided as part of the detailed design plans for the Subdivision Works Certificate for each stage of the development.</i>	
5.5.1 – Local Street Design		2) <i>Internal roads are to be a minimum of 7.5m internal sealed width, and a minimum of 11m for any roads with capacity to service the adjoining lot to the east of the development, also identified as Sub-Arterial.</i>	
5.5.2 Access Way Design		3) <i>Each stage of the development is to have an appropriately designed and sealed temporary turning head suitable for a 9.9m long service vehicle and chevron board included.</i>	
5.5.3 Pedestrians and Cyclists			
5.5.4 Utility Services			
5.5.5 Stormwater Management			

5.5.6 Lot Size and Shape		4) A detailed pavement design is to be provided by an experienced Geotechnical Consultant to provide road pavement sections in accordance with Council's DCP and Aus-spec with appropriate sub-soil drainage for each road section based on the recommendations of the Geotechnical investigation report.	
5.5.7 Solar Access and Lot Orientation			
5.5.8 Heritage		5) Kerb ramps are to be provided on all road intersections and crossings associated with footpaths in accordance with Council's Footpath Policy F10.	
5.5.9 Site Works		6) Design of the any road should demonstrate compliance with future driveway installations for dwellings in accordance with Council's Footpath Policy F10.	
5.5.10 Open Space		7) The final design of the proposed roundabout to be in accordance with AustRoads requirements.	
		8) All internal footpaths are to be a minimum of 1.5m width, and footpaths are to be provided on both sides of any road areas with service capacity to the adjoining lot to the east. Any proposed footpath is to be designed with gradients in accordance with Aus-Spec requirements. Where these gradients cannot be met, a suitably designed "Pedestrian rest area adjoining the footpath at a reduced grade, subject to advice from Council is to be provided where required.	
		9) Two raised threshold treatments are to be considered as part of Stage 2 intersection works subject to further advice from a suitably experienced consultant, and if provided accommodate any overland flows from 1% AEP events without adverse impacts to adjoining property.	
		10) CI recommends a suitably designed bus shelter concrete pad on the east-side of the entry road to the development for school students and the public, subject to further negotiations and discussions with local bus services and Council. Any final design of this concrete pad is to include considerations for accessibility and visually-impairment, as well as appropriate signage.	
		11) Proposed road names are to be provided as part of Council's Road Naming Policy	
		<p><u>Further consideration of Childcare Facility vehicle movements</u></p> <p>The proposed local road to the roundabout and taken east is 11-13m in width consistent with Aus-spec Sub-Arterial road hierarchy. It is considered there is adequate space for traffic movement and storage, as long as it is nominated both sides of the entry road to the roundabout as being "no stopping" zones except for an appropriate bus stop location on each side.</p> <p>This would manage any potential traffic congestion associated with the childcare facility and backing onto the New England Highway. The no stopping signage incorporated on both sides of the entry road up to the roundabout will be a required condition of consent.</p> <p><u>Stormwater</u></p>	

		<p>1) A detailed drainage design including DRAINS is to be submitted to Council for the Subdivision Works Certificate demonstrating all stormwater drainage from the site is fully managed for each development stage in accordance with the Development Control Plan including but not limited to stormwater discharge control and stormwater quality before discharging into a legal point of discharge, and will not cause adverse effects to neighbouring properties up to the DCP design event, including appropriate blockage factors. Basin 3 is therefore expected to be completed as part of Stage 2 works.</p> <p>2) All external stormwater impacting the development to be designed to ensure all drainage is suitably diverted into Muscle Creek with energy dissipation and erosion controls to ensure no adverse impacts to future lots up to and including the 1% AEP design event to the Finished Floor Level plus 300mm freeboard, including appropriate blockage factors.</p> <p>3) All Stormwater Detention Basins are to be provided with all-weather access to the basin and include a suitable easement for the drainage of water. The access shall be a DBG20 gravel base overlaid with 75mm topsoil and grassed (reinforced path or Council approved equivalent) and a turning facility to allow a service vehicle to enter and exit in a forward direction.</p> <p>4) Detention Basin Batter grade and contours are to be specified/labelled in the drawings and should not have a maximum internal batter grade exceeding 1:4 ratio. Grass seeding is to be applied to basin walls and top-dressed, and appropriately turfed at its base.</p> <p>5) All stormwater detention basins and drainage reserves are to include appropriate signposting to warn the public of risks entering these areas and include a spillway discharge arrangement that does not lead to high-velocity discharge that is likely to cause erosion or streambank damage to Muscle Creek or other discharge locations natural or constructed surfaces.</p> <p>6) All stormwater detention basins should be designed with consideration of construction loads of sediment as temporary sediment control basins, maintained at all times, and modified to suit final construction design for detention function prior to the issue of the Subdivision Certificate.</p> <p>7) A detailed design including hydraulic calculations for the proposed culvert fronting the site entry, including size, gradient and headwalls appropriate for an errant driveway to be provided also subject to TINSW requirements and appropriate blockage factors considered.</p> <p>8) All works within 40m of a waterway are subject to a Controlled Activity Permit from DPIE-Water.</p>	
--	--	--	--

	<p>9) A MUSIC model for all proposed stormwater measures, to ensure stormwater quality is compliant with Council s DCP prior to release of Stage 1 Subdivision Certificate.</p> <p>10) All proposed Gross Pollutant Traps (GPTs) to be hydraulically free-draining into any proposed detention basins, and where the 1-year ARI peak event storage level is above the invert level of the GPT system, the GPT is to be suitably designed to accommodate free-draining conditions equal to this 1-year ARI peak level. All final GPT product designs based on final constructed levels are to be submitted to Council prior to the release of the Subdivision Works Certificate.</p> <p>11) All GPTs to have a suitably designed reinforced concrete pad of minimum 175mm adjacent to each system for supporting a maintenance service vehicle and its turning circle based on the access design, and have an all-weather access pathway similar to the detention basins that allows a service vehicle to enter and exit in a forward direction.</p> <p>12) A detailed Bill of Quantities for the developments actual constructed costs is to be submitted to Council to assist in the Asset Management duties of Council</p> <p>13) A detailed and accurate Works As Executed survey for all developed areas of the proposed site in both CAD and .pdf version are to be provided to Council prior to release of the Subdivision Works Certificate in a format of Council s selection.</p> <p>14) A Road Occupancy License (ROL) by TfNSW, Section 138 Road Permit and Section 68 Sewer and Drainage Permit is required as part of the Subdivision Works and is to be adhered to at all times.</p> <p>15) All pipes equal to or larger than DN375 or larger to be steel reinforced concrete pipes.</p> <p>16) All pipes are to be designed to withstand all in-service and construction loads in accordance with relevant Australian Standards.</p> <p>17) All pits are to be Class D steel-wire-reinforced concrete with Class D lids and grates, and in accordance with Aus-spec requirements.</p> <p>18) Pipes with grades greater than 5% to be suitably designed with appropriate trench stops.</p> <p>19) All pipes should be designed to reduce velocities in pipelines to less than 7m/s to prevent scour.</p> <p><u>Earthworks</u></p> <p>1) Areas of cut and fill and their respective volumes should be clearly shown on the detailed design drawings as part of Construction Certificate, and appropriately managing for any compaction requirements and drainage impacts, with any proposed additional cut material to be subject to a Haulage</p>	
--	---	--

		<p>Route plan under a future Section 138 Permit and/or ROL from TfNSW.</p> <p>2) An erosion and sediment control plan is to be submitted to Council as part of the Subdivision Works Certificate to control all sediment including construction loads from the development in accordance with best practice and Landcom's 'Blue Book' guide to erosion and sediment control and maintained at all times.</p> <p>3) Erosion and sediment control measures are to be prepared for each stage of the development and the associated schedule of work. Priority must be given to access, road shoulder stabilisation, and erosion as this site is close to New England Highway—shaker grid to be installed at the limit of work before using stabilised site access. All disturbed areas to be appropriately remediated to ensure stabilisation of the site prior to issue of the Subdivision Certificate, and control of erosion prior to the construction of dwellings under a future DA.</p> <p><u>Landscaping and Park area</u></p> <p>1) Proposed wood mulch in the natural play log area to be replaced with rubber due to maintenance issues (L02 Indicative Park Concept).</p> <p>2) Suitable perimeter fencing to Council's written satisfaction to be provided for the park that share a boundary with the proposed childcare facility and Lot 103. The walkway part can remain open (L02 Indicative Park Concept)</p> <p>3) No stopping signs are to be placed from the corner at the start of the park up to the north frontage boundary in accordance with Austroads and Aus-spec requirements. Similarly, a parallel parking area of 3m width to be proposed along the frontage to allow adequate parallel parking opportunities for the park.</p> <p>4) An electric accessible barbecue is to be proposed as part of Council's commitment to inclusive communities (L04 Subdivision Entrance Signage).</p> <p>5) The signage wall gate needs to be constructed from aluminium with a timber appearance finish.</p> <p>6) Drinking fountains and a bubbler with a dog bowl require to be proposed for the outdoor park space.</p> <p>7) An easement is to be proposed to drain stormwater water south of the park, to will be connected to Lots 103, 104 &amp; 105 and connect with the drainage basin fronting the development and included in the detailed drainage design plans.</p> <p><u>Additional comments for landscaping</u></p> <p>It was raised by Councillors for landscape planting along the creek riparian area. A condition of consent will be included to ensure further vegetation planting to occur along the Muscle Creek and to ensure the landscaping is consistent with the</p>
--	--	--

requirements of Planning for Bushfire Protection 2019 and this includes appropriate plant species selection.

**Ancillary requirements**

- 1) Detailed designs for all retaining walls to be provided as part of the Subdivision Works Certificate. Wall locations, sections and structural details (if required) are to be included. Proposed retaining wall locations shown on the provided plans and sections are included in steep critical areas. All proposed Retaining wall materials to provide a minimum 50 year design life, but preferably 100 year design life and include suitable drainage conditions that prevent hydraulic pressure or blockage of backfill media.
- 2) Appropriate easements to be provided to drain water or support the conveyance of services.
- 3) Design contour interval for the final detail design of the development to be a minimum of 0.5m interval for existing and proposed levels.

**Landscape Management Plan**

- 1) A landscaping management plan is to be submitted to Council as part of the Subdivision Works Certificate in accordance with Council's "Planted Species List" to be provided as required including street trees, preferably located centrally to lots and ensuring clearance from drainage and electrical services, among other services.

The development was referred to Transport for NSW (TfNSW) with regard to the road opening on New England Highway. Original comments indicated amendments were required to address concerns. An email response was provided endorsing the amended design on 03 May 2023.

The proposed development includes internal collector and local roads that meet the minimum requirements of this section of the DCP having regard to road carriageway, on-street parking and pedestrian and cyclist provisions.

The development includes two temporary road ends within Stage 1 subdivision constructed refer to *Figure 14*.



**Figure 14:** Temporary road ends (Stage 1)

The temporary arrangements are acceptable arrangements that ensure connectivity to neighbouring sites for future development of the 'Urban Release' area.

		<p>Lot 18 DP 530787 is Crown Land managed by NSW Local Land Services as Travelling Stock Reserves (TSRs). There is concern that proposed lots may utilise this lot for access. The stock route is to be preserved by a condition of consent creating an easement over the rear portion of the adjacent proposed lots restricting access to Lot 18 DP530787.</p> <p>Council Project Engineer considered water and sewerage. The following considerations were provided:</p> <p><u>Water</u></p> <p><i>The developer is required to construct a new trunk main from a nearby 300mm trunk main to service this area. This is due to the development on this side of Muswellbrook not able to create a ring system to avoid outages. This will be a condition of consent.</i></p> <p><u>Sewerage</u></p> <p><i>The stage 1 lots will drain sewerage gravity to the existing Council sewerage system. The remaining stages (2 and 3) are located on the other side of an elevated point and will require a sewerage pump station to be installed. This will be a condition of consent.</i></p> <p><u>Pedestrian/cycle Connectivity</u></p> <p>There is existing pedestrian and cycleway infrastructure on the southern side of New England Highway. The existing pedestrian/cycle infrastructure provides links into the central business district of Muswellbrook. The site is isolated with no pedestrian pathways or cycle paths connecting the site to other established residential area within Muswellbrook. It is required that the development includes a pedestrian connection from the site to existing infrastructure on the southern side of New England Highway. Full details will be required in landscape plans to be approved by Council prior to the release of stage 1 subdivision certificates.</p> <p>The Development satisfies the requirements of 5.5 Residential Subdivision and further conditions of consent regarding the above have been included. Refer to the schedule of draft conditions of consent for full details.</p>	
--	--	---	--

**Section 13 – Floodplain Management**

MDCP2009 Clause	Requirement	Comment	Compliance
13.5 - Application Requirements	1) The type of development proposed. 2) The scale of the development proposed. 3) The extent to which the site is affected by flooding;	<p>Refer in detail to the assessment under MLEP2009 comments Clause 5.21 – Flood Planning.</p> <p>The development is not expected to have any noticeable adverse impacts on flood behaviour or increase risk to life or property.</p>	Yes

	4) The amount of flood-related information already held by Council regarding flood behaviour at that site and within its catchment.		
<b>Section 14 – Outdoor Signage</b>			
<b>MDCP2009 Clause</b>	<b>Requirement</b>	<b>Comment</b>	<b>Compliance</b>
14.2 Matters for Consideration	1) Character of the area. 2) Special areas. 3) Views and vistas. 4) Streetscape, setting or landscape. 5) Site and building. 6) Associated devices and logos with advertisements and advertising structures. 7) Illumination 8) Safety	A consideration of signage matters has been assessed under State Environmental Planning Policy (I&E) 2021 – Chapter 3 Advertising and signage refer further to this element of the assessment report.  A condition to be included in that signage is to not be illuminated and consistent with the requirements of SEPP(I&E)2021 and MDCP2009.	Yes
<b>Section 16 – Car Parking and Access</b>			
<b>MDCP2009 Clause</b>	<b>Requirement</b>	<b>Comment</b>	<b>Compliance</b>
<b>16.1.3 Aims and Objectives</b>	Aims: a) To provide a guide for developers of Council's minimum requirements for off street vehicular parking. b) To ensure that adequate off-street vehicular	The development has been supported by an Amended Traffic Impact Assessment prepared by Intersect Traffic dated March 2023.  <u>Subdivision</u> Consideration of access and network movements for the subdivision was considered under MDCP2009 – Section 7 Subdivision.  <u>Public Recreational Area (Park)</u> The park was amended to include five car parking spaces. This was considered an improved outcome for the park and mitigates any on-street parking impacts associated with the new park.	Yes

	<p>parking is provided for traffic generating developments to ensure adequate car parking facilities are provided in association with developments.</p> <p>c) to ensure each development proposal is assessed consistently and equitably in relation to the provision of off-street vehicular parking.</p> <p>d) To ensure vehicular parking areas are designed in such a manner as to be functional, aesthetically pleasing in terms of landscaping, and safe for motorists and pedestrians.</p> <p>e) To ensure all vehicle vehicular parking areas are designed in such a manner as to be functional, aesthetically pleasing in terms of landscaping, and safe for motorists and pedestrians.</p> <p>f) To ensure all vehicles entering or leaving properties are driven in a forward direction.</p>	<p><u>Childcare Facility</u></p> <p>The childcare facility's interaction with proposed New England Highway access, proposed local roads, car parking provisions, and Australian Standards is satisfactory.</p> <p>The childcare facility has been considered against the provisions of MDCP2009 - Section 18 Child Care Centres.</p> <p>The Childcare facility is a 110 capacity child centre and includes a breakdown:</p> <ul style="list-style-type: none"> <li>• 20 infants (0-2 years)</li> <li>• 30 Toddlers (2-3 years)</li> <li>• 30 preschoolers (3-6 years)</li> <li>• 30 Preschoolers (3-6 years)</li> </ul> <p>There will be 17 staff and 1 chef (18 staff).</p> <p>The parking provisions include:</p> <ul style="list-style-type: none"> <li>• 1 space per employee</li> <li>• 3 set down / pick up areas or 1 per 10 children</li> </ul> <p>The development includes:</p> <ul style="list-style-type: none"> <li>• 18 staff car parking spaces.</li> <li>• 3 dedicated drop off points close to the entrance.</li> <li>• 9 visitor spaces.</li> <li>• 1 disabled visitor space.</li> </ul> <p>The development is considered to be consistent with the aims and objections of Section 16 – Car Parking and Access and car parking provisions.</p>
Section 18 Childcare		

MDCP2009 Clause	Requirement	Comment	Compliance
Clause 18.1 Entry, Access and Safety And Security 18.1.1 Entry	(i) Where the entrance to the Centre is on the exterior of the building provide weather protection such as an awning  (ii) Materials and design of weather protection to the entrance is compatible with the building *  (iii) Where the Centre is located within a building that accommodates other uses provide a separate and clearly marked entrance for the Child Care Centre.	The entry area is covered and enclosed and entry is via a lobby for check-in. The plan of Management provided details for a secure check-in process. The childcare care facility entrance is clearly marked.	Yes
18.1.2 Access and mobility	The design indicates disable access requires have been included and ramps and widen entrance way. A recommended condition of consent will be included.  Design in accordance with Australian Standard 1428.1 and 1428.3 (Design for Access and Mobility. Part 3: Requirements for children and adolescents with physical disabilities) *		
18.1.3 Safety and security	The design includes onsite parking for set-down and pickup areas and indicates to be a well-lit environment.  The plan of management indicates the staff will be in attendance near the gate and a notification system on arrival.  (i) on site parking spaces and set-down and pick-up areas are well-lit  (ii) locate the entry gate within sight of staff in the office  (iii) install bell or alarm on the entry gate to alert staff to someone entering or		
		The submitted Plan of Management and architectural plans indicate designated vehicles spaces and adequate distance to entrances of the facility.  The design includes 3 set-down spaces.	

18.2.1 Drop off and pickup of children	leaving the Childcare Centre *	The carpark design include adequate landscape that will be satisfactory to the new streetscape.	
	(i) Provide 2 designated vehicle spaces - one for Disabled Access, and one for emergency use – on site in residential zones, and within close proximity in local centre/village zones, in accordance with the provisions of AS2890.1.	A recommended condition of consent for ensure adequate signage within the car parking areas is to be detailed in documentation at construction certificate stage.	
	(ii) Provide accessible parking spaces for the set down and pick up of children, no more than 50m from the Child Care Centre.		
	(iii) Provide 2 set down spaces for less than 24 children, 3 spaces for more than 24 children.		
	(iv) Car parking provisions do not substantially modify the streetscape.	The development area of the site is close to the New England Highway. An acoustic report ahs been include advising the development is satisfactory in the location and appropriate conditions recommended.	
	(v) Spaces are clearly marked to reflect that they are for the exclusive use of the child care users between the peak am and pm hours of the Centre eg 7.30-9.30 and 4.30-6.30		
18.2.2 Air Quality	(i) For Child Care Centres located on –		
	• on major roads (including state and regional) or within 50m of such a road		
	• roads where there is an average daily		

<p>18.3.1 Indoor Space</p>	<p>traffic rate of more than 5000 per day</p> <ul style="list-style-type: none"> <li>• sites where the external noise level exceeds 55 dB(A) (L90 24 hours) demonstrate reduction measures such as double glazing on windows, air conditioning systems, and play areas located away from noise and pollution sources in an environmental report</li> </ul> <p>(ii) Child care centres within 200m of a service station will not be approved unless the application is supported by a preliminary hazard analysis (PHA) under State Environmental Planning Policy No. 33 and a risk assessment (biophysical and societal) taking into account the sensitivity of the use.</p> <p>(iii) Child care centres within 100m of above ground high voltage transmission lines or mobile phone towers or the like, will not be approved unless the application is supported by a hazard risk assessment which addresses the potential impacts on human health.</p> <p>(i) Provide at least 3.25m<sup>2</sup> of unencumbered</p>	<p>The development satisfies the requires under the SEPP (T&amp;I) 2021. Refer to the assessment under SEPP (T&amp;I) 2021.</p> <p>In addition, the landscaping details indicate a satisfactory amount of shading. A recommended condition has been included to ensure sensory planting species is included within the design.</p>	
----------------------------	--	--	--

<p>18.3.2 Outdoor space</p>	<p>indoor floor space for each child.</p> <p>(ii) Provide at least 10m2 of unencumbered indoor floor space for each employee, for office space, staff room, sick bay area and adult toilet and shower facilities.</p> <p>(i) Provide at least 7m2 open space per child.</p> <p>(ii) Ensure that exposure to external noise, pollution and winds is minimised</p> <p>(iii) Ensure that 50% of all outdoor open space is shaded during the hours of 10am to 3pm. Shading may be provided by trees, awnings, or similar structures *</p> <p>(iv) Locate seating and outdoor play equipment in shaded areas *</p> <p>(v) Ensure outdoor space receives a minimum of 2 hours direct sunlight per day.</p>	<p>The materials proposed to be used in the development are of high quality and suitable for the surrounding development of the new subdivision. Fencing will be adequate the plan of management additionally indicates the required fencing height detail. Full details will be required for documentation for a Construction certificate application.</p>	
<p>18.3.3 Fences</p>	<p>(vi) Use plant species in landscaping that are not harmful to children or the environment. *</p> <p>(vii) Ensure outdoor space is adequately shaded in accordance with guidelines set out in the NSW Cancer Council's Shade For</p>	<p>The development is well placed within the subdivision. Next to the park and drainage reserve. The rear of the slope away toward the drainage reserve. Providing satisfactory distances to any future residential uses.</p>	

<p>12.4.1 Visual privacy</p>	<p>Child Care Services publication.</p> <p>(i) Use materials and finishes for fences that complement characteristic visual elements in the surrounding physical environment and do not dominate the streetscape *</p> <p>(ii) If perimeter fences of the outdoor space are close to a major road or a hazard, make them higher than the Australian Standard of 1200mm *</p> <p>(iii) Provide a childproof self locking mechanism on any gates *</p>	<p>An acoustic report has been included in the documentation for the application and is satisfactory. Recommendations are to be included within the conditions.</p>
<p>12.4.2 Acoustic privacy</p>	<p>(i) Provide screening by trees, fencing and window coverings to minimise overlooking and noise impacts *</p> <p>(ii) Locate any play structures at least 3m from any boundary with a residential Property.</p> <p>(i) Locate noisy areas such as outdoor space, vehicle access and pathways away from windows of adjoining dwellings</p> <p>(ii) Appropriate noise reduction measures are utilised *</p> <p>(iii) Demonstrate compliance with operating noise</p>	

	levels by providing a report on noise levels prepared by a suitably qualified consultant.		
Section 20 Erosion and Sediment Control			
MDCP2009 Clause	Requirement	Comment	Compliance
Clause 20.2 Erosion and Sediment Control Planning (ESCP)	The ESCP should be prepared by a suitably accredited or experienced person. It can be a "stand alone" document or incorporated into a site management or construction plan that shows drawings and notes that the site personnel can fully interpret and implement. Such plans are not limited to erosion and sediment control, but may also address other water quality and/or quantity issues during the construction and operational stages of an activity.	Erosion and Sediment control plans are required to be submitted with the subdivision construction plans prior to commencement of works and to the satisfaction of Council. All Erosion and Sediment control must be kept in place during works and a condition of consent will be included to ensure the development is consistent with Section 20.	Yes
Section 24 – Waste Minimisation and Management			
MDCP2009 Clause	Requirement	Comment	Compliance
Clause 24.2 Submission/Application Requirements	Objectives: <ul style="list-style-type: none"> <li>To minimise resource requirements and construction waste through reuse and recycling and the efficient selection and use of resources.</li> <li>To encourage building designs,</li> </ul>	<p><u>Subdivision</u></p> <p>Appropriate measures will be included in a required Site Waste Minimisation and Management Plan (SWMMP) Plan to manage waste generated during each stage of subdivision works.</p> <p><u>Childcare Facility</u></p> <p>The childcare facility has appropriate waste storage areas to accommodate waste storage bins that are acceptable to the size of the development and expected waste generation during operation. In addition, the waste will be able to be serviced from the site by Council or private collection services.</p>	Yes

	<p>construction and demolition techniques in general which minimise waste generation.</p> <ul style="list-style-type: none"> <li>• To maximise reuse and recycling of household waste and industrial/commercial waste.</li> <li>• To assist applicants in planning for sustainable waste management, through the preparation of a site waste minimisation and management plan.</li> <li>• To provide guidance in regards to space, storage, amenity and management of waste management facilities.</li> <li>• To ensure waste management systems are compatible with collection services.</li> <li>• To minimise risks associated with waste management at all stages of development.</li> </ul>	<p>The submitted childcare facility Plan of Management includes waste management details that are satisfactory.</p> <p>Based on the submitted information, the development is considered to be acceptable subject to the waste management, recommended conditions of consent.</p>	
<b>Section 25 - Stormwater</b>			
<b>MDCP2009 Clause</b>	<b>Requirement</b>	<b>Comment</b>	<b>Compliance</b>
Clause 25.2 All Development	<p>Objectives:</p> <p>To ensure that stormwater discharges do not cause poor</p>	<p>As discussed above in Section 5 -Subdivision of MDCP 2009 the impact of the proposed subdivision and future 'childcare facility' development have been properly considered and that the stormwater quantity and quality management measures</p>	Yes

	environmental outcomes or nuisance to adjoining or neighbouring lands.	proposed for the development are satisfactory subject to appropriate conditions of consent. The proposed development is considered to be acceptable in terms of the above Section 25 of the MDCP2009.	
--	--	--	--

As detailed in the above table, the development complies with the prescriptive measures of the MDCP 2009. A discussion of compliance with the relevant performance standards is provided below.

### 5.6.1 Muswellbrook Shire Contributions Plan 2010

Section 7.11 (s94A) Contributions Plan

Muswellbrook Shire Council's Section 7.11 and 7.12 (s94A) Contributions Plan 2009 applies to the development as the estimated cost of work is greater than \$200,000. Should the development be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan.

## 5.7 Provisions of any Planning Agreements

Section 4.15(1)(a)(iia) of the EP&A Act requires the consent authority to consider the provisions of any planning agreement or draft planning agreement that has been entered into or offered to be entered into under section 7.4 of the EP&A Act.

There have been no planning agreements entered into and there are no draft planning agreements being proposed in relation to DA2022/132.

## 5.8 Any Matters Prescribed by the Regulations

Section 4.15(1)(a)(iv) of the EP&A Act requires the consent authority to consider any prescribed matters under the Environmental Planning and Assessment Regulations 2021 (EP&A Regulation). Council has assessed the development in accordance with all relevant matters prescribed by the EP&A Regulation. Any applicable matters prescribed by the regs have been considered and the development is not contrary to any provisions.

## 5.9 Provisions of any coastal zone management plan

Not applicable. The development does not relate to a coastal area.

## 5.10 All Likely Impacts of the Development

Section 4.15(1)(b) of the EP&A Act requires Council to consider "the likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality".

The development will have a positive impact on Muswellbrook and the broader community. The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is generally consistent with the context of the site, in that the proposed development is in a general area occupied by other recent residential subdivisions (now mostly development).
- Access and traffic – The location of access points to the proposed internal road network and the likely impacts of traffic generated by future developments on the lots created has been comprehensively considered by TfNSW who do not object to the development.
- Public Domain – The proposed development will not result in the loss of any existing area of public domain.
- Utilities – Water, sewer, electricity and telecommunication utilities will be provided to all lots within the development to the requirements of the respective public utility authority.
- Heritage – The proposal does not impact on any listed item of European heritage identified on any Local or State register.
- Other land resources – It has been confirmed that no underground coal mining activities are or were proposed/carried out on the development site.
- Water/air/soils impacts - Contamination have been appropriately considered and the proposal is satisfactory subject to conditions.
- Flora and fauna impacts - The impacts on flora and fauna have been assessed within this report and are considered to be acceptable.
- Natural environment – The development proposes large-scale changes to the natural landform through regrading and reshaping works to facilitate useable residential allotments. These works do not have any significant impact on the natural environment in the retained Muscle Creek riparian corridor reserved through the site.
- Noise and vibration – There is potential for adverse impacts during construction on some existing neighbouring residential properties (closest is approximately 250m away) located on the southern side of the New England Highway. These temporary construction impacts will be managed by the preparation and implementation of a Construction Environmental Management Plan. Noise and vibration were considered in the submitted Noise Impact Assessment Report associated with new allotments, Highway noise, railway noise as well as noise impacts on the childcare centre. The development is satisfactory with the conditions recommended.
- Natural hazards –The site is affected by bushfire and minor flooding close to Muscle Creek. The development is satisfactory with regard to the design considerations of Planning for Bushfire Protection 2019 and 1% AEP Flooding, and as such is considered acceptable.
- Safety, security and crime prevention – The proposed development is considered acceptable having regard to CPTED Principles.
- Social impact – The proposed development is assessed as having no significant adverse impacts on the health and safety of the community, sense of place, community facilities or interactions between the new development and the community.

- Economic impact – The proposal is assessed as providing significant positive economic benefits resulting from a childcare facility and new residential subdivision in an urban release area.
- Site design and internal design – The proposed subdivision layout is generally consistent with the Staging Plans (1, 1a, 2 and 3).
- Construction – Potential and likely impacts during the construction phase have been appropriately considered and are acceptable subject to the preparation and implementation of a Construction Environmental Management Plan.
- NSW Department of Planning and Environment – Water – General terms of Approval on 18 July 2023.
- Bushfire - NSW Rural Fire Service provided General Terms of Approval on 14 July 2023.

### 5.11 Site Suitability

Section 4.15(1)(c) of the EP&A Act requires Council to consider “the suitability of the site for the development”.

The development is appropriate for the locality as a subdivision and childcare facility within an appropriately located area of Muswellbrook that is strategically planned as an ‘Urban Release Area’ and suitable for the following reasons:

- The development is consistent with the objectives and permissible under the applicable land use zonings under Muswellbrook LEP 2009.
- The development is consistent with the provisions of the Hunter Regional Plan 2041.
- The constraints of the site have been considered in the proposed development, which includes bushfire and flooding. The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

### 5.12 Other Statutory Considerations

Part 7 Section 1.7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 provide that these Acts must be considered in the assessment of a development.

#### 5.12.1 Biodiversity Conservation Act 2016

The site is not identified on the Biodiversity Values Map (BVM) as being land with high biodiversity value, as defined by the Biodiversity Conservation Regulation 2017.

The site is not likely to have a significant impact on threatened ecological communities, species, or their habitats. However, the development included an Ecological Assessment Report prepared by RestoreAG Pty Ltd (Daniel Pogson – Senior Ecologist). The reporting concluded with the following:

*‘The proposal to develop 65 lots on Lot 1 DP 1203294 does not trigger entry into the Biodiversity Offsets Scheme due to planned clearing not exceeding threshold entry guidelines and the mostly cleared nature of the Site.’*

*A Test of Significance undertaken for each of the 33 threatened species predicted in the EEC that were present and/or were considered likely to be present on the Site, determined that the proposal is unlikely to have any significant impact on threatened species, TECs or their habitats (See Section 4).*

*The potential impacts of the project on biodiversity, riparian lands and on koalas and koala habitat are expected to be negligible.'*

The site will not exceed the extent of native vegetation clearing identified in the Act as summarised in **Table 4**.

Table 4 – Biodiversity Conservation Act 2016 Assessment

Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply
Less than 1 ha	0.25 ha or more
1 ha and less than 40 ha	0.5 ha or more
40 ha and less than 1000 ha	1 ha or more
10000 ha or greater	2 ha or more

The site is not considered an area of outstanding biodiversity value.

### 5.12.2 Fisheries Management Act 1994

The development will not impact the threatened marine species conservation.

### 5.13 Public Participation

Section 4.15(1)(d) of the EP&A Act requires Council to consider "any submissions made in accordance with this Act or the regulations".

The development was notified to adjoining and nearby landowners in accordance with the requirements of the Muswellbrook Community Participation Plan 2020. Council received one submission to the development. These submissions are discussed in **Table 5**.

Table 5 – Summary of Submissions

Issue	Council Comments
<ul style="list-style-type: none"> <li>• <b>Stormwater management</b></li> </ul>	<p>An issue was raised regarding stormwater discharge for the development.</p> <p>The development includes two detention basins, an easement for stormwater management and appropriate discharge into near natural and public infrastructure stormwater systems.</p> <p>Full details of stormwater management assessment are under MDCP2009 - Section 5 – Subdivision.</p>
<ul style="list-style-type: none"> <li>• <b>Access from New England Highway</b></li> </ul>	<p>An issue was raised regarding access via the New England Highway.</p> <p>The development included consideration by Council Development Engineers and TfNSW. An amended design was submitted and both Council and TfNSW support the proposed access arrangements. Recommendation for appropriate conditions for consent.</p> <p>Full details of stormwater management assessment are under MDCP2009 - Section 5 – Subdivision.</p>
<ul style="list-style-type: none"> <li>• <b>Sewerage connection considerations</b></li> </ul>	<p>An issue was raised regarding sewerage connections.</p> <p>Council's Project Engineer considered water and sewer and advised:</p> <p><u>Water</u></p> <p>The developer is required to construct a new trunk main from a nearby 300mm trunk main to service this area. Development on this side of Muswellbrook not able to create a ring system to avoid outages. This will be a condition of consent.</p> <p><u>Sewerage</u></p> <p>The stage 1 lots will drain sewerage gravity to the existing Council sewerage system. The remaining stages (2 and 3) are located on the other side of an elevated point and will require a sewerage pump station to be installed. This will be a condition of consent.</p> <p>Full details of Water and sewerage assessment are under MDCP2009 - Section 5 – Subdivision. Water and sewerage for the development is considered satisfactory.</p>

## 5.14 The Public Interest

Section 4.15(1)(e) of the EP&A Act requires Council to consider "the public interest".

The development satisfactorily addresses Council's criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Approval of the development would be in the public interest.

## 6 Conclusion

An assessment of all relevant matters under section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development has occurred. Council has considered the development on its merits, taking into consideration the EPIs that apply to the development.

Council received one submission during the public notification period. The matters raised have been addressed in the body of the report.

The development meets the desired outcomes of Council's planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the EP&A Act and will not have a negative impact on the site or community.

Accordingly, the development is recommended for approval subject to conditions.

**Note:** At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject development application.

## 7 Recommendation

### RECOMMENDATION

THAT, the Development Application DA No 2022-132 for the 'Subdivision of 1 lot into 67 lots with roads and associated infrastructure including a childcare facility and tree removal' at Lot 1 DP1203294 – 9036 New England Highway Muswellbrook be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to conditions of consent.

### 7.1 Reasons for the Determination

The determination decision was reached for the following reasons:

- The development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments.
- The development is, subject to the recommended conditions, consistent with the objectives of the Muswellbrook Development Control Plan 2009.
- The development is of an appropriate scale and form for the site and the character of the locality.
- The development has appropriate management and mitigation of impacts through conditions of consent.
- The development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.

- The development is a suitable and planned use of the site and its approval is within the public interest.

**SCHEDULE 1 CONDITIONS OF DEVELOPMENT CONSENT**

**ADMINISTRATION CONDITIONS ALL STAGES**

**1. Development Description**

Development consent has been granted in accordance with this notice of determination for the purposes of a Three-staged subdivision of one lot into 68 residential lots, one communal open space lot, one early education and car facility lot (100 place childcare facility); including site, drainage, infrastructure, site preparation works and tree removal.

**2. Approved Documentation**

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.

<b>Plan Title / Supporting Document</b>	<b>Reference / Version</b>	<b>Prepared By</b>	<b>Drawing Dated</b>
Vintage Hills, Muswellbrook Subdivision Plans Overall - Drawing: CIV_L_001 Stage 1 - Drawing: CIVIL_002 Stage 2 - Drawing: CIVIL_003 Stage 3 - Drawing: CIVIL_004	Job Ref: 222137 VER L	MM Hyndes Bailey & Co	30 08.2023
General Arrangement Landscaping Drawing: LAND_001 Drawing: LAND_002 Drawing: LAND_003 Drawing: LAND_004	Job Ref: 222137 VER L	MM Hyndes Bailey & Co	03 08.2023
General Arrangement Sewer and Water Strategy Drawing: SEW_001 Drawing: SEW_002 Drawing: SEW_003 Drawing: SEW_004 Drawing: SEW_005	Job Ref: 222137 VER L	MM Hyndes Bailey & Co	03 08.2023
Stormwater Plan	Rev C 22273/3	SET Consultants	10 07.2023
Engineering Plans			
Childcare Facility Architectural Plans Sheets 1 to 8	Revision E	A&N Design Group Sydney	16 03.2023
Landscape Documentation – Proposed Childcare Centre Sheet L01 Sheet L02 Sheet L03 Sheet L04	Issue E	Green Space Planning Co.	18 05.2023

Sheet L05 Sheet L06 Sheet L07			
Landscape Documentation – Park Concept and Entry Sheet L01 Sheet L02 Sheet L03 Sheet L04 Sheet L05	Issue C	Green Space Planning Co.	27 03.2023
Stormwater Management – Child Care Facility Drawing C00 01 Drawing C01 01 Drawing C02 01 Drawing C03 01	Revision B Job Number: 220983	Engineering Studio Civil and Structural	17 05.2023
New England Highway – Proposed Intersection Drawing List SC-C01 01 SC-C02 01 SC-C03 01 SC-C04 01 SC-C05 01	Revision B Job Number NL2218237	Northrop	08 02.2023
Access Report	Reference Number: 22375	Vista Access Architects Pty Ltd	01.10.2022
Operation Management Plan (Child Care Facility)	n/a	Ology Pty Ltd	2022
Bushfire Emergency Evacuation Plan (Child Care Facility)	n/a	Ology Pty Ltd	2022
Aboriginal Archaeological Due Diligence Assessment	n/a	Insite Heritage Pty Ltd	October 2022
Traffic Impact Assessment	Issue E	Intersect Traffic	14 03.2023
Noise Impact Assessment	Report No. 22- 2809-R2	Reverb Acoustics – Noise and Vibration Consultants	March 2023
Ecological Assessment Report	Report No. MMH-EC-0522	RestoreAG Pty Ltd	15.10.2022
Bushfire Threat Assessment Report	Job# 0981 Version 6	BushFire Consultant Pty Ltd	16 05.2023
Preliminary Site (Contamination) Assessment	16522-401/1	RCA Australia	30 05.2023

In the event of any inconsistency between the conditions of this consent and the drawings/documents referred to above, the conditions of this consent shall prevail to the extent of the inconsistency.

### 3. Staging of Subdivision

Construction of the proposed subdivision taking place generally in the consecutive manner indicated on the approved Staging Plan (refer Condition 2) except as otherwise provided by the conditions of this consent or as agreed in writing by Council.

**Reason:** *To ensure that the development is undertaken in accordance with the submitted stages.*

**4. Developer responsible for all costs**

The Developer is responsible for all costs associated with this development, unless otherwise agreed by Council as being 'works-in-kind' as specifically identified in Council's applicable Contributions Plan.

**5. Construction Requirements**

Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989A:

- (a) That the work must be carried out in accordance with the requirements of the National Construction Code.
- (b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This section does not apply –

- To the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, or
- To the erection of a temporary building, other than a temporary structure to which

**6. Site Signage requirements**

A sign must be erected in a prominent position on any site on which building work, is being carried out:

- (a) Showing the name, address and telephone number of the Principal Certifier (PC) for the work, and
- (b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) Stating that unauthorised entry to the work site is prohibited.

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

**Note:** *This condition does not apply where:*

- Building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
- Crown building work certified to comply with the Building Code of Australia under Part 6 of the *Environmental Planning & Assessment Act 1979*.

## GENERAL TERMS OF APPROVAL AND CONCURRENCE REQUIREMENTS

### 7. Transport for NSW

Detailed Design review in the Works Authorisation Deed (WAD) stage:

- In the inset A on the civil works plan - NL221837\_MUSWELLBROOK\_SC\_RE-ISSUED FOR APPROVAL\_ver C. The westbound highway merge needs to result in a wide shoulder rather than the wide lane shown. This will effectively shift the end of the merge taper 3.5m to the centre of the westbound lanes. This wide shoulder at the end of the merge may require no stopping signs to deter parking and a clear merge runoff area.
- As the merge is moved on to the crest a check that the existing crest has stopping sight distance to the line marking at the design speed will be required.

### 8. NSW Rural Fire Service Approval Conditions

#### Asset Protection zones

- a) At the issue of a subdivision certificate, and in perpetuity the entire property of the proposed childcare facility is to be managed and maintained as an Inner Protection Area (IPA) to prevent the spread of a fire towards the future buildings in accordance with Appendix 4 of Planning for Bush Fire Protection 2019 and the requirements of 'Standards for Asset Protection Zones' (RFS 2005):
  - The exception is the land managed consistent with the Vegetation Management Plan (VMP) Barry Cleary, Bush Fire Consultant Pty. Ltd, 16/05/2023.
  - When establishing and maintaining an IPA the following requirements apply.
  - tree canopy cover should be less than 15% at maturity.
  - trees at maturity should not touch or overhang the building.
  - lower limbs should be removed up to a height of 2 metres above the ground.
  - tree canopies should be separated by 2 to 5 metres.
  - preference should be given to smooth-barked and evergreen trees.
  - large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings.
  - shrubs should not be located under trees.
  - shrubs should not form more than 10% ground cover.
  - clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
  - grass should be kept mown (as a guide grass should be kept to no more than 100mm in height).
  - leaves and vegetation debris should be removed.
- b) A positive covenant and 88b instrument is to be included over the grassland area of land identified in the Vegetation Management Plan Barry Cleary, Bush Fire Consultant Pty. Ltd, 16/05/2023. The area is to be managed as required by the VMP to ensure that these lots do not alter from a grassland hazard i.e. no forest, shrub or exotic regrowth permitted. The stormwater basins must also consist of only grassland.
- c) A positive covenant and 88b restrictions are to be included to ensure dwellings are not placed within the "Asset Protection Zone" (APZ) and "Managed Land to be Maintained as Grassland" adjoining the APZ area referenced on Proposed Subdivision Sheet 1 of 4, dated 07-03-2023.

#### Construction Standards

New construction must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant requirements

of the NASH Standard – Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019.

#### **Access – Public Roads**

Public access roads must comply with the following general requirements of Table 5 3b of Planning for Bush Fire Protection 2019 and the following:

- traffic management devices are constructed to not prohibit access by emergency services vehicles.
- maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient.
- all roads are through roads.
- dead end roads are not recommended, but if unavoidable, are not more than 200 metres in length, incorporate a minimum 12 metres outer radius turning circle, and are clearly sign posted as a dead end.
- where kerb and guttering is provided on perimeter roads, roll top kerbing should be used to the hazard side of the road.
- where access/egress can only be achieved through forest, woodland and heath vegetation, secondary access must be provided to an alternate point on the existing public road system.
- one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression.
- the capacity of perimeter and non-perimeter road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges/causeways are to clearly indicate load rating.
- hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression.
- hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 - Fire hydrant installations System design, installation and commissioning.
- there is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available.

#### **Access – Property Access**

The intent of measure is to provide safe operational access for emergency services personnel in suppressing a bush fire while residents are accessing or egressing an area.

Access roads for special fire protection purpose (SFPP) developments must comply with general requirements of Table 6 8b of Planning for Bush Fire Protection 2019:

- SFPP access roads are two-wheel drive, all-weather roads;
- access is provided to all structures;
- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- access roads must provide suitable turning areas in accordance with Appendix 3; and
- one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression.

#### **Water and Utility Services**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

Reticulated water is to be provided to the development where available;

- fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS2419.1-2005;
- hydrants are and not located within any road carriageway;
- reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1-2005;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
  - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
  - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS1596:2014 and the requirements of relevant authorities, and metal piping is used;
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596 2014 - The storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal; polymer - sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

The subdivision is to be serviced with street hydrants in accordance with Australian Standard 2419.1-2005 and delineated by yellow triangular markings and blue reflective markers on the sealed road. The water supplies, electricity services and reticulated gas services (if proposed) are to comply with Section 5.3.3 and Table 5.3c of Planning for Bushfire Protection 2019. Additionally, gas installations are to comply with Clause 5.8 of AS 3959-2018.

#### **Landscaping Assessment**

The intent of measures is for landscaping to minimise the risk of bush fire attack. To achieve this, the following conditions shall apply:

Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;

- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Landscaping for the proposed residential lots is to be undertaken in accordance with Section 5.3.1 and Table 5.3a of Planning for Bushfire Protection 2019 and managed and maintained in perpetuity.

**General Advice – Consent Authority to Note**

- Development applications lodged on lots created within this subdivision may be subject to further assessment under the Environmental Planning & Assessment Act 1979.
- The NSW Rural Fire Service notes that some proposed lots contain grassland vegetation that may present a bushfire hazard. Where these lots are not mapped as bushfire prone land, Council should consider assessment of future development applications against the requirements of Section 4.14 of the Environmental Planning and Assessment Act 1979, Planning for Bush Fire Protection 2019 and AS3959 Construction of building in bushfire prone areas.
- The recommendations are based on the plans prepared by A & N Design Group Sydney for proposed Childcare Centre, Rev E , dated 16-03-23, Sheet1 1 of 8; Plans titled 'Proposed Subdivision', prepared by MM Hyndes Bailey & Co, dated 14/06/23, Sheet 1 of 4; and the 'Bushfire Threat Assessment Report' prepared by BushFire Consultant Pty Ltd, dated 16-05-2023 (V6).

Note: A Bush Fire Emergency Management and Evacuation Plan must be prepared in accordance with Table 6 8d of Planning for Bush Fire Protection 2019 and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan.

**9. NSW Department of Planning - Water**

**TC-G001**

Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment—Water, and obtained, for a controlled activity approval under the Water Management Act 2000.

**TC-G004**

A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application DA 2022-132 provided by Council to Department of Planning and Environment—Water.

B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment—Water, must be notified in writing to determine if any variations to the GTA will be required.

**TC-G005**

A. The application for a controlled activity approval must include the following plan(s):

- i. Construction detailed basin design plans;

- ii. Construction stormwater drainage outlet plan providing a stable flow path to Muscle Creek;
- iii. Construction erosion and sediment control plans;
- iv. Vegetation Management Plan for the Muscle Creek Riparian Corridor;

B. The plan(s) must be prepared in accordance with Department of Planning and Environment—Water’s guidelines located on the website <https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/guidelines>

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by Department of Planning and Environment—Water for integrated development associated with IDAS-2022-10787 as provided by Council:

- Subdivision and Childcare plan, prepared by David Casson, dated 3 November 2022
- Childcare landscape Plan, prepared by Green Space planning co., October 2022
- Bushfire Report, prepared by Bushfire Consultant Pty Ltd, dated 31/10/2022
- Drainage and Flooding Assessment, prepared by GCA Engineering Solutions, dated 29/05/2018
- DA Civil concept Plans, prepared by MM Hyndes Bailey and Co., dated 26/10/2022
- Ecological Assessment Report, prepared by Daniel pogson, dated 15/10/2022
- Flood Certificate, prepared by MM Hyndes Bailey and Co., dated 17/08/2022
- Landscape Documentation, prepared by Green Space Planning Co., October 2022
- Contamination Assessment, prepared by RCA Australia, 26/03/2023
- Proposed Subdivision Plans, prepared by MM Hyndes Bailey and Co., dated 7/03/2023
- Stormwater Drainage Strategy, prepared by MM Hyndes Bailey and Co., 2022

**10. Australian Rail Track Corporation**

**Noise and Vibration**

ARTC requests that the Council consider the requirements of Development Near Rail Corridors And Busy Roads – Interim Guideline and whether any noise sensitive uses within the development are likely to be adversely affected by rail noise or vibration.

**Stormwater**

ARTC wants to ensure that stormwater from the development, does not affect the rail corridor and requests that Council impose as a condition of consent that the developer will ensure that stormwater does not affect the rail corridor, such as:

1. Prior to a Construction Certificate being issued, the applicant must submit details of stormwater disposal to Council for approval. The flow of stormwater toward the rail corridor must not be increased by the proposed development. All approved details for the disposal of stormwater and drainage are to be implemented in the development.

**Fencing**

The security of fencing along the rail corridor is essential to prevent unauthorised entry. ARTC requests that Council impose a condition of consent requiring that the boundary of the site with the rail corridor be fenced in a 1.8m mesh fence if applicable.

**Lighting, external finishes and design**

ARTC wants to ensure that no lighting and external finishes of buildings which face the rail corridor have the potential to affect the safety of rail operations, that is, the temporary blinding effects or distraction caused by lighting and glare from reflective surfaces. The recommended measures associated with lighting and external finishes could include the use of non-reflective materials and landscaping along with adherence to AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.

**Potential for Future Works**

Whilst there is no immediate plan to build a rail loop, passing lane or track duplication in this vicinity, any development adjacent to, and including the subject land should consider that capital works of this nature may occur at any time to meet future railway operational requirements.

**Excavation, earthworks and other construction**

ARTC requests that due to the proposed development being within 25m of the rail corridor that the proponent seeks ARTC concurrence to carry out excavation and any other adjacent earthworks as it has the potential to impact on the safety and operation of the rail network. The proponent is requested to contact ARTC Property Officer, as below in the first instance to assist with obtaining and submitting an application for these works.

<b>FEES, CHARGES AND CONTRIBUTIONS</b>
--

**11. Section 7.11 Contributions**

A contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, as specified under the Muswellbrook Shire Council section 7.11 contribution plan for the services detailed in column A and, for the amount detailed in column B shall be made to Council at each stage of the development.

**Stage 1**

Description	Calculation (per lot)	Number of additional Lots	Payment Required
Roads and Drainage	\$1,218.50	19 (Lot 101, 102 & 106 excluded)	\$23,151.50
Open Space and Community Facilities	\$2,261.50	19 (Lot 101 and 102 excluded)	\$42,968.50
Total Payable			<b>\$66,120</b>

**Stage 2**

Description	Calculation (per lot)	Number of additional Lots	Payment Required
Roads and Drainage	\$1,218.50	20	\$24,370.00
Open Space and Community Facilities	\$2,261.50	20	\$45,230.00
Total Payable			<b>\$69,600</b>

**Stage 3**

Description	Calculation (per lot)	Number of additional Lots	Payment Required
Roads and Drainage	\$1,218.50	23	\$28,025.50
Open Space and Community Facilities	\$2,261.50	23	\$52,014.50
Total Payable			<b>\$80,040.00</b>

The contribution SHALL BE paid prior to the determination of the application for Subdivision Certificate.

The above amount shall be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the Muswellbrook Shire Council section 7.11 contribution plan can be viewed at the office of Council 157 Maitland Street, Muswellbrook

**12. Section 7.12 Contributions**

A Section 7.12 Contribution shall be paid in relation to the child care centre.

A contribution pursuant to section 4.17(1) of the Environmental Planning and Assessment Act 1979, and the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010, a contribution of \$20,058.35 shall be paid to Muswellbrook Shire Council, being 1% of the cost of carrying out the development. Documentary evidence demonstrating payment of the above contribution to the Council is to be provided to the Certifying Authority prior to the issue of a Construction Certificate for the Child Care Centre .

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE FOR EACH STAGE (Stages 1 to 3)**

**13. Subdivision Works Certificate**

Prior to the issuing of any Subdivision Works Certificate for Stage 1 (in whole or part), the Developer is to provide to the Registered Certifier and the Council:

- a) Written evidence of a Works Authorisation Deed (WAD) executed with Transport for NSW (TfNSW);  
and
- b) A copy (in pdf format) of design drawings approved by TfNSW for all works within any classified road reserve or proposed road reserve widening associated with that Stage. The approved design drawings are to include sufficient detail to confirm consistency with the detailed construction plans submitted with an application for the Subdivision Works Certificate.

**14. Subdivision design and Legislation, policies and technical detail**

All subdivision and associated works are to be designed and constructed in accordance with the following documents or current equivalent document at the time of application.

- a) Relevant Austroads publications
- b) Associated Transport for NSW (TfNSW) (formerly the Roads and Maritime Services (RMS)) supplements and Technical Directions
- c) Council's Development Control Plan
- d) Muswellbrook Shire Council – Engineering Specifications for Development Design and Construction.

**15. Road Infrastructure**

Road infrastructure including intersection treatments, road pavement, foot/cycle/shared paths, kerb and gutter, stormwater drainage, services, landscaping (including street trees), street lighting, signage and markings is to be provided for each Stage of the subdivision, generally in accordance with the approved plans or as otherwise detailed in this consent. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application.

**16. Water Management Act 2000 Compliance**

A Compliance Certificate under the Water Management Act 2000 must be obtained from Muswellbrook Shire Water & Waste Division on (02) 6549 3840.

Following application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Water & Waste Division since building of water/sewer extensions can be time consuming and may impact on other services, building, driveway or landscape design.

Details of any requirements of Muswellbrook Shire Water & Waste Division are to be provided with the Construction Certificate documentation.

The final compliance certificate must be submitted to the Certifying Authority prior to release of any linen plan for subdivision or Construction Certificate.

**17. Drainage Design**

A detailed drainage design including DRA NS is to be submitted to Council for the Subdivision Works Certificate demonstrating all stormwater drainage from the site is fully managed for each development stage in accordance with Muswellbrook Development Control Plan 2009 including but not limited to stormwater discharge control and stormwater quality before discharging into a legal point of discharge, and will not cause adverse effects to neighbouring properties and including appropriate blockage factors. Basin 3 is therefore to be completed as part of Stage 2 works. Full details are to be included in the documentation for a Subdivision Works Certificate application.

**18. Soil Management**

The Developer is to identify all locations and extents of any existing and/or proposed stockpiles of surplus virgin excavated natural material (VENM) resulting from previous or current proposed subdivision works. Full details, including associated ongoing environmental management measures, are to be included in the detailed design drawings provided to Council for a Subdivision Works Certificate application.

**19. Subdivision Design Criteria**

All subdivision and associated works are to be designed and constructed in accordance with the following documents or current equivalent document at the time of application.

- a) Relevant Austroads publications
- b) Associated Transport for NSW (TfNSW) (formerly the Roads and Maritime Services (RMS)) supplements and Technical Directions
- c) Muswellbrook Shire Council's Development Control Plan
- d) Muswellbrook Shire Council's Engineering Specifications for Development Design and Construction.

**20. MUSIC Model**

Each Subdivision Works Certificate application for road and drainage construction works is to be accompanied by a comprehensive MUSIC model demonstrating that the proposed works will achieve the water quality reduction targets specified by Council's Development Control Plan.

**21. Stormwater Management and Water Sensitive Urban Design (WSUD)**

Stormwater Management and associated Water Sensitive Urban Design (WSUD) measures are to be designed and constructed in accordance with Council's Development Control Plan and Standard Drawings that are current when making each application for Subdivision Works Certificate and in accordance with the following additional requirements:

- a) All external stormwater impacting the development to be designed to ensure all drainage is suitably diverted into Muscle Creek with energy dissipation and erosion controls to ensure no adverse impacts to future lots up to and including the 1% AEP

- design event to the Finished Floor Level plus 300mm freeboard, including appropriate blockage factors.
- b) All Stormwater Detention Basins are to be provided with an all-weather access to the basin and include a suitable easement for the drainage of water. The access shall be a DBG20 gravel base overlaid with 75mm topsoil and grassed (reinforced path or Council approved equivalent) and a turning facility to allow a service vehicle to enter and exit in a forward direction.
  - c) Detention Basin Batter grade and contours are to be specified/labelled in the drawings and should not have a maximum internal batter grade exceeding 1:4 ratio. Grass seeding is to be applied to basin walls and top-dressed, and appropriately turfed at its base.
  - d) All stormwater detention basins and drainage reserves are to include appropriate signposting to warn the public of risks entering these areas and include a spillway discharge arrangement that does not lead to high velocity discharge that is likely to cause erosion or streambank damage to Muscle Creek or other discharge location's natural or constructed surfaces.
  - e) A detailed design including hydraulic calculations for the proposed culvert fronting the site entry, including size, gradient and headwalls appropriate for an errant driveway to be provided also subject to TfNSW requirements and appropriate blockage factors considered.
  - f) Upright kerb and gutter shall be provided to both sides of all roads.
  - g) All roads shall be provided with a crown on the pavement centreline and 2-way crossfall (3 %) toward the respective kerb and gutter.
  - h) All footway and verge areas are to have 2.5 % crossfall toward the respective kerb and gutter.
  - i) Trafficable all-weather maintenance vehicle access tracks are to be provided from the public road to all basins, pits and headwalls.
  - j) All proposed Gross Pollutant Traps (GPTs) to be hydraulically free-draining into any proposed detention basins, and where the 1-year ARI peak event storage level is above the invert level of the GPT system, the GPT is to be suitably designed to accommodate free-draining conditions equal to this 1-year ARI peak level. All final GPT product designs based on final constructed levels are to be submitted to Council prior to the release of the Subdivision Works Certificate.
  - k) All GPTs to have a suitably designed reinforced concrete pad of minimum 175mm adjacent to each system for supporting a maintenance service vehicle and its turning circle based on the access design, and have an all-weather access pathway similar to the detention basins that allows a service vehicle to enter and exit in a forward direction.
  - l) A detailed Bill of Quantities for the developments actual constructed costs is to be submitted to Council to assist in the Asset Management duties of Council.
  - m) A detailed and accurate Works As Executed survey for all developed areas of the proposed site in both CAD and pdf version are to be provided to Council prior to release of the Subdivision Works Certificate in a format of Council's selection.
  - n) All pipes equal to or larger than DN375 or larger to be steel reinforced concrete pipes.
  - o) All pipes are to be designed to withstand all in-service and construction loads in accordance with relevant Australian Standards.
  - p) All pits are to be Class D steel-wire-reinforced concrete with Class D lids and grates, and in accordance with Aus-spec requirements.
  - q) Pipes with grades greater than 5% to be suitably designed with appropriate trench stops.
  - r) All pipes should be designed to reduce velocities in pipelines to less than 7m/s to prevent scour.
  - s) All works within 40m of a waterway are subject to a Controlled Activity Permit from DP E-Water

- t) Details of a required easement for draining stormwater water south of the park, will be connected to Lots 103, 104 & 105 and connected with the drainage basin fronting the development.

**22. Section 138 Requirements**

Where works are proposed within the road reserve, the Developer must obtain approval from the Council (as the Roads Authority and / or as required under Section 138 of the *Roads Act 1993*) prior to the issue of the Construction Certificate. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere with a structure, or any other activities as defined within the *Roads Act 1993*. The following details must be submitted to Council in order to obtain the Section 138 approval:

- A copy of approved design plans related to the development and proposed works to be undertaken within New England Highway.
- Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective devices shall comply with the provisions of AS1742.3 - 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.
- Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant / contractor undertaking the works.

**Advice:** *Where works are required within a Classified Road, the Developer must obtain the concurrence and / or the approval of the Roads and Traffic Authority for engineering design plans, Traffic Control Plans and approvals under Section 138 of the Roads Act 1993.*

**23. Road Infrastructure**

Road infrastructure including intersection treatments, road pavement, foot/cycle/shared paths, kerb and gutter, stormwater drainage, services, landscaping (including street trees), street lighting, signage and markings is to be provided for each Stage of the subdivision, generally in accordance with the approved plans or as otherwise detailed in this consent. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application and in accordance with the following additional requirements:

- a) A detailed road design including longitudinal and sectional views for all road areas at minimum 15m centres is to be provided as part of the detailed design plans for the Subdivision Works Certificate for each stage of the development.
- b) Internal roads are to be a minimum of 7.5m internal sealed width, and a minimum of 11m for any roads with the capacity to service the adjoining lot to the east of the development, also identified as Sub-Arterial.
- c) Each stage of the development is to have an appropriately designed and sealed temporary turning head suitable for a 9.9m long service vehicle and chevron board included.
- d) A detailed pavement design is to be provided by an experienced Geotechnical Consultant to provide road pavement sections in accordance with Council's DCP and Aus-spec with appropriate sub-soil drainage for each road section based on the recommendations of the Geotechnical investigation report.
- e) Kerb ramps are to be provided on all road intersections and crossings associated with footpaths in accordance with Council's Footpath Policy F10.

- f) Design of the any road should demonstrate compliance with future driveway installations for dwellings in accordance with Council's Footpath Policy F10.
  - g) The final design of the proposed roundabout to be in accordance with AustRoads requirements.
  - h) All internal footpaths are to be a minimum of 1.5m width, and footpaths are to be provided on both sides of any road areas with service capacity to the adjoining lot to the east. Any proposed footpath is to be designed with gradients in accordance with Aus-Spec requirements. Where these gradients cannot be met, a suitably designed 'Pedestrian rest' area adjoining the footpath at a reduced grade, subject to advice from Council is to be provided where required.
  - i) Two raised threshold treatments are to be considered as part of Stage 2 intersection works subject to further advice from a suitably experienced consultant, and if provided accommodate any overland flows from 1% AEP events without adverse impacts to adjoining property.
- 24. Shared Pathway – New England Highway**  
Concrete footway paving and shared paths are to be provided to the development/site connecting from existing shared paths on the other side of New England Highway within Stage 3 and in accordance with the following requirements. Full details are to be included in the detailed design drawings for the Stage 1 Subdivision Works Certificate application or application under s138 of the Roads Act, 1993, as appropriate.
- a) Reinforced concrete shared path within the eastern footway of New England Highway refer to all the requirements of Council's Footpath Policy F10.
  - b) Appropriate on and off ramps, holding rails and signage are to be provided for in association with any shared path.
  - c) Appropriate kerb ramps are to be provided at all intersections for pedestrians.
- 25. Bus Stop Infrastructure**  
A bus shelter concrete pad is to be installed in Stage 1 on the east side of the entry road to the development for school students and the public, subject to further negotiations and discussions with local bus services and Council. Any final design of this concrete pad is to include considerations for accessibility and visually-impairment, as well as appropriate signage. Full details are to be included in documentation for a Subdivision Works Certificate application.
- 26. Stage 1 'No Stopping' - Signposting**  
In addition to the regulatory line marking and signposting associated with the roundabouts and any requirements of TfNSW, the following additional regulations on traffic and parking are to be shown on the relevant in the detailed design drawings for a Subdivision Works Certificate application or application under s138 of the Roads Act 1993;
- a) Stage 1 - 'No Stopping' restrictions to the western side of the new 'Road' between the New England Highway and the new Roundabout.
  - b) Stage 1 – 'No stopping' restrictions are to be placed from the corner at the start of the park along the northern frontage boundary. Similarly, a parallel parking area of 3m width to be proposed along the frontage to allow adequate parallel parking opportunities for the park.
- Note: These requirements are to be detailed and approved by Muswellbrook Local Traffic Committee prior to the release of the Subdivision works certificate.
- 27. Stage 1 Temporary Cul-de-sac**  
Temporary cul-de-sac turning heads are to be provided at the following locations. The turning heads are to be constructed having full-depth road pavement with the exception that the final asphaltic concrete seal may be replaced with a two-coat bitumen spray seal.
- a) Stage 1 in the vicinity of proposed Lot 105 and 107.
  - b) Stage 1 in the vicinity of proposed Lot 120 and 121.

**28. Road Naming**

Prior to making an application for a Subdivision Works Certificate for each Stage the Developer is to submit to the Council and obtain approval for all proposed road names (in accordance with the Council's Road Naming Policy) within that Stage and the approved road names are to be shown on the submitted documentation accompanying the Subdivision Works Certificate.

**29. Land Management**

All disturbed, regraded or exposed areas outside of development lots are to be stabilised and suitably revegetated. All revegetation is to be undertaken using native plants propagated from local native seed from on-site or a nearby seed source. Propagation material is to be sourced from areas to be cleared in preference to areas that will be retained as natural areas. Full details are to be included in the documentation for a Subdivision Works Certificate application.

**30. Landscape Plan Detail**

Detailed Landscape Plans and Specifications being prepared for each Subdivision Stage by a Landscape Architect or similar qualified professional practising at the membership level of Registered Landscape Architect of the Australian Institute of Landscape Architects and is also to comply with the following requirements:

- a) Existing trees on the site, which are to be retained, are to have no cut or fill under their canopy areas and the location of these trees is to be clearly identified on the Landscape Management Plan and Engineering Plans.
- b) Areas of restricted access and fence detail to be erected during construction and areas proposed for storage/stockpile of plant and materials are to be identified.
- c) Street tree species are to be agreed by the Council.
- d) All street trees are to be selected and certified by the supplier to comply with the current NATSPEC guide with respect to root development, height, trunk diameter branch structure and balance (refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003).
- e) For all internal Local roads street trees are to be a minimum 75 litre pot size, or as otherwise approved by Council, planted at a maximum spacing of 12m. All street trees are to be protected with tree guards to the Council's requirements.
- f) No turf is to be installed between the road and riparian zone. A continuous double line of Lomandra species is to be installed in lieu of weed control and territorial enforcement.
- g) Street tree locations are to be reviewed with the inclusion of a potential driveway to ensure the location of the street trees allows for driveway access to each lot (eg Lot 311 would not allow a driveway to be provided without removal of the street tree)
- h) For all batters which will remain or adjoin public land; and
  - i. More native species are included in the planting schedule. No single species to exceed 15% of the total species mix. No non-native species.
  - ii. Type, diversity and density of native species to replicate the structure of adjacent Vegetation Types (see VMP list).
  - iii. Taller longer-lived plants are required on the lower third of batters.
  - iv. Lomandra to be limited to interfaces e.g. between turf and natives.
  - v. Measures to increase the resilience of riparian corridor for example retention of habitat logs; use of vines, midstory and longer-lived canopy species to out-compete weeds.
  - vi. Refer to NSW RFS general terms of approval conditions and NSW RFS Planning for Bush Fire Protection 2019 guide for species selection within the riparian area.

Full details to be included in the detailed design drawings for a Subdivision Works Certificate application.

**31. Landscape Plan Detail Park Area**

Detailed Landscape Plans and Specifications being prepared for park area in Stage 1 by a Landscape Architect or similar qualified professional practising at the membership level of Registered Landscape Architect of the Australian Institute of Landscape Architects and is also to comply with the following requirements. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application.

- a) Proposed wood mulch in the natural play log area to be replaced with rubber due to maintenance issues (L02 Indicative Park Concept).
- b) Suitable perimeter fencing to Council's written satisfaction to be provided for the park that share a boundary with the proposed childcare centre and Lot 103. The walkway part can remain open (L02 Indicative Park Concept).
- c) An electric accessible barbecue is to be proposed as part of Council's commitment to inclusive communities (L04 Subdivision Entrance Signage)
- d) The signage wall gate needs to be constructed from aluminium with a timber appearance finish.
- e) Drinking fountains and a bubbler with a dog bowl require to be proposed for the outdoor park space.

**32. Water Management Act 2000**

The Developer is to obtain all necessary approval(s) issued pursuant the Water Management Act, 2000, unless subject to an exemption, and keep all such approval(s) current for the duration of the respective works. A pdf copy of such approval(s) is to be provided to Council prior to the issuing of the respective Subdivision Works Certificate.

**33. Services Infrastructure**

Water, electricity and gas installations are to comply with Section 4.1.3 of the NSW Rural Fire Service document 'Planning for Bushfire Protection 2006' (or as updated). Full details to be included in documentation for a Subdivision Works Certificate application.

**34. Retaining Walls**

Detailed designs for all retaining walls to be provided as part of the Subdivision Works Certificate. Wall locations, sections and structural details (if required) are to be included. Proposed retaining wall locations shown on the provided plans and sections are included in step critical areas. All proposed Retaining wall materials to provide a minimum 50 year design life, but preferably 100 year design life and include suitable drainage conditions that prevent hydraulic pressure or blockage of backfill media. Full details to be included in documentation for a Subdivision Works Certificate application.

**35. Landscape Management Plan**

A landscaping management plan is to be submitted to Council as part of the Subdivision Works Certificate in accordance with Council's "Planted Species List" to be provided as required including street trees, preferably located centrally to lots and ensuring clearance from drainage and electrical services, among other services. Full details to be included in documentation for a Subdivision Works Certificate application.

**36. Cut and Fill**

Areas of cut and fill and their respective volumes should be clearly shown on the detailed design drawings as part of Construction Certificate, and appropriately managing for any compaction requirements and drainage impacts, with any proposed additional cut material to be subject to a Haulage Route plan under a future Section 138 Permit and/or ROL from TfNSW. Full details to be included in documentation for a Subdivision Works Certificate application.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE CHILDCARE FACILITY**

**37. Construction Certificate**

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.

**38. Access requirements Childcare Facility**

The Childcare facility is to be design in accordance with Australian Standard 1428.1 and 1428.3 (Design for Access and Mobility. Part 3: Requirements for children and adolescents with physical disabilities). Full details area to be included in documentation for construction certificate application.

**39. Construction Management Plan**

Prior to the issue of a Construction Certificate a Construction Management Program must be prepared, submitted to and approved in writing by the Council prior. 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 manner in which 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 kept on the site at all times and made available to any officer of Council upon request.

**40. Section 68 Approval**

Prior to the issue of a Construction Certificate, an application under section 68 of the *Local Government Act 1993* shall be made to, and issued by, MuswellbrookShire Council, for the following approvals:

- Carry out water supply
- Carry out sewerage works
- Carry out stormwater drainage works.

**41. Water and sewer connection condition?**

**Section 68 -Stormwater Detail**

**42. Section 68 -Stormwater Detail**  
Prior to the issue of a Construction Certificate the person acting with this consent shall obtain approval under Section 68 of the Local Government Act 1993 for the carrying out of stormwater works.

Documentary evidence is to be provided to the Principle Certifying Authority demonstrating that these approvals have been obtained prior to the issue of a Construction Certificate.

The person acting with this consent shall ensure that mandatory stage inspections prescribed by the Section 68 Approval are carried out by Council Officers at the relevant stage of development.

**43. Acoustic Impacts Childcare Facility**

The childcare facility development is required to have an acoustic specialist prepare an acoustic report detailing mitigation measures to protect the amenity for future residences particularly for Lots 103, 104 and 105. The report, detailing attenuation measures shall be submitted to the Certifier for approval and all measures included on the Construction Certificate plans, prior to the issue/release of the Construction Certificate.

**44. Acoustic Impact Requirements**

In accordance with the recommendations of the Noise Impact Assessment Report, prepared by Reverb Acoustics – Noise and Vibration Consultants, Report No. 22-2809-R2 and dated March 2023, the person acting with this consent should consult with a qualified Acoustic Engineer when selecting heating, ventilation and air conditioning plant positions.

A certificate from an appropriately qualified Acoustic Engineer is to be submitted to the Certifying Authority for approval with the Construction Certificate certifying that the development and all sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm –6.00 am) when measured within a habitable room in any adjoining residential premises, and will comply with Environment Protection Authority Noise Policy.

**45. Lighting Requirements**

All lighting is to be designed and positioned to minimise any adverse impact on neighbouring premises.

Prior to the issue of a Construction plans a lighting plan is to be provided to the Certifying Authority demonstrating compliance with the above, that the outdoor lighting installations will comply with the relevant Australian Standards AS/NZ1158 3.1:2005 Lighting for Roads and Public Spaces Pedestrian Area Lighting and Public Spaces Pedestrian Area (Category P)

**Commented [IC1]:** Council to confirm if to include any additional water and sewer connection condition for the childcare facility.

**Commented [IC2R1]:** Lydia Council advises "Our water and Sewer team would dictate their connection requirement through the Notice of Requirements process for either subdivision or CC whatever came first."  
Therefore they don't include conditions for water and sewer connection for this part of the conditions schedule.

Lighting – Performance and Design Requirements AS 4282.1997 Control of the Obstructive Effects of Outdoor Lighting.

All lighting installations are to proceed in accordance with the approved lighting plan and the requirements of this consent.

- 46. Sediment and Erosion Management Plan**  
Prior to the issue of a Construction Certificate a sediment and erosion management plan is to be submitted to and approved by the Certifying Authority. As a minimum, control techniques are to be in accordance with Muswellbrook Shire Council's Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Control Plan shall incorporate and disclose:
- all details to protect and drain the site during the construction processes;
  - all sediment control devices, barriers and the like;
  - sedimentation tanks, ponds or the like;
  - covering materials and methods;
  - a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- 47. Plan of Management and Bushfire Evacuation Plan**  
Prior to the issue of a Construction Certificate updated Plans of Management and Bushfire Evacuation Plan are to be updated in relation to the 'Childcare Facility' (Prepared by Ology Pty Ltd and dated 2022):  
The Plans of Management must address the following to the satisfaction of Council:
- Incorporation of traffic management of car parking area to ensure traffic does not back into the site and impact the New England Highway.
  - The Centre Director is to be contactable and details.
  - The Centre Director or a suitably qualified alternate person should be contactable by phone and available to attend any issues or urgent matters that arise and/or impact the quiet enjoyment of the premises.
  - Incorporate all the requirements of NSW Rural Fire Services and General Terms for Approval within Condition 7.
- 48. Waste Management Plan**  
A Waste Management Plan is to be submitted with the 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 windproof waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process.
- 49. Sensory Plant Species Selection**  
Sensory plant species suitable for a childcare facility are to be included within the landscaping planting species selection schedule. Full details are to be included in the documentation for a Construction Certificate application.
- 50. Food Preparation Requirements**  
Prior to the issue of a Construction Certificate the applicant shall submit detailed design plans to the Principle Certifying Authority demonstrating that the fit out of the food preparation, storage, handling and serving areas would comply with the requirements of Food Act 2003, Food Regulation 2015 and Australian Standards relevant design construction and fit out of food premises (AS4674). Full details are to be included in the documentation for a Construction Certificate application.

**CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE FOR EACH STAGE (STAGES 1 to 3) AND THE CHILD CARE FACILITY**

- 51. Drainage**  
Lot 325 'drainage reserve' must be included and constructed as part of Stage 2 works.
- 52. Works Signage**  
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:
- stating that unauthorised entry to the work site is prohibited;
  - 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 anytime for business purposes and outside working hours; and
  - showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 53. Site Specific Environmental Management Plan (SSEMPs)**  
Site Specific Environmental Management Plans (SSEMPs) are to be prepared for each of the Stages 1 to 3 such to be designed and implemented to manage all environmental aspects associated with the clearing, earthworks and construction works. A copy of each SSEMP is to be provided in pdf format to the Principal Certifier and Council and the SSEMP is to be maintained on-site during all site works and be made available to Authorised Officers upon request. The SSEMP is to include but not be limited to:
- A statement of compliance together with detailed justification(s) for any diversions from the overarching Construction Environmental Management Plan that demonstrate how such diversions meet the stated objectives of the CEMP.
  - In accordance with the mitigation measures described in Table 8 of the Ecological Assessment report (RestoreAG Pty Ltd, Report No. MMH-EC-0522 and dated 15 October 2022).
  - A site management strategy, identifying and addressing issues such as environmental health and safety, site access and security, 'no-go' zones and traffic/pedestrian/cyclist management.
  - A Construction Traffic Management Plan approved by TfNSW and Council.
  - A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
- 54. Work Site Facilities Requirement**  
Site Facilities required:
- If the development involves building work or demolition work, the work site must be fully enclosed by a temporary security fence (or hoarding) before work commences.
  - 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.
  - Any such hoarding or fence is to be removed when the work has been completed.
  - 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.
  - Toilet facilities must be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site.
  - Each toilet provided must:
    - be a standard flushing toilet, connected to a public sewer, or
    - if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or
    - an approved temporary chemical closet.

- g) The provision of toilet facilities must be completed before any other work is commenced.
- h) 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.
- i) 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.
- j) 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.

**55. Damaged Council Property**

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 the commencement of work it will be assumed that the infrastructure was undamaged and the applicant will be required to restore all damage infrastructure at their expense.

**56. Temporary Access Stabilisation**

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

**57. Aboriginal Objects**

During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object should cease and Heritage NSW should be contacted so that appropriate management strategies can be identified.

In the unlikely event that a potential burial site or potential human skeletal material is exposed, work in the vicinity of the remains is to halt immediately to allow assessment and management. If the remains are suspected to be human, it will be necessary to contact NSW Police, Heritage NSW and the Heritage Division to determine an appropriate course of action.

**58. Notification requirements for Aboriginal Objects**

If unanticipated suspected Aboriginal heritage objects are uncovered at any time throughout the life of the project, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be notified in accordance with Section 89A of the National Parks and Wildlife Act 1974 (NPW Act). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.

**59. Council Land and Aboriginal Objects**

No permanent keeping place or re-burial of Aboriginal objects is to occur on any land owned by Council or intended to be dedicated to Council.

**60. Road Authority Approval**

Written approval is to be obtained from the Road Authority for all proposed temporary changes to traffic conditions or traffic regulations on any existing Public Road as a result of the development. The Developer shall be responsible for all costs associated with any public notification and implementation of the proposed temporary changes.

- 61. Landscape Works**  
All required landscape works are to be implemented by members of the Landscape Contractors Association of NSW and/or similar qualified contractors and under the direction and supervision of a Landscape Architect or similar qualified professional practising at the membership level of Registered Landscape Architect of the Australian Institute of Landscape Architects.  
Proposed street tree locations are to be reviewed with the inclusion of a potential driveway to ensure the location of street trees allows for driveway access to each lot (e.g., Lot 311 would not appear to allow a driveway to be provided without removal of the street tree).
- 62. Acoustic Mitigation - Fencing**  
Acoustic fences must be installed in areas listed in the Revised Noise Impact Assessment Report prepared by Reverb Acoustics dated March 2023. All construction requirements listed must be incorporated into the Construction Certificate plans.
- 63. Acoustic Mitigation – Amenity**  
All construction is to comply with the recommended schedule of minimum glazing thicknesses and types, roof/ceiling and wall construction, etc listed in the Revised Noise Impact Assessment prepared by Reverb Acoustics, dated March 2023 to ensure the acoustic amenity of future occupants is protected.
- 64. Unexpected Finds Protocol**  
A protocol is to be developed to mitigate any risk of potential harm due to unexpected finds or ACM discovered during development. This should include stop work and reporting actions and be developed in line with the Contaminated Land Act and associated legislation.
- 65. Approvals Available**  
A copy of the Notice of Determination and relevant Subdivision Works Certificates, including associated approved plans, is to be kept on-site at all times during construction works.
- 66. Hours of Construction**  
Construction Hours:  
a) Subject to this clause, building construction is to be carried out during the following hours:  
i. between Monday to Friday (inclusive)—7.00am to 6 00pm  
ii. on a Saturday—8.00am to 1 00pm  
b) Building construction must not be carried out on a Sunday or a public holidays.  
c) Demolition works and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5 00pm.  
d) The builder and excavator must display, on-site, their 24 hour contact telephone numbers, which are to be clearly visible and legible from any public place adjoining the site.
- 67. Rock Breaking**  
Mechanical rock breaking is to be confined to between 9.00 am to 3.30 pm Monday to Friday excluding any Public Holiday. Rock-breaking methods must not include blasting.

- 68. AS3798-1996 Requirements**  
Compaction of earthworks is to be carried out under Level 1 supervision as per AS 3798-1996 "Guidelines on earthworks for commercial and residential developments".
- 69. Dust and Air Quality Management**  
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  
d) emissions in addition odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.
- 70. Storage of Building Materials**  
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.
- 71. Project Contact Details**  
The project manager nominating a community contact person and advising adjoining owners and Council of the name of the nominated contact person, along with a contact telephone number. The contact person is to be available at all times for the duration of the construction work.
- 72. Surface Water Runoff Management**  
Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
- 73. Erosion and Sediment Control Measures**  
Erosion and sediment control measures are to be implemented prior to the commencement of works for each stage and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:  
a) control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins; and  
b) controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the requirements of the Managing Urban Stormwater: Soils and Construction 4th Edition – Vol. 1 (the 'Blue Book') published by Landcom, 2004.  
c) Priority must be given to access, road shoulder stabilisation, and erosion as this site is close to New England Highway-shaker grid to be installed at the limit of work before using stabilised site access All disturbed areas to be appropriately remediated to ensure stabilisation of the site prior to issue of the Subdivision Certificate, and control of erosion prior to the construction of dwellings under a future DA
- 74. Survey Monument Disturbance**  
Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the Surveying and Spatial Information Act 2002 (NSW).

- 75. Traffic Committee Approvals**  
Conditions of consent or plans of any proposed traffic management devices, line marking and signposting works on existing or proposed public roads being submitted to Council and approved by the Muswellbrook Traffic Committee prior to those works being undertaken.
- 76. Soil Transportation Requirements**  
The routes for import of any fill material or export of any soil are to be submitted to and agreed to by the Road Authority prior to the commencement of haulage. Any deterioration or failures within public roads that can reasonably be attributable to such operations are to be restored to the requirements of, and at no cost to, the Road Authority.
- 77. Mailbox – Childcare Facility**  
The mailbox erected to service the childcare facility shall not encroach on Council's footpath or kerb area.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE FOR EACH STAGE (STAGES 1 to 3)**

- 78. Landscape Practical Completion**  
A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to achieving Practical Completion for each respective Stage of the development. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were approved under the respective Subdivision Works Certificate and/or all works granted consent under section 138 of the Roads Act, 1993 and is to verify that an effective maintenance program has been commenced. Full details area to be included in the documentation for each subdivision certificate application.
- 79. Street Addresses**  
Prior to making an application for a Subdivision Certificate for each Stage the Developer is to obtain from Council the required street addresses and show such addresses on the respective Administration Sheet.
- 80. All Works Completed**  
All subdivision works, road works granted consent under s138 of the Roads Act 1993 and public utility installations associated with a particular Stage are to be completed, prior to issue of the relevant Subdivision Certificate.
- 81. Final Inspection Report**  
A Final Inspection Report (or equivalent as determined by the Road Authority) is to be issued by the Road Authority for any works granted consent under section 138 of the Roads Act 1993 in association with the respective Stage of the development.
- 82. Final Inspection Report Requirements**  
A Final Inspection Report, which is in addition to any Practical Completion certificate, is to be issued by the Principal Certifier for any works approved under a Subdivision Works Certificate in association with the respective Stage of the development.
- 83. Repair of Damage**  
The Developer making good any damage caused to a public road or associated structures, including drains and kerb and gutter, as well as to private property, and revegetating any disturbed areas resulting from the works.

**84. Subdivision Certificate Application Requirements**

A Subdivision Certificate Application is to be submitted to the Principal Certifier/Council in respect of each Stage of the development, accompanied by the appropriate fee. Each application is to be supported .pdf copies of the following documentation, together with any other documentation required under the conditions of this consent:

- a) The plan of subdivision prepared by a Registered Surveyor.
- b) The instrument prepared under s88B of the Conveyancing Act, 1919 as appropriate.
- c) Copies of NATSPEC certification in respect to tree plantings.
- d) A geotechnical assessment prepared by a suitably qualified geotechnical engineer that:
  - i. indicates any areas of potential slip or subsidence which may influence future road and building design requirements.
  - ii. indicates the location, extent and suitability of any fill placed on the site.
  - iii. provides a report on all earthworks carried out under Level 1 supervision as per AS3798-1996 'Guidelines on earthworks for commercial and residential developments'; and
  - iv. provides testing results for each phase of construction in relation to earthworks and roadworks.
- e) A statement from a registered surveyor verifying that:
  - i. no survey control marks were interfered with during site work; or
  - ii. that the requirements of the Department of Lands had been obtained in respect of any marks which were destroyed and that such requirements have been complied with.

**85. Conveyancing Act, 1919 - Section 88B**

The appropriate notation is to be placed on the plan of subdivision and an instrument under Section 88B of the Conveyancing Act, 1919 and submitted to the Principal Certifier setting out the terms of easements (including easements in gross) and/or rights of carriageway and/or restrictions as to user required for all stages of subdivision, in respect of the following where applicable:

- a) Interallotment drainage lines in favour of upstream properties utilising the lines.
- b) Stormwater easement over park.
- c) Rights of carriageway in favour of the property serviced.
- d) Easements for services in favour of the property serviced and /or the appropriate utility provider.
- e) Vegetated Buffers Muscle Creek.
- f) Restricting access to the New England Highway.
- g) Asset Protection Zones (APZ).
- h) Public stormwater drains, existing and proposed stormwater outlets, overland flow paths and
- i) Any temporary cul-de-sac heads or turning facilities in favour of Council.
- j) An easement is to be proposed to drain stormwater water south of the park, to be connected to Lots 103, 104 & 105 and connect onto the drainage basin fronting the development and included in the detailed drainage design plans.
- k) Restriction on access along stock travelling networks on associated lots.
- l) Trees with hollows or habitat identified within the development documentation.
- m) Any Aboriginal Cultural value trees (Scar Trees).

(Note: I.) Council in addition to the owner of any land benefited by the easement is to be a party whose consent is needed to release or vary easements or positive covenants.

II. Council advises that it will not withhold consent to release the Positive Covenants or Easements in respect of temporary culdesac heads or turning facilities or APZ's subject to adequate alternate measures being provided in lieu.)

- 86. Conveyancing Act, 1919 - Section 88B – Stage 3**  
The Subdivision Certificate application for Stage 3 must include appropriate notation placed on the respective plan of subdivision and an instrument under Section 88B of the Conveyancing Act, 1919 for a 'restriction on use of land' such to prevent the removal of native vegetation and prevent the altering of the ground surface levels within that part of the site affected by Riparian zone and Muscle Creek or within 25m Australian Rail Track Corporations assets, generally to the North of the site.
- 87. Release of any Easement Requirements**  
Appropriate documentation is to be submitted with the Subdivision Certificate application for each respective Stage such to provide for the release of any easement, right of carriageway or restriction as to user, including those affecting proposed public roads, made redundant by that particular Stage of the development.
- 88. Construction Loads and Detention Basins**  
All stormwater detention basins should be designed with consideration of construction loads of sediment as temporary sediment control basins, maintained at all times, and modified to suit final construction design for detention function prior to issue of the Subdivision Certificate.
- 89. Underground Electricity**  
Written evidence of arrangements made with Ausgrid, or other approved supplier, for the provision of underground electricity supply to all lots and street lighting within each Stage, is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of that Stage.
- (Note: Any required transformers are to be located in reserves or private property, with appropriate easements being created, and are not to be installed in road reserves.)
- 90. Underground National Broadband Network**  
Written evidence of arrangements made with the NBN Co. Ltd, or other approved supplier, for the provision of underground National Broadband Network services to all lots within each Stage. The evidence is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of that Stage.
- 91. Underground Telecommunications**  
Written evidence of consultation with and any resulting arrangements made with the Telstra for the provision of underground broadband and/or telecommunication services to all lots within each Stage. The evidence is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of that Stage.
- 92. Underground Natural Gas**  
Written evidence of any arrangements made with Jemena, or other approved supplier, for the provisioning of underground natural gas services is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of each Stage of the development.
- 93. Certificate of Works As Executed (WAE)**  
Certified works-as-executed (WAE) plans being lodged in .pdf format with the Principal Certifier and with Council immediately after having achieved Practical Completion of works for each Stage. The WAE plans are also to be registered with Council in digital form in accordance with the 'A-Spec'™ Digital data Specification or as otherwise specified by the Council and are to include:
- a) Details of any alterations made to the approved plans.
  - b) The location and type of service conduits.

- c) The location and extent of any Asset Protection Zone.
- d) Details of all kerbs and gutters, pits and pipelines, stormwater management devices and drainage swales.
- e) Certification by a Registered Surveyor that all pipes, services and access driveways within proposed lots are totally within their respective easements.

Where the WAE plans indicate variations between the works as installed and the approved plans, the Principal Certifier is to determine whether the works are acceptable or require reconstruction.

**94. Dedication to Council – Maintenance Responsibilities**

A six-month defect liability period applying in respect of each Subdivision Works Certificate issued for Stages 1 to 3 of the development, prior to Council accepting maintenance responsibility for subdivision infrastructure, with the exception of the proposed landscaping. Each defect liability period is to commence at the date of registration of the respective plan of subdivision.

In this regard, a cash bond or bank guarantee in an amount equivalent to 5.0% of the final construction value of the subdivision works for which Council is accepting maintenance responsibility for, with the exception of the proposed landscaping, or an alternative lesser amount as may be agreed to by Council, is to be submitted to Council prior to certification of the Subdivision Certificate in respect of each Stage of the development.

- (Note: i) A further inspection of the subdivision infrastructure will be undertaken by Council at the cessation of the Defect Liability period.  
 ii) Any defects identified by Council are to be rectified by the developer prior to Council's acceptance of maintenance responsibility and the release of the bond.  
 iii) In the event that the developer fails to rectify defects notified by Council within one month of notification, Council may elect to call on the bond to affect the required repairs.  
 iv) A Final Inspection will be undertaken by Council at the completion of the specified maintenance period.

**95. Dedication to Council - Landscaping**

A 12 month maintenance period applying in respect of Stages 1 to 3 of the development, prior to Council accepting maintenance responsibility for any proposed landscape works (including the Park, verge plants, mulch, street trees and guards). Each defect liability period is to commence at the date of registration of the respective plan of subdivision. A lesser maintenance period for individual elements may be agreed to by Council.

In this regard, a cash bond or bank guarantee in an amount equivalent to 25% of the value for the supply, installation and associated maintenance of the landscaping that Council is to accept maintenance responsibility for, or an alternative lesser amount as may be agreed to by Council, together with the required Landscape Establishment report, is to be submitted to Council prior to certification of the Subdivision Certificate in respect of each Stage of the development.

- (Note: i) A further two inspections (six month intervals) of the landscaping will be undertaken by Council officers in accordance with the terms of this consent.  
 ii) Any defects or maintenance requirements identified by Council are to be rectified by the developer prior to Council's acceptance of maintenance responsibility and the release of the bond.  
 iii) In the event that the Developer fails to undertake such maintenance within one month of notification, Council may elect to call on the bond to affect the required repairs or maintenance.

iv) A Final Inspection will be undertaken by Council at the completion of the specified maintenance period.)

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE  
(CHILDCARE FACILITY)**

- 96. Landscape Completion Report**  
A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to achieving Practical Completion for the Childcare facility. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications approved in this consent. Full details are to be included in the documentation for an Occupation Certificate application.
- 97. Environmental Health requirements - Food**  
Prior to the issue of an Occupation Certificate, a satisfactory final inspection of the kitchen must be undertaken by Council's Environmental Health Officer to determine compliance with relevant construction requirements including Food Act 2003, Food Regulation 2015 and Australian Standards relevant design construction and fit out of food premises (AS4674). Full details are to be included in the documentation for an Occupation Certificate application.
- 98. Registration of Food related Business**  
Prior to the issue of the Occupational certificate, the business is to be registered with Council's Environmental Health Department.
- 99. Final Inspection Requirements**  
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.
- 100. Water Supply Compliance Certification**  
The final compliance certificate for water supply 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.
- 101. Stormwater Management Installation**  
Prior to the issue of an Occupation Certificate all stormwater management infrastructure is to be installed in accordance with the stormwater management plan approved by Council, AS 3500.3, the provisions of the relevant Section 68 Approval and industry best practice.
- 102. Sewer Connection Requirements**  
Prior to the issue of an Occupation Certificate the premises shall be connected to the sewer system in accordance with the Australian Standard 3500 and the requirements of any Section 68 Approval. A Trade Waste Agreement is to have been entered into between the owner of the land and Council and the required Trade Waste infrastructure installed to Council's satisfaction in accordance with the Trade Waste Agreement.
- 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.
- 103. Car Park Requirements**  
Prior to the issue of an Occupation Certificate all parking areas (Child Care Facility and Park), loading bays, driveways, internal access ways, vehicular ramps and turning areas shall be fully constructed, sealed, line marked, sign posted in accordance with the approved plans and AS.2890.1 2004 Parking Facilities and the relevant provisions of AS1428.1 and

AS1428.4.

**104. Fencing Requirements**

Prior to the issue of an Occupation Certificate the person acting with this consent is to install timber lapped and capped fencing with a height of 1.8m along all rear and side boundaries behind the front building line with all neighbouring properties (except as modified to include acoustic fencing as per Condition 41).

**105. Bin Storage**

Prior to the issue of any Occupation Certificate the bin storage area is to be constructed in accordance with the approved plans and requirements of this condition or as otherwise specified by Council in writing.

In addition to the design information included on the approved plans the bin storage area is to be constructed in accordance with the following:

- The bin storage is to be discreetly located at the site and screened through the construction of a gated fence/screen enclosure.
- All internal walls of this enclosure are to have a smooth service and the enclosure is to cover flood/wall intersection.
- The floor is to be graded toward the centre of the enclosure to prevent the escape of waste.
- A tap is to be located in close proximity to the waste storage area.

**CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT – STAGES 1 – 3 SUBDIVISION**

**106. Prohibited Use of Council Land**

No estate entry features, billboards, promotional/sale signage or bunting are to be located on existing land owned by Council or on land or road reserves proposed to be dedicated to Council or within the proposed 20m wide Landscape Buffer.

**107. Drainage Requirements**

The registered title for all land proposed as Drainage Reserve, is to be transferred to Council, and at no cost to Council, within 28 days of Council providing written notice to the Developer that satisfactory completion vegetating the Drainage Reserves.

**108. Water and Sewerage Requirements**

The developer is to comply with all requirements and cost for connection of water supply and sewerage services including upgrades.

**109. Public Utilities**

The developer is responsible for all adjustments to and/or relocation of public utilities. Any necessary alterations are to be at the Developer's expense and to the requirements of the appropriate Authorities.

**110. Landscape Establishment Report**

A six-monthly Landscape Establishment Report ( pdf format) is to be submitted to Council for the term of a twelve month landscape defect and maintenance period commencing from the date of registration of the relevant Subdivision Certificate in respect of each Stage, verifying that satisfactory maintenance of the landscape works including street trees, re-vegetation and weeding, has been undertaken in accordance with the approved Landscape Plans and

Vegetation Management Plan and any necessary rectification measures have been carried out to a high professional standard.

**111. Developer Costs**

It being the responsibility of the Developer to meet all expenses incurred in undertaking the development including expenses incurred in complying with conditions imposed under the terms of this consent.

**CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT – CHILD CARE FACILITY**

**112. Air conditioning Units**

Air-conditioning units shall be installed in accordance with the requirements of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* Subdivision 3. The proposed use of the air conditioner shall not make an 'offensive noise' as defined in the Protection of the *Environment Operations Act 1997*, and *Protection of the Environment Operations (Noise Control) Regulation 2000*.

**113. Acoustic Requirements**

If noise emissions from individual items of air conditioning plant exceed the limits shown in Item 6.6.4 of Revised Noise Impact Assessment prepared by Reverb Acoustics, dated March 2023, acoustic barriers must be constructed between the plant and residences. Barrier construction should consist of either Acoustisorb panels (available through Modular Walls) or an outer layer of one sheet of 12mm fibre cement sheeting (Villaboard, Hardiflex), or 19mm marine plywood. The inside (plant side) is to be lined with an absorbent foam to reduce reverberant sound (fibrous infills are not recommended as they will deteriorate if wet), and must be minimum 300mm above the top of the plant item. The contractor responsible for supplying and installing the plant should be asked to supply evidence that installed plant meets specified noise emission limits, or that noise control included with the plant is effective in reducing the sound level to the specified limit. Once selection and location of plant has been finalised, details should be forwarded to the acoustic consultant for approval.

**114. Sewer Connection**

There is sewer available to this development area after the completion Stage 1. As such, the development Child Care Centre) must be connected to sewer network.

**115. Stormwater**

All stormwater from the development including all hardstand areas and overflows from rainwater tanks is to be collected and disposed of in accordance with the requirements of any approval under Section 68 of the Local Government Act 1993 and the approved stormwater management plans.

All stormwater infrastructure is to be maintained at all times.

**116. Outdoor Lighting**

At all times the outdoor lighting installed at the premises is to be maintained in a manner to minimise impact on adjoining land. Outdoor lighting is to be installed and maintained in accordance with the approved outdoor lighting plan and the provisions of Australian Standard AS 4282:1997 Control of the Obstructive Effects of Outdoor Lighting.

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

adjoining land.

- 117. Childcare Facility Operation**  
At all times the childcare facility is to be operated generally in accordance with the approved plan of management or any document that supersedes this document. Any revision to the Plan of Management is to be approved by Council in writing.
- 118. Hours of Operation**  
The Child Care Facility may be open for business only between the following hours:-  
7:00am to 7 00pm – Monday to Friday  
Upon expiry of the permitted hours, all restaurant service (and entertainment) shall immediately cease, no person shall be permitted entry and all customers on the premises shall be required to leave within the following half hour.
- 119. No Hoarding without Approval**  
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 hoarding consent from Council.
- 120. No illumination**  
No business identification signage or signage approved as part of this consent shall be illuminated or floodlit.
- 121. No Flood Lighting**  
No car parking flood lighting is to be provided as part of the development.
- 122. Deliveries, Loading and Unloading Restrictions**  
Deliveries, loading or unloading associated with the premises are to take place between the hours of 9am and 3pm Monday to Friday and all vehicles will enter and leave the site in a forward direction.

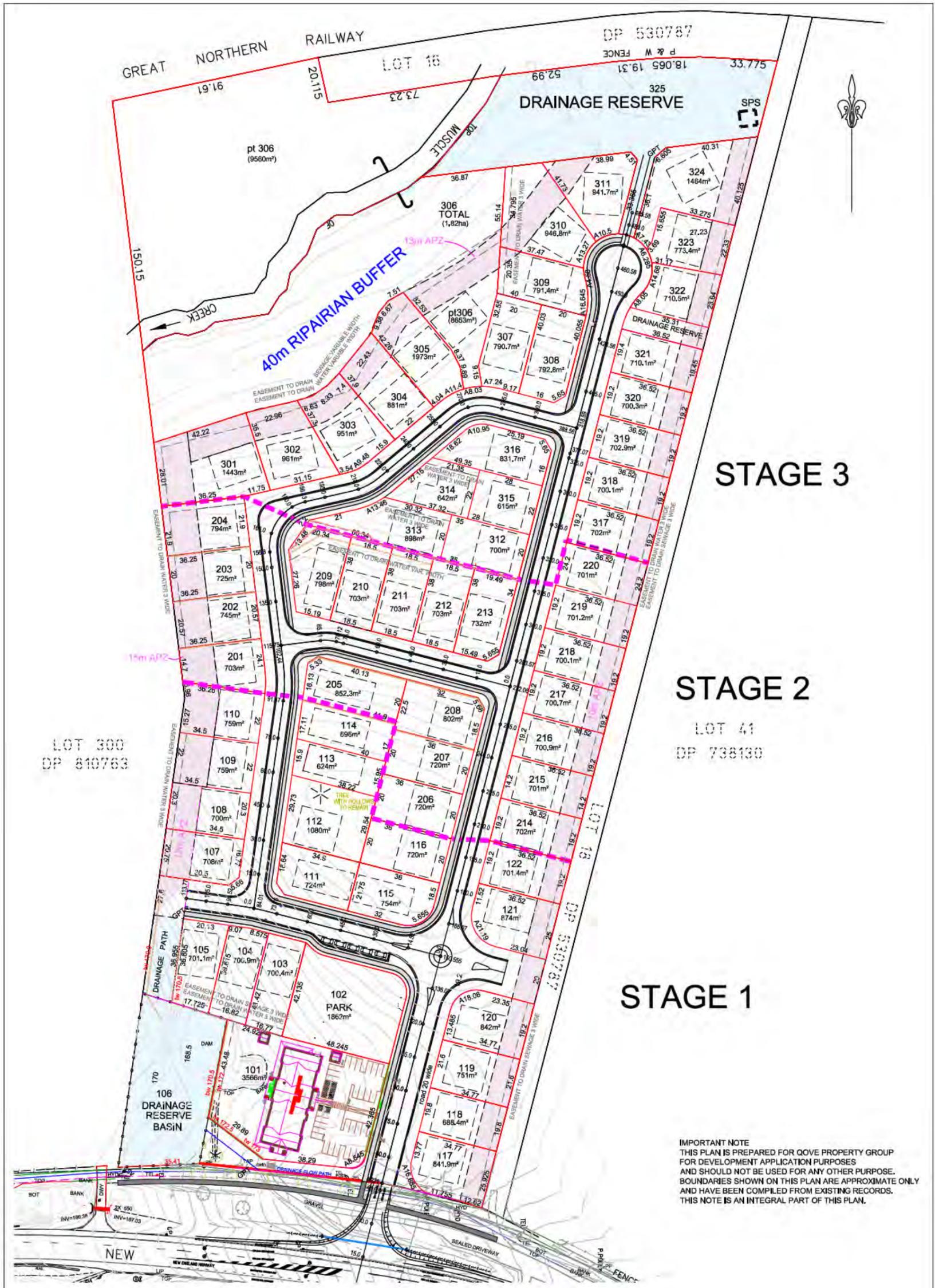
#### **ADVISORY MATTERS**

- Prior to commencing any subdivision works, the following provisions of Division 6.2 of the Environmental Planning and Assessment Act 1979 (the Act) are to be complied with:
  - a) A Subdivision Works Certificate is to be obtained; and
  - b) Council is to be appointed as the Principal Certifier for the subdivision works (consistent with Section 6.5(3) of the Act); and
  - c) Council is to be given at least two days' notice of the date intended for the commencement of subdivision works.
  - d) A Construction Certificate is to be obtained for the childcare facility;
- It is an offence under the provisions of the Protection of the Environment Operations Act 1997 (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- Development applications are not assessed against the provisions of the National Construction Code. An application to modify the application under the Environmental Planning and Assessment Act 1979 will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.

- Failure to comply with the conditions of consent constitutes a breach of the Environmental Planning and Assessment Act 1979 (NSW), which may be subject to a penalty infringement notice ('on-the spot fine') or prosecution.
- All advertising signs not identified in the approved plans shall be the subject of a separate development application which is to be submitted for Council's approval prior to erection or placement
- If archaeological deposits or relics not considered in the supporting documents for this consent are discovered, work must cease in the affected area(s) and the Heritage Council of NSW notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Heritage Council of NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal settlement, and is of State or local significance. It is an offence under the provisions of the Heritage Act 1977 (NSW) for a person to disturb or excavate any land on which the person has discovered a relic except in accordance with a gazetted exemption or an excavation permit issued by the Heritage Council of NSW.

**END OF CONDITIONS**



**IMPORTANT NOTE**  
 THIS PLAN IS PREPARED FOR QOVE PROPERTY GROUP FOR DEVELOPMENT APPLICATION PURPOSES AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. BOUNDARIES SHOWN ON THIS PLAN ARE APPROXIMATE ONLY AND HAVE BEEN COMPILED FROM EXISTING RECORDS. THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.

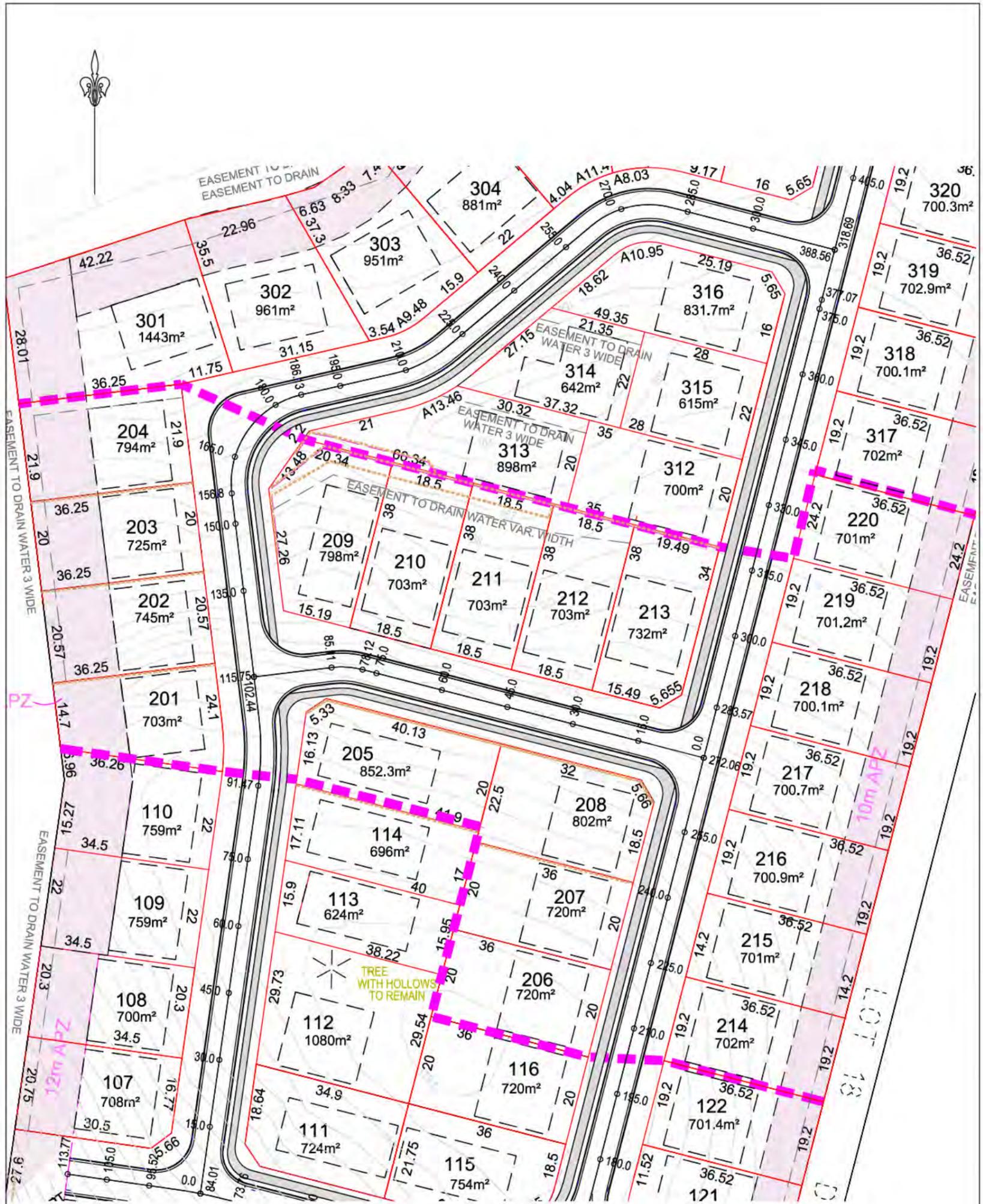
<b>MM HYNDES BAILEY &amp; Co.</b> REGISTERED SURVEYORS - TOWN PLANNING - CIVIL DESIGN <i>Surveying the Hunter since 1820</i> Pte 02 65432475 Email: office@hbsurveys.com.au		<b>PROPOSED SUBDIVISION</b> LOT 1 DP1203294 9036 NEW ENGLAND HIGHWAY MUSWELLBROOK	SCALE: 1:1500 (A3) FILE: 222137-PARK_L DATE: 3/08/2023	<b>CLIENT:</b> MR ASIF KAWNINE QOVE PROPERTY GROUP	LGA: MUSWELLBROOK PARISH: WILLIS COUNTY: BRISBANE	SHEET <b>1</b> OF SHEETS <b>4</b>	JOB REF: <b>222137</b>



# STAGE 1

**IMPORTANT NOTE**  
 THIS PLAN IS PREPARED FOR GOVE PROPERTY GROUP FOR DEVELOPMENT APPLICATION PURPOSES AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. BOUNDARIES SHOWN ON THIS PLAN ARE APPROXIMATE ONLY AND HAVE BEEN COMPILED FROM EXISTING RECORDS. THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.

<b>MM HYNDES BAILEY &amp; Co.</b> REGISTERED SURVEYORS - TOWN PLANNING - CIVIL DESIGN <i>Surveying the Hunter since 1920</i> Ph: 02 65432475 Email: office@hbsurveys.com.au		PROPOSED SUBDIVISION STAGE 1 LOT 1 DP1203294 9036 NEW ENGLAND HIGHWAY MUSWELLBROOK	SCALE: 1:800 (A3) FILE: 222137-PARK_L DATE: 3/08/2023	CLIENT: <b>MR ASIF KAWNINE</b> <b>GOVE PROPERTY GROUP</b>	LGA: MUSWELLBROOK PARISH: WILLS COUNTY: BRISBANE	SHEET <b>2</b> OF SHEETS <b>4</b>	JOB REF: <b>222137</b>
--	---	--	---	---	--	--	---------------------------



## STAGE 2

**IMPORTANT NOTE**  
 THIS PLAN IS PREPARED FOR QOVE PROPERTY GROUP  
 FOR DEVELOPMENT APPLICATION PURPOSES  
 AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE.  
 BOUNDARIES SHOWN ON THIS PLAN ARE APPROXIMATE ONLY  
 AND HAVE BEEN COMPILED FROM EXISTING RECORDS.  
 THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.

**MM HYNDES BAILEY & Co.**  
 REGISTERED SURVEYORS - TOWN PLANNING - CIVIL DESIGN  
*Surveying the Hunter since 1920*

Ph: 02 65432475 Email: office@hbsurveys.com.au



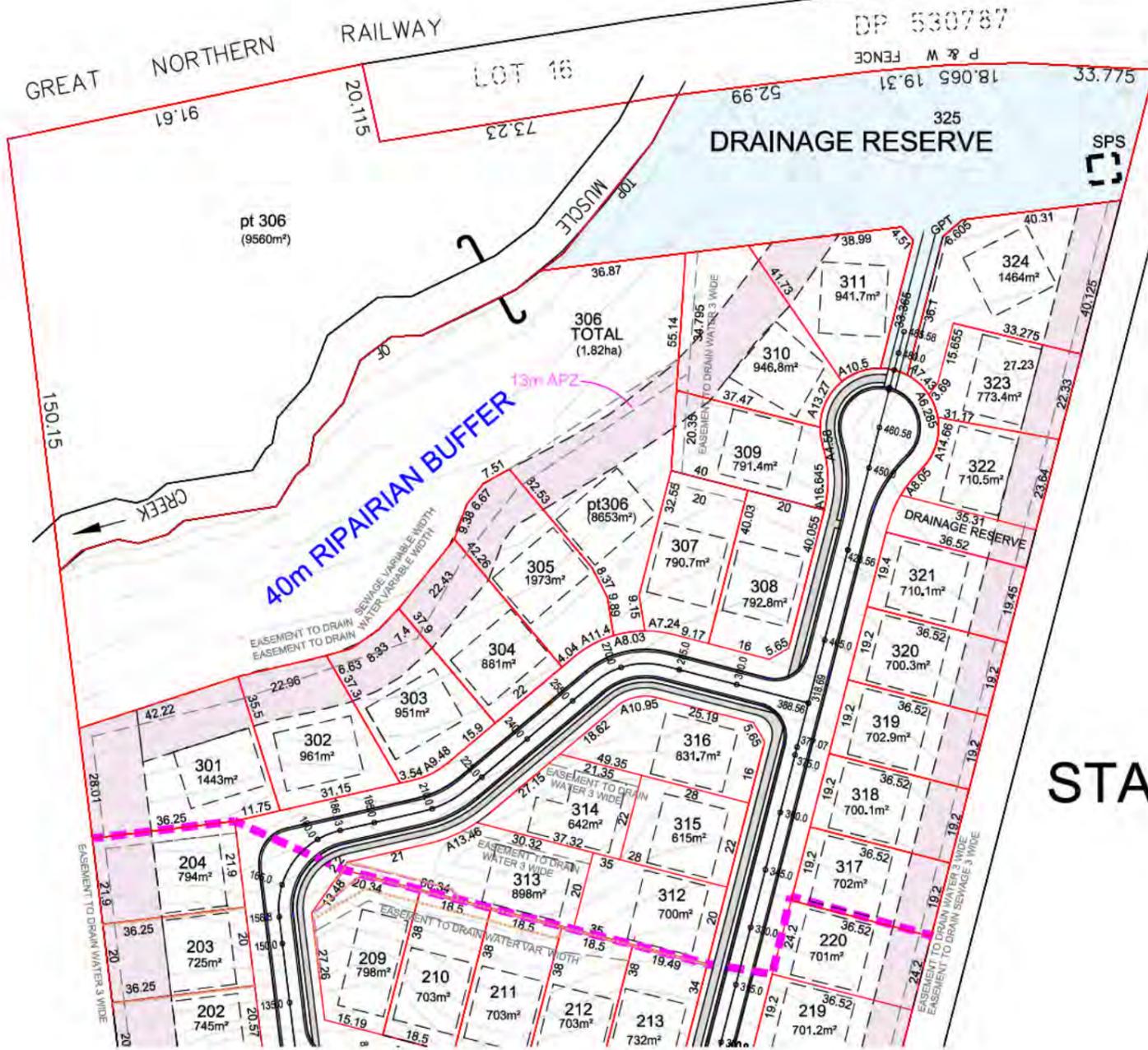
PROPOSED SUBDIVISION  
 STAGE 2  
 LOT 1 DP1203294  
 9036 NEW ENGLAND HIGHWAY  
 MUSWELLBROOK

SCALE: 1:800 (A3)  
 FILE: 222137-PARK\_L  
 DATE: 3/08/2023

CLIENT:  
 MR ASIF KAWNINE  
 QOVE PROPERTY GROUP

LGA: MUSWELLBROOK  
 PARISH: WILLIS  
 COUNTY: BRISBANE

SHEET	OF SHEETS
3	4
JOB REF: 222137	



**STAGE 3**

**STAGE 3**

**IMPORTANT NOTE**  
 THIS PLAN IS PREPARED FOR QOVE PROPERTY GROUP  
 FOR DEVELOPMENT APPLICATION PURPOSES  
 AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE.  
 BOUNDARIES SHOWN ON THIS PLAN ARE APPROXIMATE ONLY  
 AND HAVE BEEN COMPILED FROM EXISTING RECORDS.  
 THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.

**MM HYNDES BAILEY & Co.**  
 REGISTERED SURVEYORS - TOWN PLANNING - CIVIL DESIGN  
*Surveying the Hunter since 1920*



PROPOSED SUBDIVISION  
 STAGE 3  
 LOT 1 DP1203294  
 9036 NEW ENGLAND HIGHWAY  
 MUSWELLBROOK

SCALE: 1:1250 (A3)  
 FILE: 222137-PARK\_L  
 DATE: 3/08/2023

CLIENT:  
 MR ASIF KAWNINE  
 QOVE PROPERTY GROUP

LGA: MUSWELLBROOK  
 PARISH: WILLIS  
 COUNTY: BRISBANE

SHEET	OF SHEETS
4	4
JOB REF:	
222137	

PROPOSED CHILDCARE CENTRE

Lot 101, No.9036 NEW ENGLAND  
HIGHWAY, MUSSWELLBROOK





LEVEL 2 SUITE 216, MACARTHUR POINT  
 NO. 25-27 SOLENT CIRCUIT, NORWEST  
 P.O. BOX 6470, BAULKHAM HILLS  
 BUSINESS CENTRE NSW, 2153  
 PHONE: (02) 8824 3533 - FAX: (02) 8824 3544  
 WWW.AANDDESIGN.COM.AU

REV	DATE	BY	CHK	DESCRIPTION
1	26/07/22	A		PRELIMINARY DA SET
2	26/07/22	A		REVISIONS
3	26/07/22	A		ISSUE FOR DA APPROVAL
4	26/07/22	A		PRELIMINARY DA SET

Lot 101, No. 9036 NEW ENGLAND  
 HIGHWAY, MUSSWELLBROOK



THIS DRAWING IS THE PROPERTY OF A&N DESIGN P/L. REPRODUCTION, COPYING OR USE IN PART OR WHOLE WITHOUT WRITTEN PERMISSION IS STRICTLY PROHIBITED. LEGAL ACTION WILL BE TAKEN AGAINST OFFENDERS. A&N DESIGN P/L TAKES NO RESPONSIBILITY FOR DESIGN SMARTERS THAT MAY HAVE BEEN INCURRED. TO BE USED AS GUIDE ONLY AND SUBJECT TO LOCAL APPROVALS.



THIS IS A PRELIMINARY DRAWING AND IS NOT TO BE USED FOR CONSTRUCTION. IT IS SUBJECT TO APPROVAL BY THE LOCAL COUNCIL AND THE NSW GOVERNMENT. THE DRAWING IS THE PROPERTY OF A&N DESIGN P/L.



LEVEL 2 SUITE 216 MACARTHUR POINT  
 NO. 25-27 SOLENT CIRCUIT NORTHWEST  
 P.O. BOX 6470 BAUL KHAN HILLS  
 BUSINESS CENTRE NSW 2153  
 PHONE: (02) 8824 3533 FAX: (02) 8824 3544  
 WWW.AANDDESIGN.COM.AU

REV	DATE	BY	CHK	DESCRIPTION
1	26/07/22	A		PRELIMINARY DA SET
2	26/07/22	A		ISSUE FOR DA APPROVAL
3				
4				
5				

Lot 101, No. 9036 NEW ENGLAND  
 HIGHWAY, MUSSWELLBROOK





LEVEL 2 SUITE 216 MACARTHUR POINT  
 NO. 25-27 SOLENT CIRCUIT NORWEST  
 P.O. BOX 6470 BAULKHAM HILLS  
 BUSINESS CENTRE NSW 2153  
 PHONE: (02) 8824 3533 FAX: (02) 8824 3544  
 WWW.AANDDESIGN.COM.AU

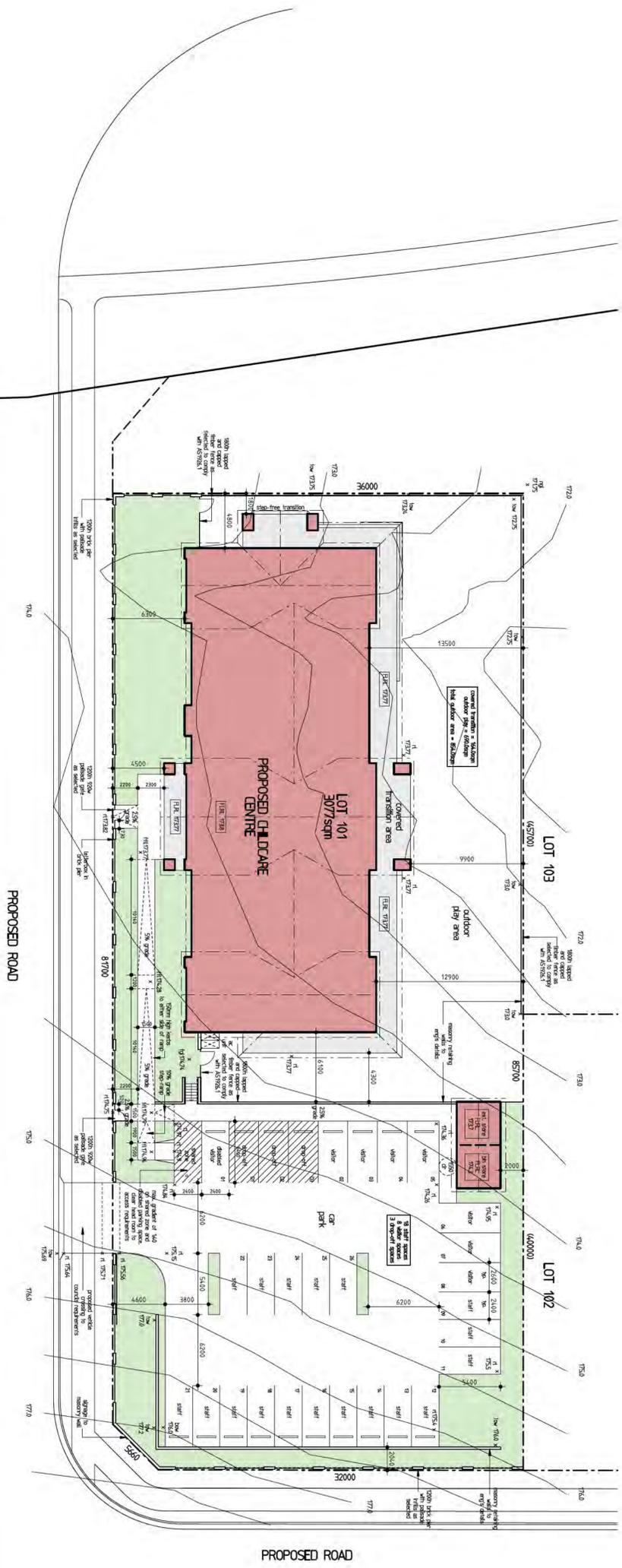
REV	DATE	BY	CHK	DESCRIPTION
1	26/07/22	A	DC	PRELIMINARY DA SET
2	05/08/22	A	DC	ISSUE FOR DA APPROVAL
3	05/08/22	A	DC	FINAL DA SET

Lot 101, No. 9036 NEW ENGLAND  
 HIGHWAY, MUSSWELLBROOK



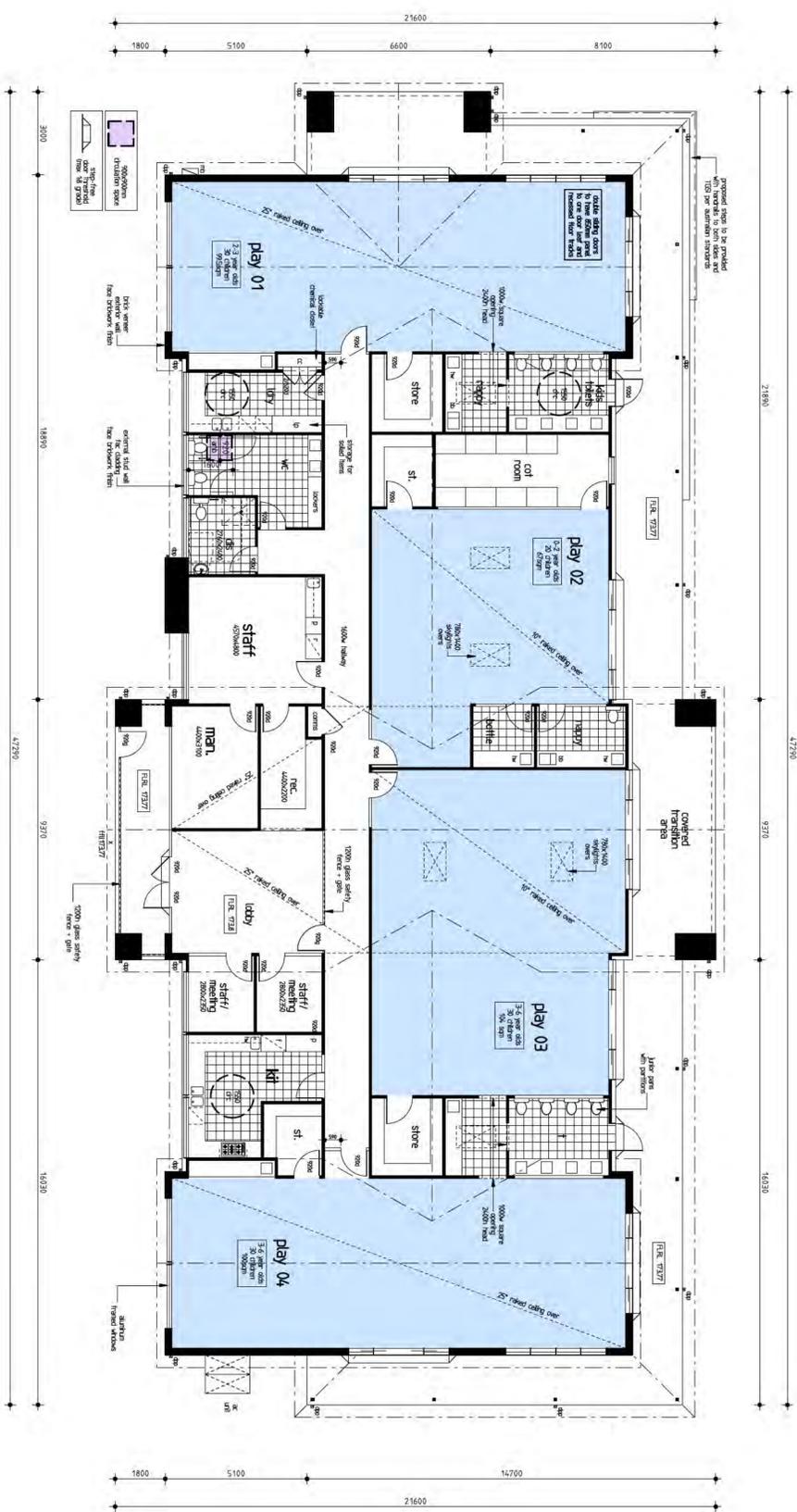
THIS DRAWING IS THE PROPERTY OF A&N DESIGN PT. LTD. REPRODUCTION, COPYING OR USE IN PART OR WHOLE WITHOUT WRITTEN PERMISSION IS STRICTLY PROHIBITED. LEGAL ACTION WILL BE TAKEN AGAINST OFFENDERS. A&N DESIGN PT. LTD. TAKES NO RESPONSIBILITY FOR DESIGN SHORTCOMINGS THAT MAY HAVE BEEN INCURRED. TO BE USED AS GUIDE ONLY AND SUBJECT TO LOCAL APPROVALS.

SITE PLAN 1:200



**Site data**

Site area	Site area	Site area
1.0 ha	1.0 ha	1.0 ha
2.2 ha	2.2 ha	2.2 ha
3.5 ha	3.5 ha	3.5 ha
4.8 ha	4.8 ha	4.8 ha
6.1 ha	6.1 ha	6.1 ha
7.4 ha	7.4 ha	7.4 ha
8.7 ha	8.7 ha	8.7 ha
10.0 ha	10.0 ha	10.0 ha
11.3 ha	11.3 ha	11.3 ha
12.6 ha	12.6 ha	12.6 ha
13.9 ha	13.9 ha	13.9 ha
15.2 ha	15.2 ha	15.2 ha
16.5 ha	16.5 ha	16.5 ha
17.8 ha	17.8 ha	17.8 ha
19.1 ha	19.1 ha	19.1 ha
20.4 ha	20.4 ha	20.4 ha
21.7 ha	21.7 ha	21.7 ha
23.0 ha	23.0 ha	23.0 ha
24.3 ha	24.3 ha	24.3 ha
25.6 ha	25.6 ha	25.6 ha
26.9 ha	26.9 ha	26.9 ha
28.2 ha	28.2 ha	28.2 ha
29.5 ha	29.5 ha	29.5 ha
30.8 ha	30.8 ha	30.8 ha
32.1 ha	32.1 ha	32.1 ha
33.4 ha	33.4 ha	33.4 ha
34.7 ha	34.7 ha	34.7 ha
36.0 ha	36.0 ha	36.0 ha
37.3 ha	37.3 ha	37.3 ha
38.6 ha	38.6 ha	38.6 ha
39.9 ha	39.9 ha	39.9 ha
41.2 ha	41.2 ha	41.2 ha
42.5 ha	42.5 ha	42.5 ha
43.8 ha	43.8 ha	43.8 ha
45.1 ha	45.1 ha	45.1 ha
46.4 ha	46.4 ha	46.4 ha
47.7 ha	47.7 ha	47.7 ha
49.0 ha	49.0 ha	49.0 ha
50.3 ha	50.3 ha	50.3 ha
51.6 ha	51.6 ha	51.6 ha
52.9 ha	52.9 ha	52.9 ha
54.2 ha	54.2 ha	54.2 ha
55.5 ha	55.5 ha	55.5 ha
56.8 ha	56.8 ha	56.8 ha
58.1 ha	58.1 ha	58.1 ha
59.4 ha	59.4 ha	59.4 ha
60.7 ha	60.7 ha	60.7 ha
62.0 ha	62.0 ha	62.0 ha
63.3 ha	63.3 ha	63.3 ha
64.6 ha	64.6 ha	64.6 ha
65.9 ha	65.9 ha	65.9 ha
67.2 ha	67.2 ha	67.2 ha
68.5 ha	68.5 ha	68.5 ha
69.8 ha	69.8 ha	69.8 ha
71.1 ha	71.1 ha	71.1 ha
72.4 ha	72.4 ha	72.4 ha
73.7 ha	73.7 ha	73.7 ha
75.0 ha	75.0 ha	75.0 ha
76.3 ha	76.3 ha	76.3 ha
77.6 ha	77.6 ha	77.6 ha
78.9 ha	78.9 ha	78.9 ha
80.2 ha	80.2 ha	80.2 ha
81.5 ha	81.5 ha	81.5 ha
82.8 ha	82.8 ha	82.8 ha
84.1 ha	84.1 ha	84.1 ha
85.4 ha	85.4 ha	85.4 ha
86.7 ha	86.7 ha	86.7 ha
88.0 ha	88.0 ha	88.0 ha
89.3 ha	89.3 ha	89.3 ha
90.6 ha	90.6 ha	90.6 ha
91.9 ha	91.9 ha	91.9 ha
93.2 ha	93.2 ha	93.2 ha
94.5 ha	94.5 ha	94.5 ha
95.8 ha	95.8 ha	95.8 ha
97.1 ha	97.1 ha	97.1 ha
98.4 ha	98.4 ha	98.4 ha
99.7 ha	99.7 ha	99.7 ha
101.0 ha	101.0 ha	101.0 ha
102.3 ha	102.3 ha	102.3 ha
103.6 ha	103.6 ha	103.6 ha
104.9 ha	104.9 ha	104.9 ha
106.2 ha	106.2 ha	106.2 ha
107.5 ha	107.5 ha	107.5 ha
108.8 ha	108.8 ha	108.8 ha
110.1 ha	110.1 ha	110.1 ha
111.4 ha	111.4 ha	111.4 ha
112.7 ha	112.7 ha	112.7 ha
114.0 ha	114.0 ha	114.0 ha
115.3 ha	115.3 ha	115.3 ha
116.6 ha	116.6 ha	116.6 ha
117.9 ha	117.9 ha	117.9 ha
119.2 ha	119.2 ha	119.2 ha
120.5 ha	120.5 ha	120.5 ha
121.8 ha	121.8 ha	121.8 ha
123.1 ha	123.1 ha	123.1 ha
124.4 ha	124.4 ha	124.4 ha
125.7 ha	125.7 ha	125.7 ha
127.0 ha	127.0 ha	127.0 ha
128.3 ha	128.3 ha	128.3 ha
129.6 ha	129.6 ha	129.6 ha
130.9 ha	130.9 ha	130.9 ha
132.2 ha	132.2 ha	132.2 ha
133.5 ha	133.5 ha	133.5 ha
134.8 ha	134.8 ha	134.8 ha
136.1 ha	136.1 ha	136.1 ha
137.4 ha	137.4 ha	137.4 ha
138.7 ha	138.7 ha	138.7 ha
140.0 ha	140.0 ha	140.0 ha
141.3 ha	141.3 ha	141.3 ha
142.6 ha	142.6 ha	142.6 ha
143.9 ha	143.9 ha	143.9 ha
145.2 ha	145.2 ha	145.2 ha
146.5 ha	146.5 ha	146.5 ha
147.8 ha	147.8 ha	147.8 ha
149.1 ha	149.1 ha	149.1 ha
150.4 ha	150.4 ha	150.4 ha
151.7 ha	151.7 ha	151.7 ha
153.0 ha	153.0 ha	153.0 ha
154.3 ha	154.3 ha	154.3 ha
155.6 ha	155.6 ha	155.6 ha
156.9 ha	156.9 ha	156.9 ha
158.2 ha	158.2 ha	158.2 ha
159.5 ha	159.5 ha	159.5 ha
160.8 ha	160.8 ha	160.8 ha
162.1 ha	162.1 ha	162.1 ha
163.4 ha	163.4 ha	163.4 ha
164.7 ha	164.7 ha	164.7 ha
166.0 ha	166.0 ha	166.0 ha
167.3 ha	167.3 ha	167.3 ha
168.6 ha	168.6 ha	168.6 ha
169.9 ha	169.9 ha	169.9 ha
171.2 ha	171.2 ha	171.2 ha
172.5 ha	172.5 ha	172.5 ha
173.8 ha	173.8 ha	173.8 ha
175.1 ha	175.1 ha	175.1 ha
176.4 ha	176.4 ha	176.4 ha
177.7 ha	177.7 ha	177.7 ha
179.0 ha	179.0 ha	179.0 ha
180.3 ha	180.3 ha	180.3 ha
181.6 ha	181.6 ha	181.6 ha
182.9 ha	182.9 ha	182.9 ha
184.2 ha	184.2 ha	184.2 ha
185.5 ha	185.5 ha	185.5 ha
186.8 ha	186.8 ha	186.8 ha
188.1 ha	188.1 ha	188.1 ha
189.4 ha	189.4 ha	189.4 ha
190.7 ha	190.7 ha	190.7 ha
192.0 ha	192.0 ha	192.0 ha
193.3 ha	193.3 ha	193.3 ha
194.6 ha	194.6 ha	194.6 ha
195.9 ha	195.9 ha	195.9 ha
197.2 ha	197.2 ha	197.2 ha
198.5 ha	198.5 ha	198.5 ha
199.8 ha	199.8 ha	199.8 ha
201.1 ha	201.1 ha	201.1 ha
202.4 ha	202.4 ha	202.4 ha
203.7 ha	203.7 ha	203.7 ha
205.0 ha	205.0 ha	205.0 ha
206.3 ha	206.3 ha	206.3 ha
207.6 ha	207.6 ha	207.6 ha
208.9 ha	208.9 ha	208.9 ha
210.2 ha	210.2 ha	210.2 ha
211.5 ha	211.5 ha	211.5 ha
212.8 ha	212.8 ha	212.8 ha
214.1 ha	214.1 ha	214.1 ha
215.4 ha	215.4 ha	215.4 ha
216.7 ha	216.7 ha	216.7 ha
218.0 ha	218.0 ha	218.0 ha
219.3 ha	219.3 ha	219.3 ha
220.6 ha	220.6 ha	220.6 ha
221.9 ha	221.9 ha	221.9 ha
223.2 ha	223.2 ha	223.2 ha
224.5 ha	224.5 ha	224.5 ha
225.8 ha	225.8 ha	225.8 ha
227.1 ha	227.1 ha	227.1 ha
228.4 ha	228.4 ha	228.4 ha
229.7 ha	229.7 ha	229.7 ha
231.0 ha	231.0 ha	231.0 ha
232.3 ha	232.3 ha	232.3 ha
233.6 ha	233.6 ha	233.6 ha
234.9 ha	234.9 ha	234.9 ha
236.2 ha	236.2 ha	236.2 ha
237.5 ha	237.5 ha	237.5 ha
238.8 ha	238.8 ha	238.8 ha
240.1 ha	240.1 ha	240.1 ha
241.4 ha	241.4 ha	241.4 ha
242.7 ha	242.7 ha	242.7 ha
244.0 ha	244.0 ha	244.0 ha
245.3 ha	245.3 ha	245.3 ha
246.6 ha	246.6 ha	246.6 ha
247.9 ha	247.9 ha	247.9 ha
249.2 ha	249.2 ha	249.2 ha
250.5 ha	250.5 ha	250.5 ha
251.8 ha	251.8 ha	251.8 ha
253.1 ha	253.1 ha	253.1 ha
254.4 ha	254.4 ha	254.4 ha
255.7 ha	255.7 ha	255.7 ha
257.0 ha	257.0 ha	257.0 ha
258.3 ha	258.3 ha	258.3 ha
259.6 ha	259.6 ha	259.6 ha
260.9 ha	260.9 ha	260.9 ha
262.2 ha	262.2 ha	262.2 ha
263.5 ha	263.5 ha	263.5 ha
264.8 ha	264.8 ha	264.8 ha
266.1 ha	266.1 ha	266.1 ha
267.4 ha	267.4 ha	267.4 ha
268.7 ha	268.7 ha	268.7 ha
270.0 ha	270.0 ha	270.0 ha
271.3 ha	271.3 ha	271.3 ha
272.6 ha	272.6 ha	272.6 ha
273.9 ha	273.9 ha	273.9 ha
275.2 ha	275.2 ha	275.2 ha
276.5 ha	276.5 ha	276.5 ha
277.8 ha	277.8 ha	277.8 ha
279.1 ha	279.1 ha	279.1 ha
280.4 ha	280.4 ha	280.4 ha
281.7 ha	281.7 ha	281.7 ha
283.0 ha	283.0 ha	283.0 ha
284.3 ha	284.3 ha	284.3 ha
285.6 ha	285.6 ha	285.6 ha
286.9 ha	286.9 ha	286.9 ha
288.2 ha	288.2 ha	288.2 ha
289.5 ha	289.5 ha	289.5 ha
290.8 ha	290.8 ha	290.8 ha
292.1 ha	292.1 ha	292.1 ha
293.4 ha	293.4 ha	293.4 ha
294.7 ha	294.7 ha	294.7 ha
296.0 ha	296.0 ha	296.0 ha
297.3 ha	297.3 ha	297.3 ha
298.6 ha	298.6 ha	298.6 ha
299.9 ha	299.9 ha	299.9 ha
301.2 ha	301.2 ha	301.2 ha
302.5 ha	302.5 ha	302.5 ha
303.8 ha	303.8 ha	303.8 ha
305.1 ha	305.1 ha	305.1 ha
306.4 ha	306.4 ha	306.4 ha
307.7 ha	307.7 ha	307.7 ha
309.0 ha	309.0 ha	309.0 ha
310.3 ha	310.3 ha	310.3 ha
311.6 ha	311.6 ha	311.6 ha
312.9 ha	312.9 ha	312.9 ha
314.2 ha	314.2 ha	314.2 ha
315.5 ha	315.5 ha	315.5 ha
316.8 ha	316.8 ha	316.8 ha
318.1 ha	318.1 ha	318.1 ha
319.4 ha	319.4 ha	319.4 ha
320.7 ha	320.7 ha	320.7 ha
322.0 ha	322.0 ha	322.0 ha
323.3 ha	323.3 ha	323.3 ha
324.6 ha	324.6 ha	324.6 ha
325.9 ha	325.9 ha	325.9 ha
327.2 ha	327.2 ha	327.2 ha
328.5 ha	328.5 ha	328.5 ha
329.8 ha	329.8 ha	329.8 ha
331.1 ha	331.1 ha	331.1 ha
332.4 ha	332.4 ha	332.4 ha
333.7 ha	333.7 ha	333.7 ha
335.0 ha	335.0 ha	335.0 ha
336.3 ha	336.3 ha	336.3 ha
337.6 ha	337.6 ha	337.6 ha
338.9 ha	338.9 ha	338.9 ha
340.2 ha	340.2 ha	340.2 ha
341.5 ha	341.5 ha	341.5 ha
342.8 ha	342.8 ha	342.8 ha
344.1 ha	344.1 ha	344.1 ha
345.4 ha	345.4 ha	345.4 ha
346.7 ha	346.7 ha	346.7 ha
348.0 ha	348.0 ha	348.0 ha
349.3 ha	349.3 ha	349.3 ha
350.6 ha	350.6 ha	350.6 ha
351.9 ha	351.9 ha	351.9 ha



GROUND FLOOR PLAN 1:100

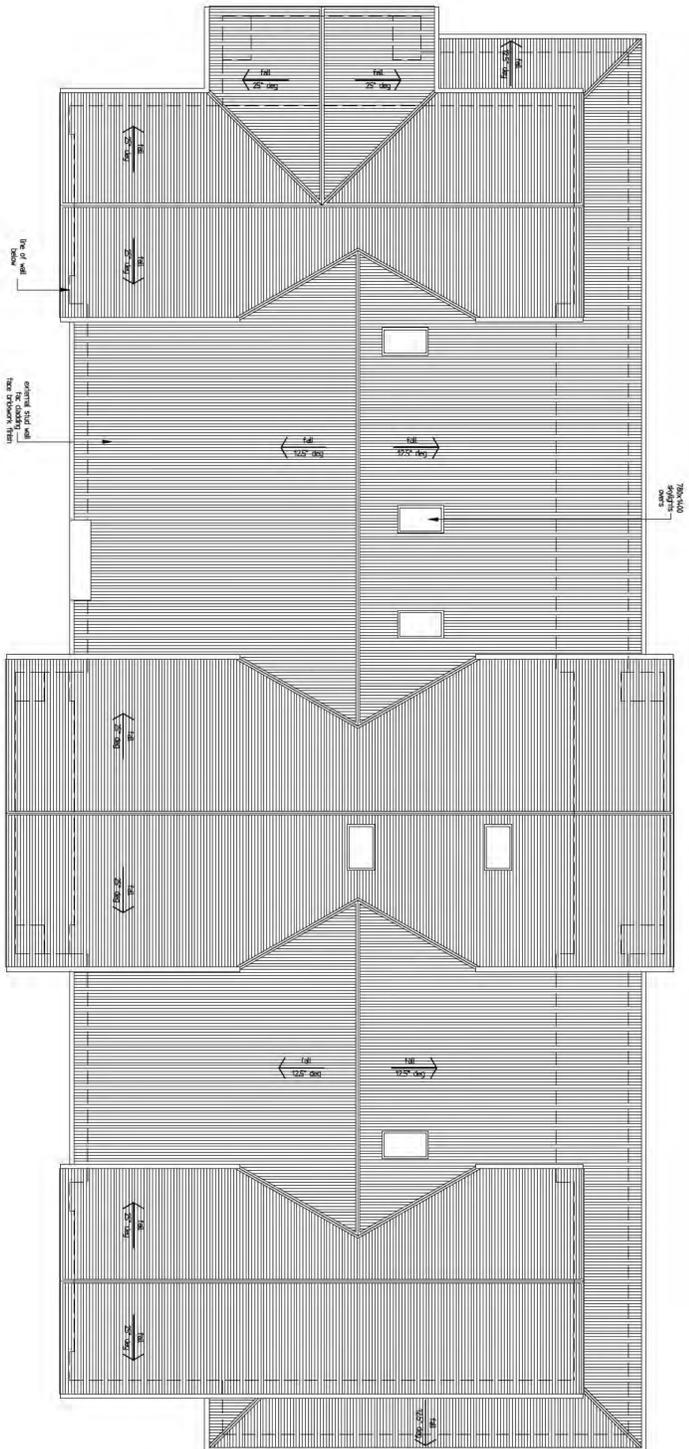


LEVEL 2 SUITE 216 MACARTHUR POINT  
 NO. 25-27 SOLENT CIRCUIT NORWEST  
 P.O. BOX 6470 BAULKHAM HILLS  
 BUSINESS CENTRE NSW 2153  
 PHONE: (02) 8824 3533 FAX: (02) 8824 3544  
 WWW.AANDDESIGN.COM.AU

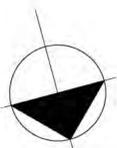
REV	DATE	BY	CHK	DESCRIPTION
1	26/07/22	A	DC	PRELIMINARY DA SET
2	26/07/22	A	DC	ISSUE FOR DA APPROVAL
3	26/07/22	A	DC	ISSUE FOR DA APPROVAL
4	26/07/22	A	DC	PRELIMINARY DA SET
5	26/07/22	A	DC	ISSUE FOR DA APPROVAL
6	26/07/22	A	DC	ISSUE FOR DA APPROVAL

Lot 101, No. 9036 NEW ENGLAND  
 HIGHWAY, MUSSWELLBROOK





ROOF PLAN 1:100



LEVEL 2 SUITE 216 MACARTHUR POINT  
 NO. 25-27 SOLENT CIRCUIT NORTHWEST  
 P.O. BOX 6470 Baulkham Hills  
 BUSINESS CENTRE NSW 2153  
 PHONE: (02) 8824 3533 FAX: (02) 8824 3544  
 WWW.AANDDESIGN.COM.AU

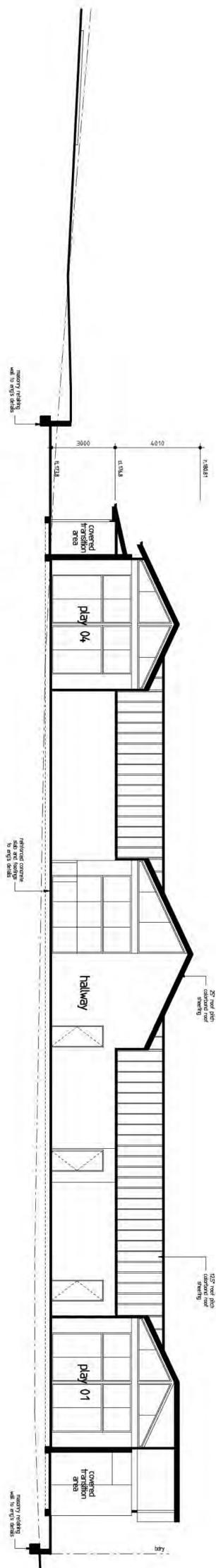
REV.	DATE	BY	CHK	DESCRIPTION
1	26/9/22	A	DC	ISSUE FOR APPROVAL
2	26/9/22	A	DC	PRELIMINARY DA SET
3				AMENDMENTS

Lot 101, No. 9036 NEW ENGLAND  
 HIGHWAY, MUSSWELLBROOK

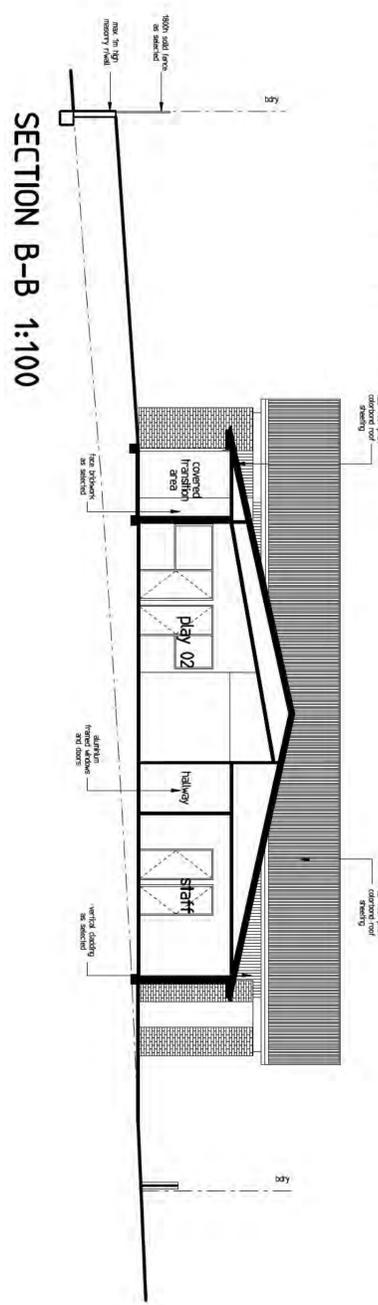


THIS DRAWING IS THE PROPERTY OF A&N DESIGN PT. LTD. REPRODUCTION, COPYING OR USE IN PART OR WHOLE WITHOUT WRITTEN PERMISSION IS STRICTLY PROHIBITED. LEGAL ACTION WILL BE TAKEN AGAINST OFFENDERS. A&N DESIGN PT. LTD. TAKES NO RESPONSIBILITY FOR DESIGN SIMILARITIES THAT MAY HAVE BEEN INCURRED. TO BE USED AS GUIDE ONLY AND SUBJECT TO LOCAL APPROVALS.

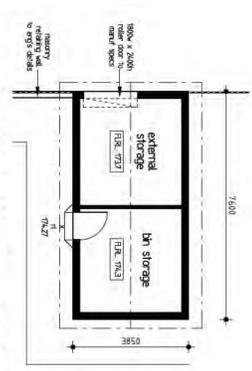




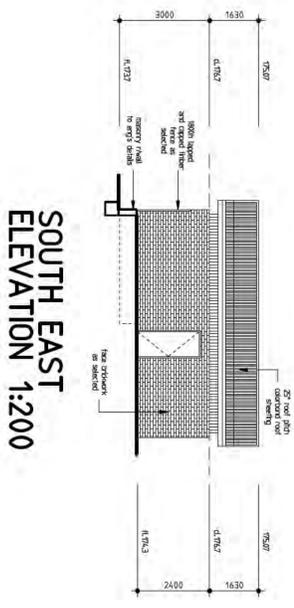
SECTION A-A 1:100



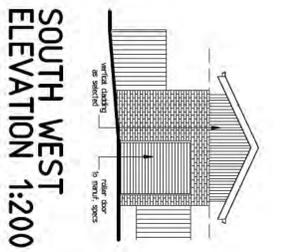
SECTION B-B 1:100



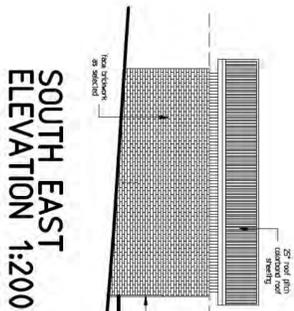
FLOOR PLAN 1:100



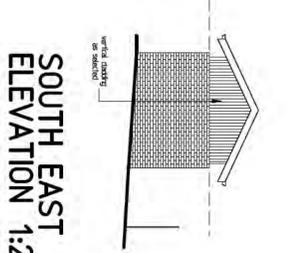
SOUTH EAST ELEVATION 1:200



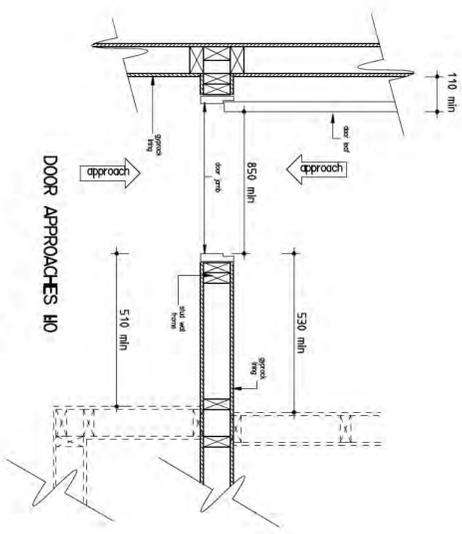
SOUTH WEST ELEVATION 1:200



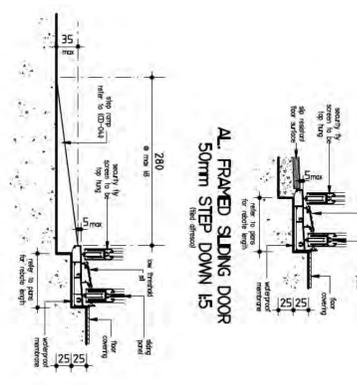
SOUTH EAST ELEVATION 1:200



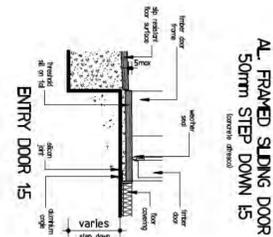
SOUTH EAST ELEVATION 1:200



DOOR APPROACHES 1:0



A1. FRAMED SLIDING DOOR 50mm STEP DOWN 15



ENTRY DOOR 15

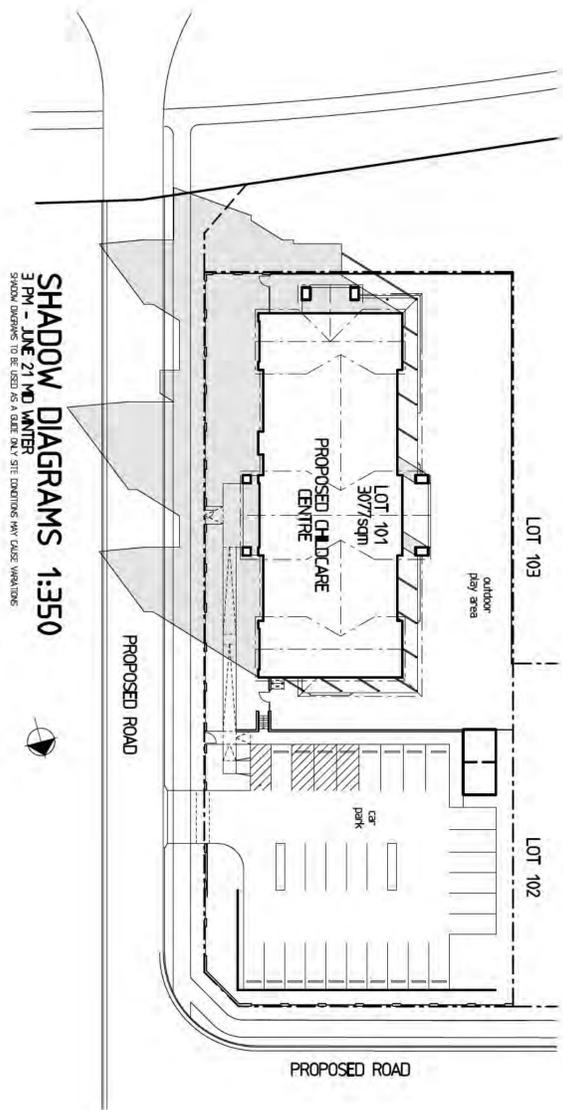
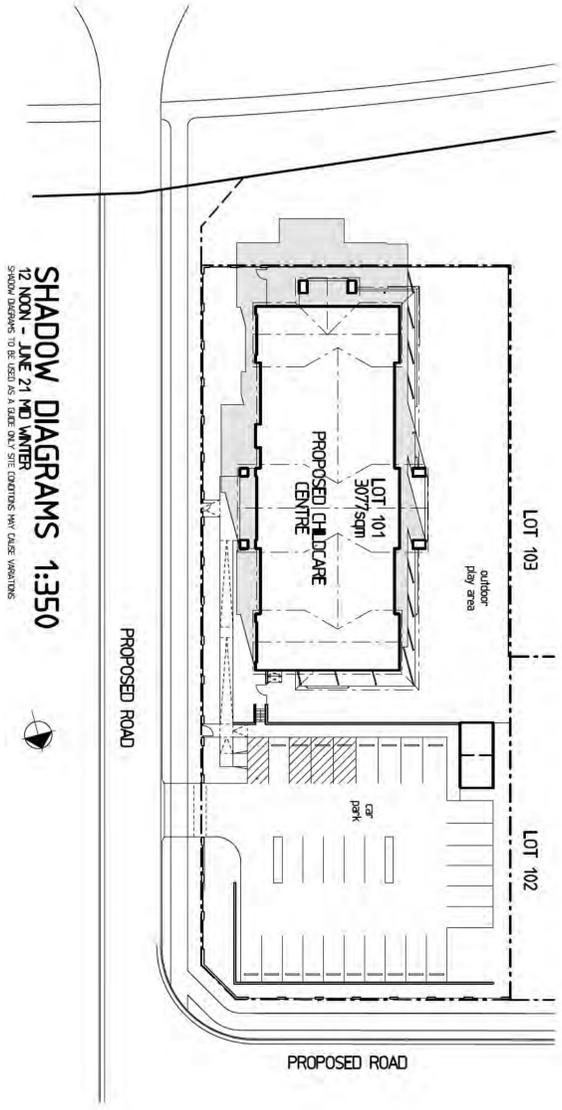
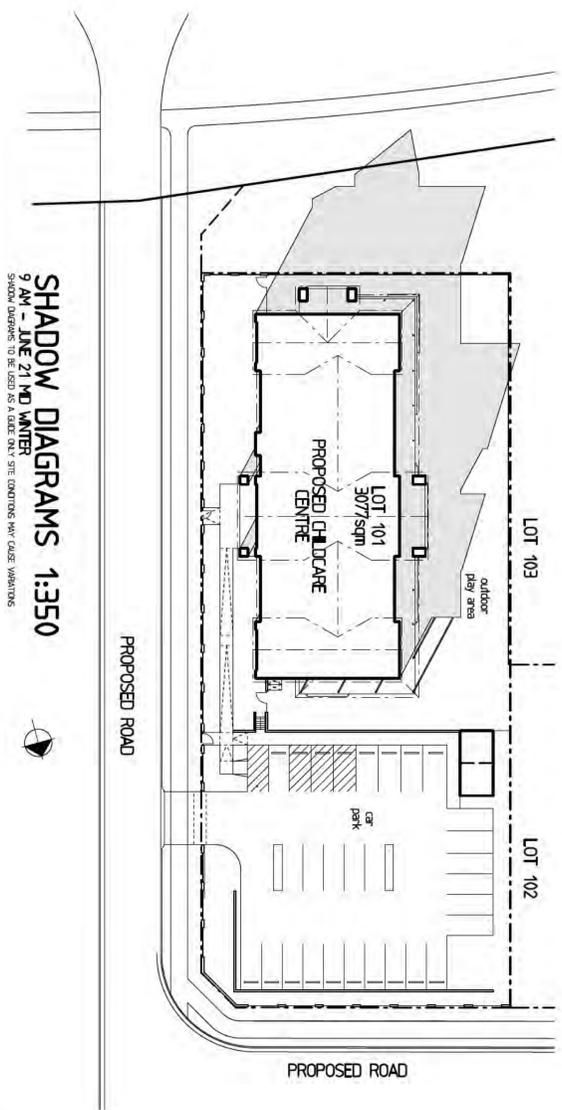


LEVEL 2 SUITE 216 MACARTHUR POINT  
 NO. 25-27 SOLENT CIRCUIT NORWEST  
 P.O. BOX 6470 BAULKHAM HILLS  
 BUSINESS CENTRE NSW 2153  
 PHONE: (02) 8824 3533 FAX: (02) 8824 3544  
 WWW.AANDNDESIGN.COM.AU

REV	DATE	BY	CHK	DESCRIPTION
1	26/07/22	A		PRELIMINARY DA SET
2	06/08/22	A		ISSUE FOR DA APPROVAL
3	07/08/22	C		ISSUE FOR DA APPROVAL
4	07/08/22	C		ISSUE FOR DA APPROVAL

Lot 101, No. 9036 NEW ENGLAND  
 HIGHWAY, MUSSWELLBROOK





LEVEL 2 SUITE 216 MACARTHUR POINT  
NO. 25-27 SOLENT CIRCUIT NORWEST  
P.O. BOX 6470 BAULKHAM HILLS  
BUSINESS CENTRE NSW 2153 (02) 8824 3544  
PHONE: (02) 8824 3533 FAX: (02) 8824 3544  
WWW.AANDDESIGN.COM.AU

REV	DATE	BY	CHK	DESCRIPTION
1	26/07/22	A	DC	PRELIMINARY DA SET
2	26/07/22	A	DC	REVISIONS
3	26/07/22	A	DC	ISSUE FOR DA APPROVAL
4	26/07/22	A	DC	ISSUE FOR DA APPROVAL
5	26/07/22	A	DC	ISSUE FOR DA APPROVAL

Lot 101, No. 9036 NEW ENGLAND  
HIGHWAY, MUSSWELLBROOK





LOCALITY PLAN IMAGE SOURCE: NEARMAPS

DWG NO.	DRAWING TITLE
SC-C01.01	COVER SHEET, DRAWING LIST AND LOCALITY PLAN
SC-C02.01	GENERAL ARRANGEMENT PLAN
SC-C03.01	TYPICAL SECTIONS
SC-C04.01	CIVIL WORKS PLAN
SC-C05.01	VEHICLE TURN PATHS

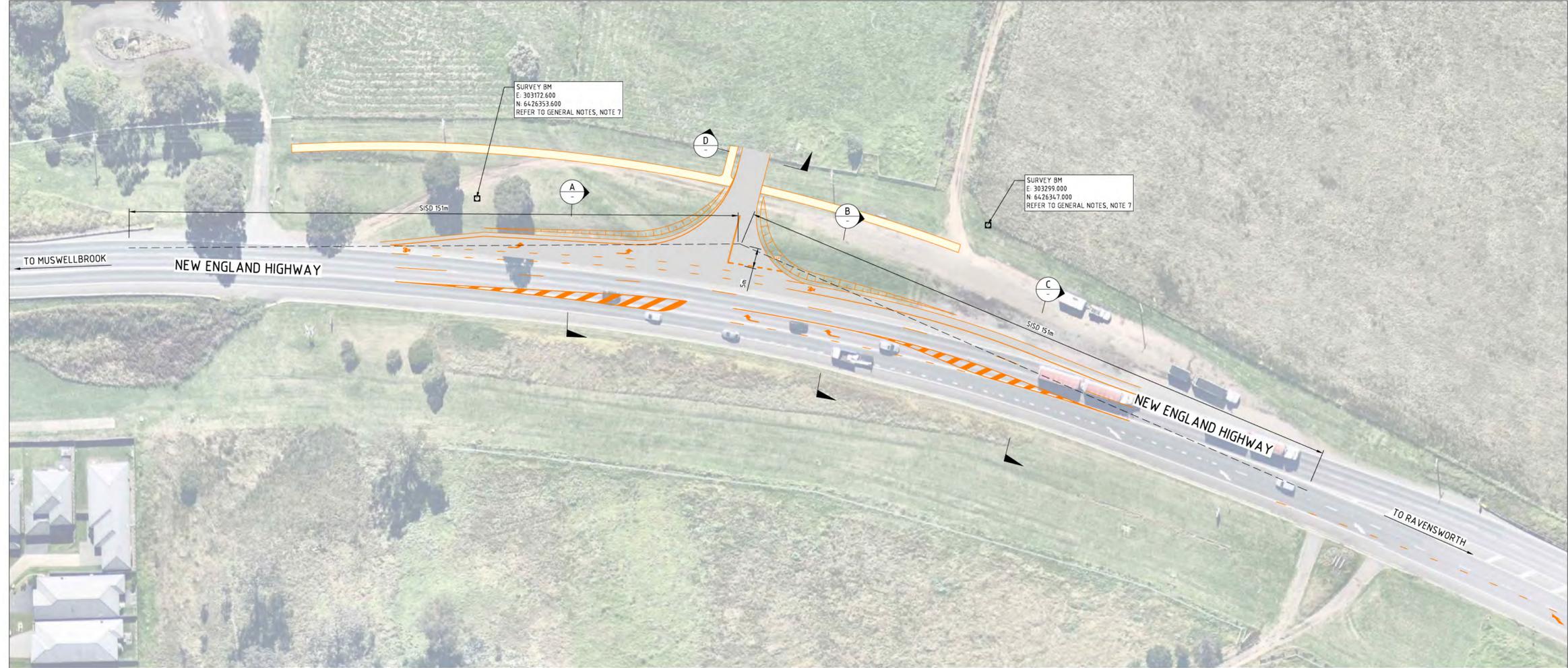
# SHIRE OF MUSWELLBROOK (HW9) - NEW ENGLAND HIGHWAY PROPOSED INTERSECTION 9036 NEW ENGLAND HIGHWAY EAST OF MUSWELLBROOK - STRATEGIC CONCEPT -

DRAWN: W.CRITTENDEN DESIGNED: W.CRITTENDEN JOB MANAGER: B.CLARK VERIFIER: B.CLARK

DESIGNED	VERIFIED	RECOMMENDED	ACCEPTED
SIGNED	SIGNED	SIGNED	SIGNED
NAME .....	NAME .....	NAME .....	NAME .....
DATE .....	DATE .....	DATE .....	DATE .....

**NOT FOR CONSTRUCTION**

REVISION	DESCRIPTION	ISSUED	VER'D	APP'D	DATE	CLIENT	PROJECT	DRAWING TITLE	JOB NUMBER	
A	ISSUED FOR APPROVAL	WC	BC	BC	02.09.22	<b>M.M. HYNDES, BAILEY &amp; CO.</b> Land, Engineering and GPS Surveyors <small>208 Ridge Street, PO Box 28            MUSWELLBROOK NSW 2333            ph: 02 65422476 Fax: 02 65434400</small>	 <b>NORTHROP</b> Newcastle Level 1, 215 Pacific Hwy, Charlestown NSW 2200 Ph (02) 4943 1777 Email newcastle@northrop.com.au ABN 81 094 433 100	<b>PROPOSED INTERSECTION 9036 NEW ENGLAND HIGHWAY MUSWELLBROOK, NSW</b>  <b>TfNSW No. XXXXXXXXXX</b>	<b>CIVIL ENGINEERING PACKAGE</b>  <b>COVER SHEET, DRAWING LIST AND LOCALITY PLAN</b>	<b>NL221837</b>
B	RE-ISSUED FOR APPROVAL	WC	BC	BC	08.02.23					<b>SC-C01.01</b>
<small>DRAWING NOT TO BE USED FOR CONSTRUCTION UNLESS VERIFICATION SIGNATURE HAS BEEN ADDED</small>						<small>THE COPYRIGHT OF THIS DRAWING REMAINS WITH NORTHROP CONSULTING ENGINEERS PTY LTD</small>	<small>DRAWING SHEET SIZE = A1</small>			



PLAN

**GENERAL NOTES**

- THE SURVEY IS ON THE MAP GRID OF AUSTRALIA (MGA).
- ALL REDUCED LEVELS ARE BASED ON THE AUSTRALIAN HEIGHT DATUM (AHD).
- SIGHT DISTANCE CALCULATIONS FROM AUSTRROADS GUIDE TO ROAD DESIGN PART 4A: UNSIGNALISED AND SIGNALISED INTERSECTIONS (SECTION 3).
- ALL WORK SHALL BE CARRIED OUT TO TNSW STANDARDS, AUSTRALIAN STANDARDS AND THE BUILDING CODE OF AUSTRALIA.
- ALL MEASUREMENTS ARE IN METRES UNLESS NOTED OTHERWISE.
- PROVISION FOR TRAFFIC SHALL BE IN ACCORDANCE WITH AS1742.3, THE TNSW PUBLICATION "TRAFFIC CONTROL AT WORK SITES" AND THE TRAFFIC MANAGEMENT PLAN PREPARED FOR THIS PROJECT.
- NO SURVEY STATIONS ARE TO BE DISTURBED WITHOUT AUTHORISATION FROM TNSW. ANY SURVEY MARK THAT COULD BE DESTROYED FOR ANY WORKS RELATING TO THIS PROJECT ARE TO BE REPLACED, CO-ORDINATED AND DOCUMENTED TO SURVEYOR-GENERAL'S DIRECTIONS. OTHERWISE FINES CAN BE INCURRED. REFER TO SURVEYOR-GENERAL'S DIRECTION No 11.
- ALL TREES NOT DIRECTLY IMPACTED BY THE WORKS ARE TO BE RETAINED UNLESS DIRECTED BY THE PRINCIPAL/PROJECT CERTIFIER.
- THESE DRAWINGS SHALL BE READ IN CONJUNCTION WITH ALL OTHER DRAWINGS, SPECIFICATIONS AND WRITTEN INSTRUCTIONS AS MAY BE ISSUED DURING THE COURSE OF THE CONTRACT.
- IF THE CONTRACTOR HAS ANY QUESTIONS, REQUIRES CLARIFICATION OF ANY ISSUES, OR FINDS ANY DISCREPANCIES WITHIN THESE DRAWINGS, THE CONTRACTOR SHALL ADVISE THE PRINCIPAL/PROJECT CERTIFIER BEFORE PROCEEDING.
- ALL SET OUT DIMENSIONS SHALL BE VERIFIED BY THE CONTRACTOR ON SITE PRIOR TO COMMENCEMENT OF WORKS. DRAWINGS SHALL NOT BE SCALED FOR DIMENSIONS.
- THE CONTRACTOR SHALL LOCATE AND IDENTIFY ALL UNDERGROUND SERVICES PRIOR TO COMMENCEMENT OF WORK AND SHALL REPAIR ANY DAMAGE CAUSED TO SUCH SERVICES DURING THE COURSE OF THE WORKS. ANY SERVICE LOCATIONS SHOWN ON THE FOLLOWING DRAWINGS ARE INDICATIVE ONLY.
- DURING CONSTRUCTION THE WORKS SHALL BE MAINTAINED IN A STABLE CONDITION AND NO PARTS SHALL BE OVER STRESSED. TEMPORARY BRACING AND BATTERS SHALL BE PROVIDED BY THE CONTRACTOR TO ENSURE WORKS AND EXCAVATIONS ARE STABLE AT ALL TIMES.

**EXISTING SERVICES AND FEATURES**

- ALL UTILITY SERVICES INDICATED ON THE DRAWINGS ORIGINATE FROM SUPPLIED DATA, THEREFORE THEIR ACCURACY AND COMPLETENESS IS NOT GUARANTEED. CONFIRM THE LOCATION AND LEVEL OF ALL EXISTING SERVICES PRIOR TO THE COMMENCEMENT OF ANY WORK. ANY DISCREPANCIES SHALL BE REPORTED TO THE SUPERINTENDENT. CLEARANCES SHALL BE OBTAINED FROM THE RELEVANT SERVICE AUTHORITY PRIOR TO CONSTRUCTION.
- PRIOR TO COMMENCEMENT OF ANY WORKS, GAIN APPROVAL OF THE PROGRAM FOR THE RELOCATION AND/OR CONSTRUCTION OF TEMPORARY SERVICES AND FOR ANY ASSOCIATED INTERRUPTION OF SUPPLY FROM THE APPROPRIATE SERVICE AUTHORITY.
- PROTECT AND MAINTAIN ALL EXISTING SERVICES THAT ARE TO BE RETAINED IN THE VICINITY OF THE PROPOSED WORKS. ANY AND ALL DAMAGE TO THESE SERVICES AS A RESULT OF THESE WORKS, OR ANY ECONOMIC LOSS SUFFERED AS A RESULT OF DAMAGES TO SERVICES, SHALL BE REPAIRED OR REMEDIED UNDER THE DIRECTION OF THE SUPERINTENDENT, AND AT NO COST TO THE PRINCIPAL OR NORTHROP CONSULTING ENGINEERS.
- CARE IS TO BE TAKEN WHEN EXCAVATING NEAR EXISTING SERVICES. NO MECHANICAL EXCAVATIONS ARE TO BE UNDERTAKEN OVER COMMUNICATION, GAS, WATER, SEWER RISING MAINS OR ELECTRICAL SERVICES. HAND EXCAVATION ONLY IN THESE AREAS.
- ALLOW IN THE PROGRAM FOR ADJUSTMENT IF REQUIRED OF EXISTING SERVICES IN AREAS AFFECTED BY WORKS.
- ENSURE THAT AT ALL TIMES SERVICES TO ALL BUILDINGS NOT AFFECTED BY THE WORKS ARE NOT DISRUPTED.
- CONSTRUCT TEMPORARY SERVICES TO MAINTAIN EXISTING SUPPLY TO BUILDINGS REMAINING IN OPERATION DURING WORKS TO THE SATISFACTION AND APPROVAL OF THE SUPERINTENDENT. ONCE DIVERSION IS COMPLETE AND COMMISSIONED, REMOVE ALL SUCH TEMPORARY SERVICES AND MAKE GOOD TO THE SATISFACTION OF THE SUPERINTENDENT.

**NOT FOR CONSTRUCTION**

REVISION	DESCRIPTION	ISSUED	VER'D	APP'D	DATE
A	ISSUED FOR APPROVAL	WC	BC	BC	02.09.22
B	RE-ISSUED FOR APPROVAL	WC	BC	BC	08.02.23
C	RE-ISSUED FOR APPROVAL	WC	BC	BC	23.02.23

CLIENT  
**M.M. HYNDES, BAILEY & CO.**  
Land, Engineering and GPS Surveyors  
208 Ridge Street, PO Box 28  
MUSWELLBROOK NSW 2333  
ph: 02 45424276 fax: 02 45444600

THE COPYRIGHT OF THIS DRAWING REMAINS WITH  
NORTHROP CONSULTING ENGINEERS PTY LTD

ALL DIMENSIONS TO BE VERIFIED ON SITE BEFORE COMMENCING WORK. NORTHROP ACCEPTS NO RESPONSIBILITY FOR THE VIABILITY, COMPLETENESS OR SCALE OF DRAWINGS TRANSFERRED ELECTRONICALLY. THIS DRAWING MAY HAVE BEEN PREPARED USING COLOUR AND MAY BE INCOMPLETE IF COPIED TO BLACK & WHITE.

SCALE 1:1000 @ A1

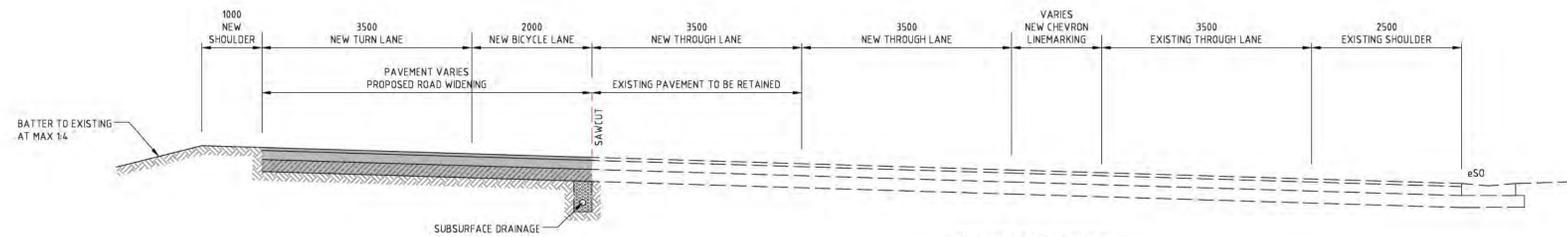
Level 1, 215 Pacific Hwy, Charlestown NSW 2200  
Ph (02) 4943 1777 Email newcastle@northrop.com.au  
ABN 81 094 433 100

PROJECT  
**PROPOSED INTERSECTION  
9036 NEW ENGLAND HIGHWAY  
MUSWELLBROOK, NSW**  
TNSW No. XXXXXXXXXX

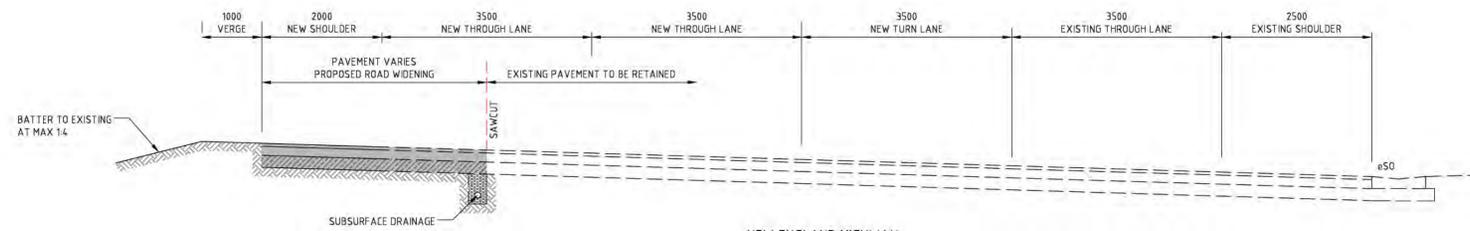
DRAWING TITLE  
**CIVIL ENGINEERING PACKAGE  
GENERAL ARRANGEMENT PLAN**

JOB NUMBER <b>NL221837</b>
DRAWING NUMBER <b>SC-C02.01</b>
REVISION <b>C</b>

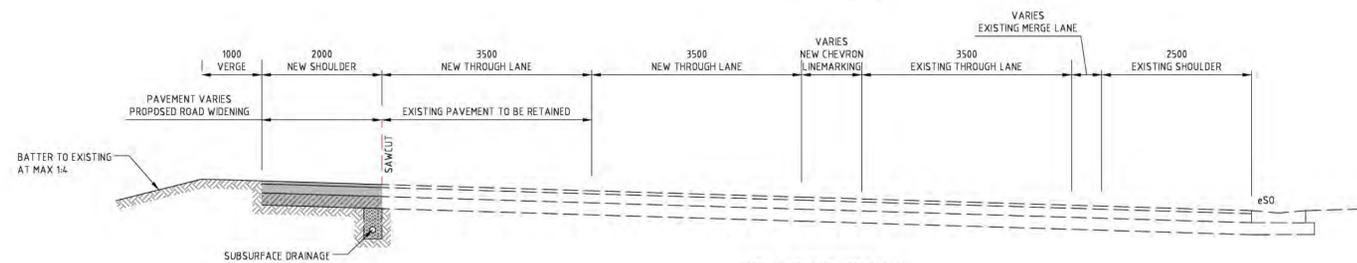
DRAWING SHEET SIZE = A1



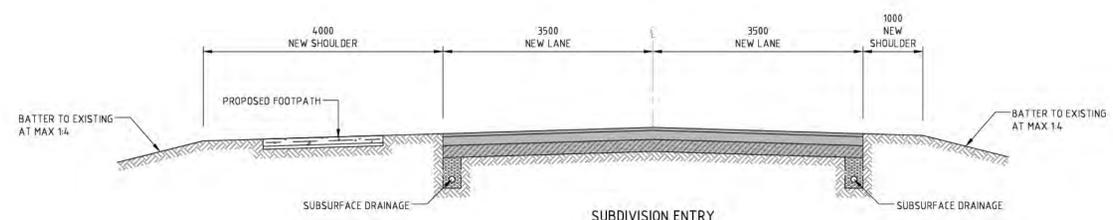
NEW ENGLAND HIGHWAY  
(WEST OF INTERSECTION)  
SECTION A  
(02.01)



NEW ENGLAND HIGHWAY  
(EAST OF INTERSECTION, THROUGH NEW TURN LANE)  
SECTION B  
(02.01)



NEW ENGLAND HIGHWAY  
(EAST OF INTERSECTION)  
SECTION C  
(02.01)



SUBDIVISION ENTRY  
SECTION D  
(02.01)

**NOT FOR CONSTRUCTION**

DRAWN: W.CRITTENDEN DESIGNED: W.CRITTENDEN JOB MANAGER: B.CLARK VERIFIER: B.CLARK

REVISION	DESCRIPTION	ISSUED	VER'D	APP'D	DATE
A	ISSUED FOR APPROVAL	WC	BC	BC	02.09.22
B	RE-ISSUED FOR APPROVAL	WC	BC	BC	08.02.23
C	RE-ISSUED FOR APPROVAL	WC	BC	BC	23.02.23

CLIENT  
**M.M. HYNDES, BAILEY & CO.**  
Land, Engineering and GPS Surveyors  
208 Ridge Street, PO Box 28  
MURWELLBROOK NSW 2203  
Ph: 02 4943 4378 Fax: 02 4943 4333

DRAWING NOT TO BE USED FOR CONSTRUCTION UNLESS VERIFICATION SIGNATURE HAS BEEN ADDED

THE COPYRIGHT OF THIS DRAWING REMAINS WITH NORTHROP CONSULTING ENGINEERS PTY LTD

SCALE 1:50 @ A1

Level 1, 215 Pacific Hwy, Charlestown NSW 2200  
Ph (02) 4943 1777 Email newcastle@northrop.com.au  
ABN 81 094 433 100

PROJECT  
**PROPOSED INTERSECTION  
9036 NEW ENGLAND HIGHWAY  
MUSWELLBROOK, NSW**

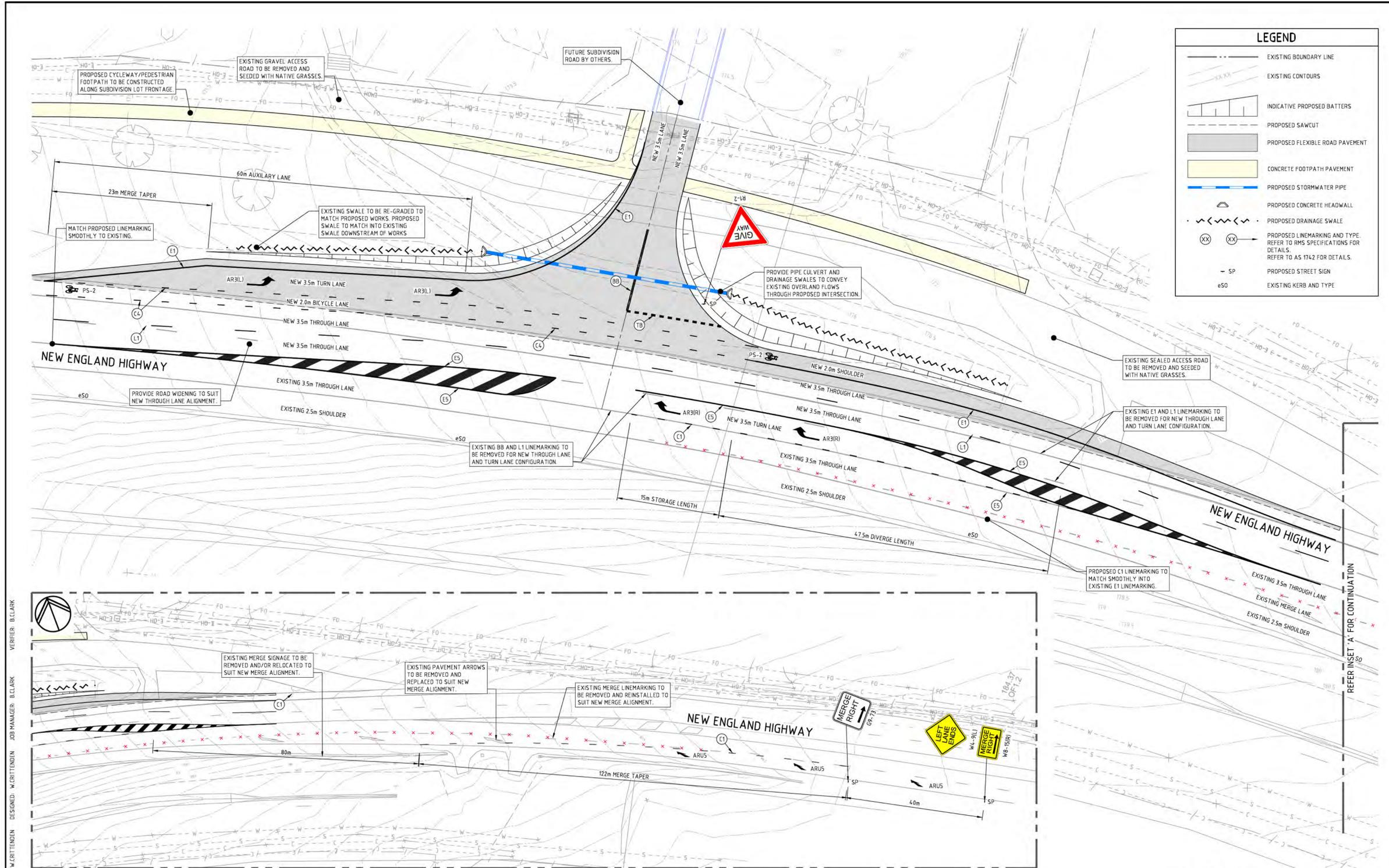
TNSW No. XXXXXXXXXX

DRAWING TITLE  
**CIVIL ENGINEERING PACKAGE**

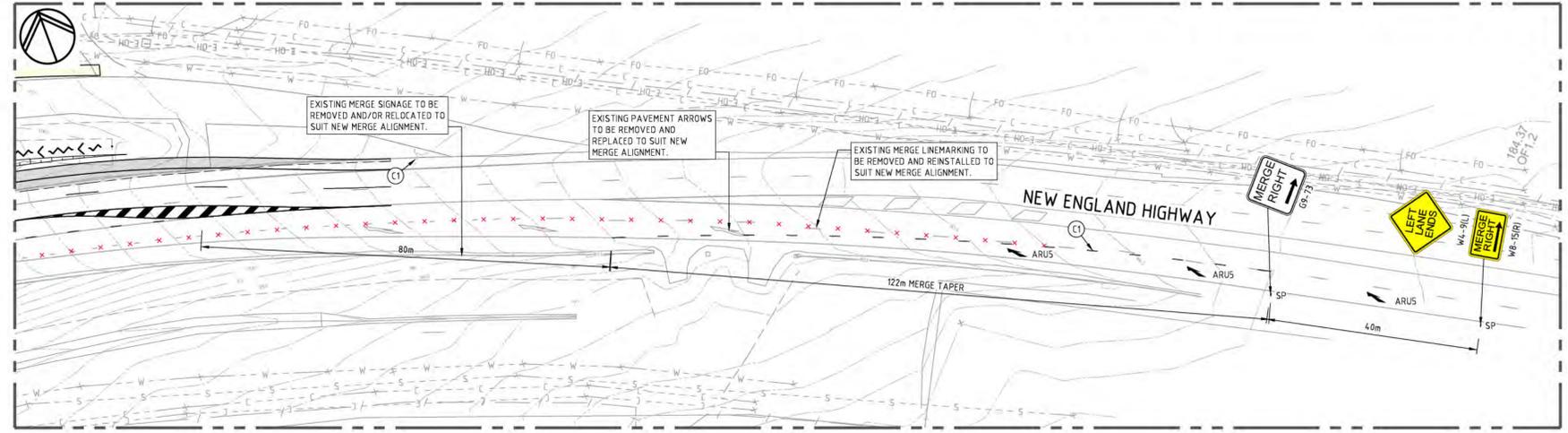
TYPICAL SECTIONS

JOB NUMBER <b>NL221837</b>
DRAWING NUMBER <b>SC-C03.01</b>
REVISION <b>C</b>

DRAWING SHEET SIZE = A1



LEGEND	
	EXISTING BOUNDARY LINE
	EXISTING CONTOURS
	INDICATIVE PROPOSED BATTERS
	PROPOSED SAWCUT
	PROPOSED FLEXIBLE ROAD PAVEMENT
	CONCRETE FOOTPATH PAVEMENT
	PROPOSED STORMWATER PIPE
	PROPOSED CONCRETE HEADWALL
	PROPOSED DRAINAGE SWALE
	PROPOSED LINEMARKING AND TYPE. REFER TO RMS SPECIFICATIONS FOR DETAILS. REFER TO A5 1742 FOR DETAILS.
	PROPOSED STREET SIGN
	EXISTING KERB AND TYPE



INSET 'A'  
SCALE 1:500

**NOT FOR CONSTRUCTION**

REVISION	DESCRIPTION	ISSUED	VER D	APP'D	DATE
A	ISSUED FOR APPROVAL	WC	BC	BC	02.09.22
B	RE-ISSUED FOR APPROVAL	WC	BC	BC	08.02.23
C	RE-ISSUED FOR APPROVAL	WC	BC	BC	23.02.23

CLIENT  
**M.M. HYNDES, BAILEY & CO.**  
Land, Engineering and GPS Surveyors  
208 Ridge Street, PO Box 28  
MUSWELLBROOK NSW 2233  
Ph: 02 65424276 Fax: 02 65434400

DRAWING NOT TO BE USED FOR CONSTRUCTION UNLESS VERIFICATION SIGNATURE HAS BEEN ADDED  
THE COPYRIGHT OF THIS DRAWING REMAINS WITH NORTHROP CONSULTING ENGINEERS PTY LTD

ALL DIMENSIONS TO BE VERIFIED ON SITE BEFORE COMMENCING WORK.  
NORTHROP ACCEPTS NO RESPONSIBILITY FOR THE USABILITY, COMPLETENESS OR SCALE OF DRAWINGS TRANSFERRED ELECTRONICALLY.  
THIS DRAWING MAY HAVE BEEN PREPARED USING COLOUR AND MAY BE INCOMPLETE IF COPIED TO BLACK & WHITE.

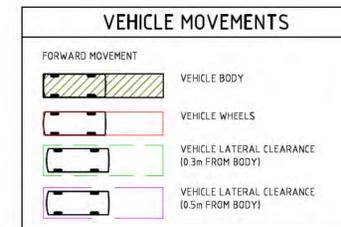
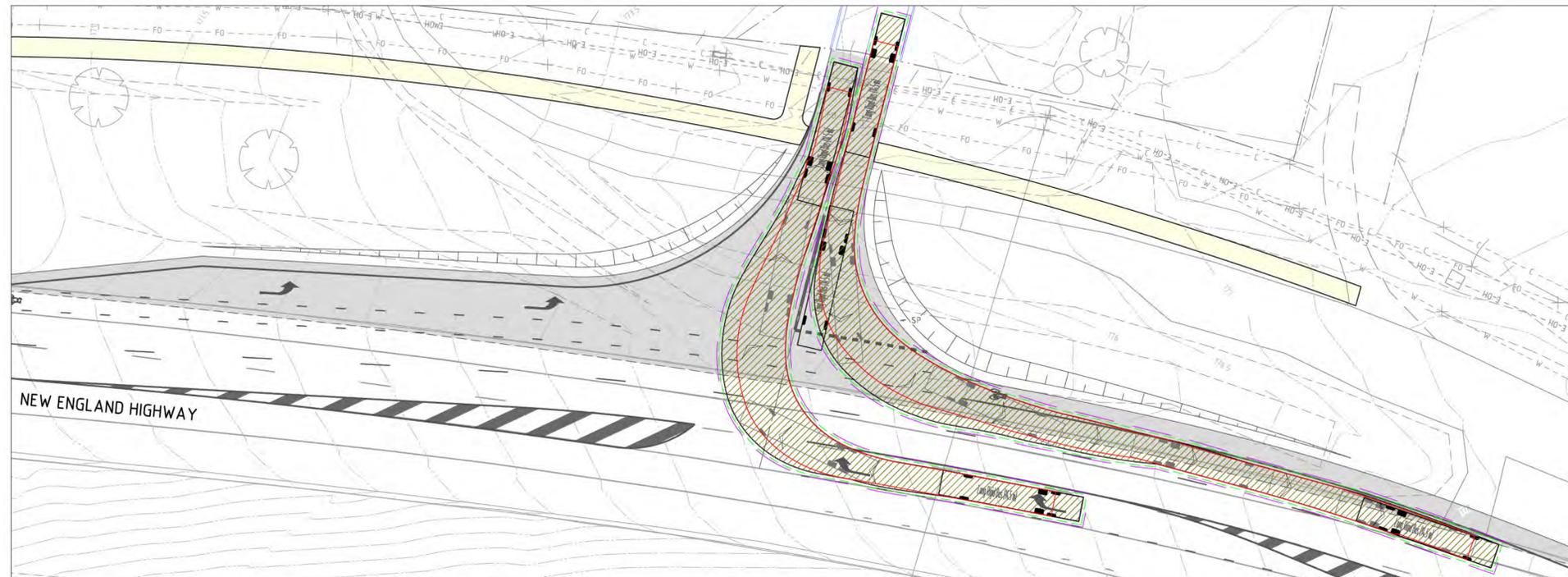
SCALE 1:250 @ A1

**NORTHROP**  
Newcastle  
Level 1, 215 Pacific Hwy, Charlestown NSW 2200  
Ph (02) 4943 1777 Email newcastle@northrop.com.au  
ABN 81 094 433 100

PROJECT  
**PROPOSED INTERSECTION  
9036 NEW ENGLAND HIGHWAY  
MUSWELLBROOK, NSW**  
TNSW No. XXXXXXXXXX

DRAWING TITLE  
**CIVIL ENGINEERING PACKAGE**  
**CIVIL WORKS PLAN**

JOB NUMBER	REVISION
<b>NL221837</b>	<b>C</b>
DRAWING NUMBER <b>SC-C04.01</b>	DRAWING SHEET SIZE = A1



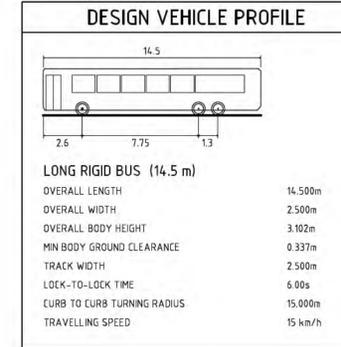
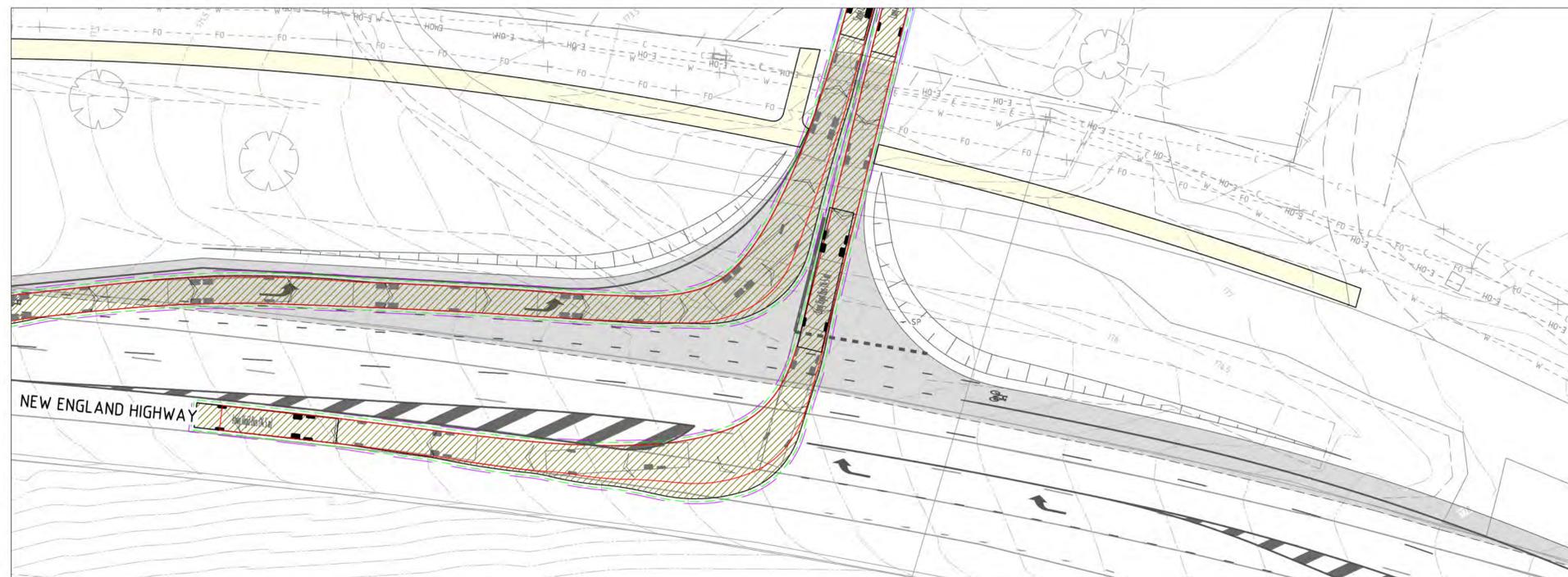
### DISCLAIMER

THE TURNING PATHS/TEMPLATES PROVIDED HAVE BEEN PRODUCED USING SIMULATION SOFTWARE AND ARE TO BE USED AS A GUIDE ONLY. THESE SIMULATIONS MAY NOT REFLECT ACTUAL DRIVER BEHAVIOUR AND/OR EXPERIENCE UNDER ACTUAL DRIVING CONDITIONS.

IT IS NORTHROP'S INTENTION TO UTILISE STANDARD VEHICLES NOMINATED IN AS2890.1 AND AS2890.2 FOR ALL DESIGN/CHECKING VEHICLE SIMULATIONS AT AN IDEAL MOVEMENT SPEED OF 10KM/H WITH A NOMINAL VEHICLE BODY OFFSET OF 500MM. WHERE MANOEUVRABILITY IS LIMITED AND SITE CONDITIONS ARE FAVOURABLE, AN ABSOLUTE MINIMUM SPEED OF 5KM/H WITH AN ABSOLUTE MINIMUM VEHICLE BODY CLEARANCE OF 300MM MAY BE ADOPTED.

IF THE USE OF SPECIFIC VEHICLES (NOT DETAILED UNDER AS2890) IS REQUESTED, IT IS TO BE NOTED THAT THEIR DIMENSIONS AND MANOEUVRING CHARACTERISTICS HAVE BEEN INTERPRETED INTO THE SIMULATION SOFTWARE FROM INFORMATION PROVIDED BY SERVICE PROVIDERS AND VEHICLE MANUFACTURERS. NORTHROP ACCEPTS NO RESPONSIBILITY OF THE ACCURACY THESE VEHICLE MOVEMENTS, AND ANY MANOEUVRES PROVIDED SHOULD ONLY BE USED AS A GUIDE WITH ACTUAL DESIGN BEING BASED AROUND ENGINEERING ADVICE AND AUSTRALIAN STANDARDS.

AT ALL TIMES, STANDARD VEHICLE TURNING PATHS/TEMPLATES ARE TO TAKE DESIGN PRECEDENCE OVER ALL SPECIFIC VEHICLES. UNDER NO CIRCUMSTANCE DOES THE SIMULATION PROVIDED RELIEVE ANY PARTY OF THEIR ROLE AND RESPONSIBILITY FOR PROVIDING DESIGN SOLUTIONS IN ACCORDANCE WITH GOOD DESIGN PRACTICES.



### NOTE

LONG RIGID BUS USED AS DESIGN VEHICLE AS IT IS EXPECTED TO BE THE LARGEST VEHICLE TO FREQUENT THE FUTURE SUBDIVISION.

**NOT FOR CONSTRUCTION**

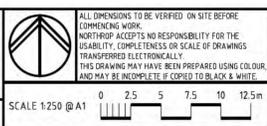
DRAWN: W.CRITTENDEN DESIGNED: W.CRITTENDEN JOB MANAGER: B.CLARK VERIFIER: B.CLARK

REVISION	DESCRIPTION	ISSUED	VER'D	APP'D	DATE
A	ISSUED FOR APPROVAL	WC	BC	BC	02.09.22
B	RE-ISSUED FOR APPROVAL	WC	BC	BC	08.02.23
C	RE-ISSUED FOR APPROVAL	WC	BC	BC	23.02.23

CLIENT  
**M.M. HYNDES, BAILEY & CO.**  
Land, Engineering and GPS Surveyors  
208 Ridge Street, PO Box 28  
MUSWELLBROOK NSW 2333  
ph: 02 6542470 fax: 02 6543400

DRAWING NOT TO BE USED FOR CONSTRUCTION UNLESS VERIFICATION SIGNATURE HAS BEEN ADDED

THE COPYRIGHT OF THIS DRAWING REMAINS WITH NORTHROP CONSULTING ENGINEERS PTY LTD



**NORTHROP**  
Newcastle  
Level 1, 215 Pacific Hwy, Charlestown NSW 2200  
Ph (02) 4943 1777 Email newcastle@northrop.com.au  
ABN 81 094 433 100

PROJECT  
**PROPOSED INTERSECTION  
9036 NEW ENGLAND HIGHWAY  
MUSWELLBROOK, NSW**  
TNSW No. XXXXXXXXXX

DRAWING TITLE  
**CIVIL ENGINEERING PACKAGE**  
**VEHICLE TURN PATHS**

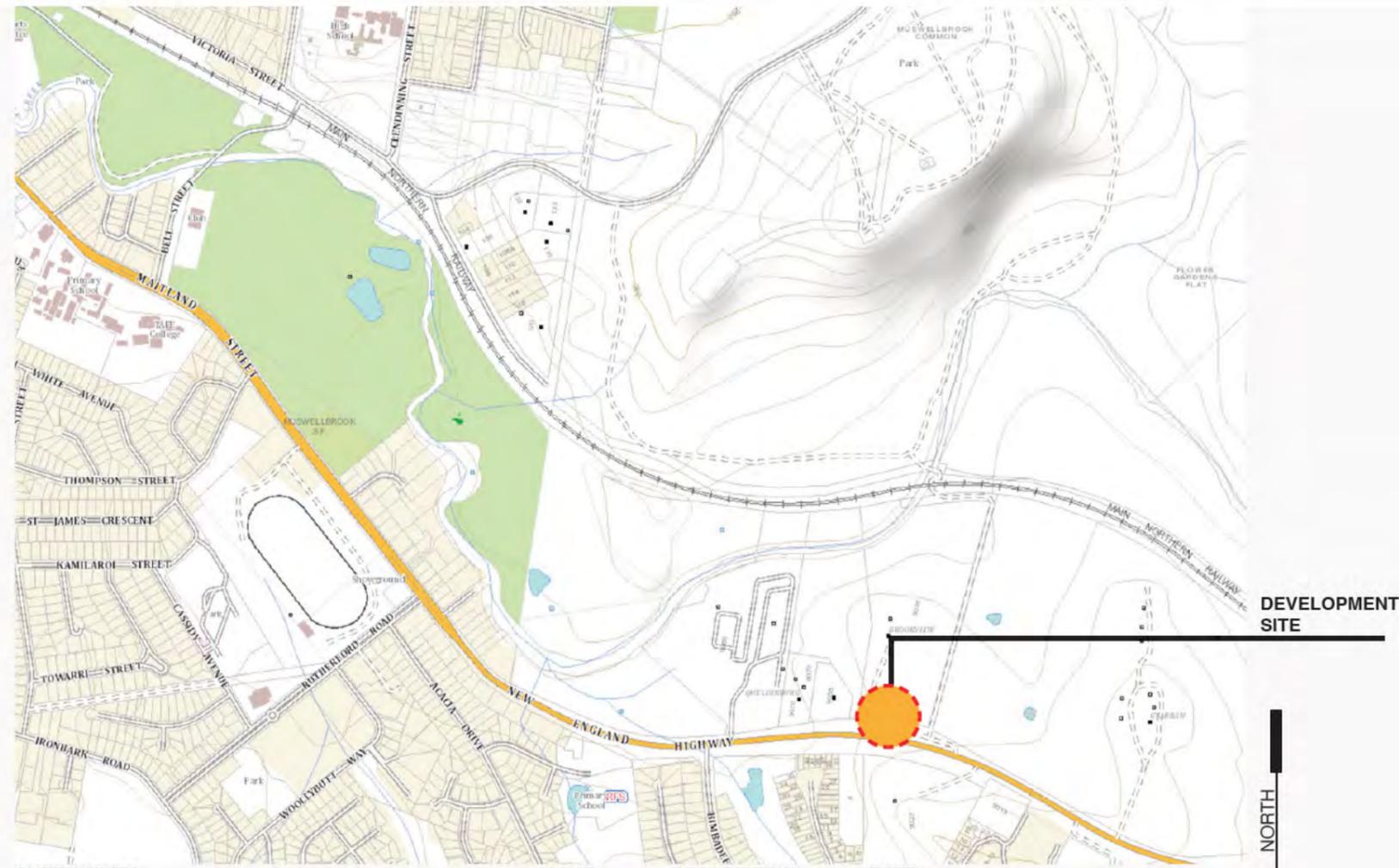
JOB NUMBER <b>NL221837</b>
DRAWING NUMBER <b>SC-C05.01</b>
REVISION <b>C</b>

DRAWING SHEET SIZE = A1

# Lots 101-14, 9036 New England Highway MUSWELLBROOK

Lots 101 - 104 / DP 1203294

## Landscape Documentation - Park Concept and Entry



SHEET INDEX	ISSUE	DESCRIPTION	DATE
L01	SITE CONTEXT	DA ISSUE	27/03/2023
L02	PARK CONCEPT	DA ISSUE	27/03/2023
L03	PARK PLANT SCHEDULE	DA ISSUE	27/03/2023
L04	SUBDIVISION ENTRANCE SIGNAGE	DA ISSUE	27/03/2023
L05	NEW ENGLAND HIGHWAY PLANTING PLAN	DA ISSUE	27/03/2023

GREEN SPACE PLANNING Co.  
3/19 BOLTON STREET NEWCASTLE NSW 2300  
PH 0423 684 382





LEGEND	
	SITE BOUNDARY
	PROPOSED PARK Refer L02 for details
	PROPOSED ENTRY FEATURE Refer L04 for details
	DRAINAGE RESERVE BASINS Refer Surveyor Plans for details
	PROPOSED BUFFER PLANTING Refer L05 for details

SCALE 1:2500 @ A3

**L01 Site Plan**

9036 NEW ENGLAND HWY,  
MUSWELLBROOK, NSW

DATE:  
MARCH 2023

PROJECT NO.  
GSP220364

SUBMISSION:  
C FOR SUBM SS ON

GREEN SPACE PLANNING Co.  
3/19 BOLTON STREET NEWCASTLE NSW 2300  
PH 0423 684 382





LEGEND	
<b>PLAY ELEMENTS:</b>	
1.	OPEN LAWN AREA FOR KICK ABOUT SPACE
2.	CONCRETE PATHWAY (2.7M WIDE).
3.	RUBBER SOFTFALL
4.	NATURE PLAY LOG, BOULDERS AND MULCH SOFTFALL
5.	STEPPING LOG PATH
6.	BASKET SWING for inclusive play
7.	ALL-ACCESS CAROUSAL for spinning fun.
<b>PARK FACILITIES</b>	
8.	PICNIC SHELTER (8M X 3M) with two PICNIC TABLES and central BBQ FACILITIES.
9.	PARK SEATING ON CONCRETE PAD.
10.	SANDSTONE BLOCK INFORMAL SEATING
<b>PROPOSED PLANTING</b>	
11.	BOUNDARY PLANTING TO CONTAIN A SUITABLE MIX OF TREES AND LOW SHRUBS, GRASSES AND GROUND COVERS TO PROVIDE A SCREEN ALONG THE ADJOINING FENCE LINE.
12.	FEATURE TREE WITH LOW MASS PLANTING BENEATH
13.	SHADE TREES AROUND THE PERIMETER OF THE PARK TO IMPROVE THE AMENITY AND DEFINE THE PARK AREA.
14.	GRASS AREA - TO ACHIEVE A CONSISTENT GRADE AND ALLOW ACCESS FOR COUNCIL VEHICLES THROUGH TO DETENTION AREA.

**CHARACTER IMAGES**



**Indicative Park Concept**

9036 NEW ENGLAND HWY,  
MUSWELLBROOK, NSW

DATE:  
MARCH 2023

PROJECT NO.  
GSP220364

SUBMISSION:  
C FOR SUBM SS ON

GREEN SPACE PLANNING Co.  
3/19 BOLTON STREET NEWCASTLE NSW 2300  
PH 0423 684 382



**SUGGESTED PLANT SCHEDULE**

Key	Botanical Name	Common Name	Pot Size	Mature Height	Mature Spread
<b>PARK PLANTING</b>					
<b>Trees</b>					
01	<i>Angophora costata</i>	Smoothbarked Apple Myrtle	45L	12m	6m
02	<i>Backhousia citriodora</i>	Lemon Myrtle	45L	8m	4m
03	<i>Casuarina glauca</i>	She-Oak	45L	20m	6m
04	<i>Cupaniopsis anacardioides</i>	Tuckeroo	45L	8m	5m
05	<i>Elaeagnus reticulatus</i>	Blueberry Ash	45L	8m	5m
06	<i>Eucalyptus sideroxylon 'Rosea'</i>	Red Flowering Ironbark	45L	15m	6m
07	<i>Tristaniopsis laurina</i>	Kanooka Gum	15m	6m	
<b>Low Shrubs</b>					
08	<i>Aristida ramosa</i>	Purple Wiregrass	Tube	0.9m	0.5m
09	<i>Austrostipa aristiglumis</i>	Speargrass	Tube	2m	1.2m
10	<i>Correa alba</i>	White Correa	Tube	1.5m	1.5m
11	<i>Dianella revoluta</i>	Flax Lily	Tube	1m	0.8m
12	<i>Geranium solanderi</i>	Native Geranium	Tube	0.5m	0.5m
13	<i>Liriope muscari 'Just Right'</i>	Liriope	Tube	0.5m	0.5m
14	<i>Lomandra 'Lime Tuff'</i>	Lime Tuff	Tube		
15	<i>Pennisetum 'Cream Lea'</i>	Fountain Grass	Tube	1m	1m
15	<i>Westringia 'Zena'</i>	Coastal Rosemary	Tube	1m	1m
<b>Groundcovers</b>					
16	<i>Carpobrotus glaucescens</i>	Pigface	Tube	0.2m	2.0m
17	<i>Hardenbergia 'Meema'</i>	Meema	Tube	0.4m	2m



**L03 Park Plant Schedule**

9036 NEW ENGLAND HWY,  
MUSWELLBROOK, NSW

DATE:  
MARCH 2023

PROJECT NO.  
GSP220364

SUBMISSION:  
C FOR SUBM SS ON

GREEN SPACE PLANNING Co.  
3/19 BOLTON STREET NEWCASTLE NSW 2300  
PH 0423 684 382



ENTRY SIGNAGE - ARTIST IMPRESSION

**BOUNDARY PLANTING**  
ALONG NEW ENGLAND HIGHWAY.  
REFER L05 FOR DETAILS.



**FEATURE TREE**  
BRACHYCHITON TREES PROPOSED TO  
FLAG THE SUBDIVISION ENTRY. CHOSEN  
FOR THEIR IMPRESSIVE FLORAL DISPLAY.

**SIGNAGE WALL**  
ENTRY SIGNAGE ON A TIMBER BATTEN WALL  
TO HEIGHT OF 1800MM.

**MASS PLANTING**  
OF TRACHELOSPERMUM TO THE BASE OF  
THE ENTRY SIGNAGE WALLS.

SUGGESTED PLANT SCHEDULE

Key	Botanical Name	Common Name	Pot Size	Mature Height	Mature Spread
<b>ENTRY PLANTING</b>					
<b>Feature Tree</b>					
01	<i>Brachychiton acerifolius</i>	Illawarra Fame Tree	45L	15m	10m
<b>Low Shrubs</b>					
02	<i>Trachelospermum jasminoides</i>	Star Jasmine	140mm	0.2m	1m



**LANDSCAPE BUFFER PLANTING**

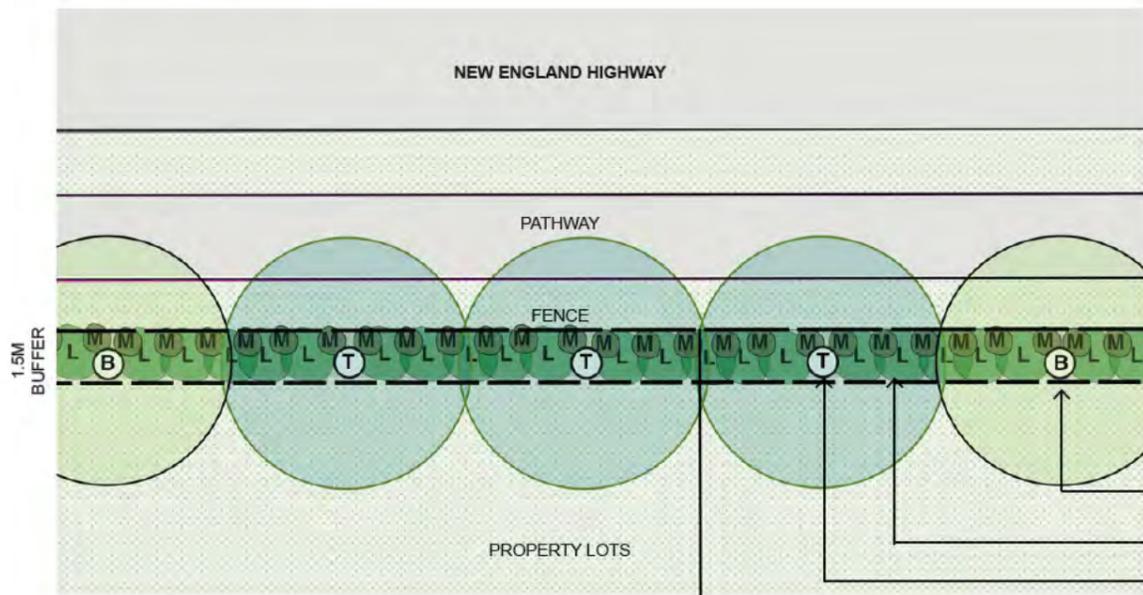
**Landscape Approach**

- A one and a half (1.5) metre vegetation strip is proposed along the New England Highway boundary (refer L01 for extent of buffer).
- Proposed species have been chosen for their demonstrated performance and for being hardy and low maintenance.
- The landscape treatment buffer contains alternating tree planting of *Tristaniopsis laurina* 'Luscious' and *Buckinghamia celsissima* with *Lomandra longifolia* and *Myoporum sp.* mass planted beneath.
- Given the proximity of the park to the boundary, it is proposed not have mid-level planting in order to keep sight-lines through in line with CPTED principles.

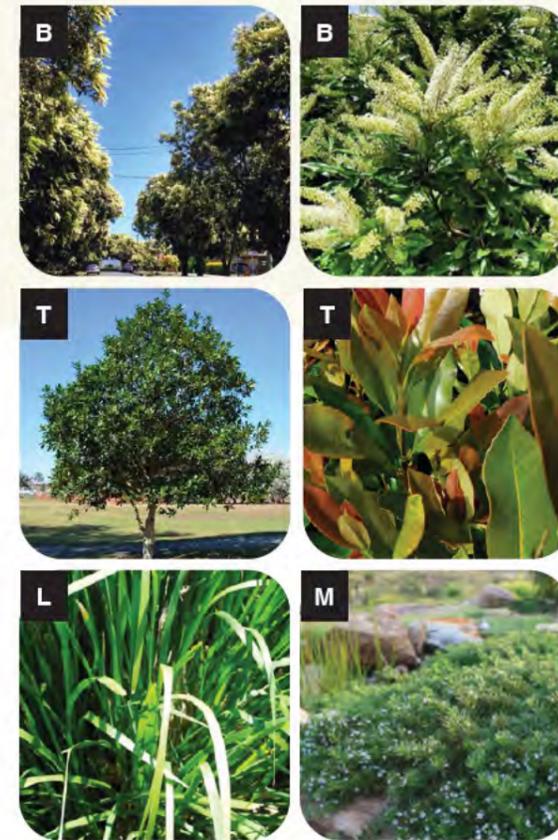
**PLANT SCHEDULE**

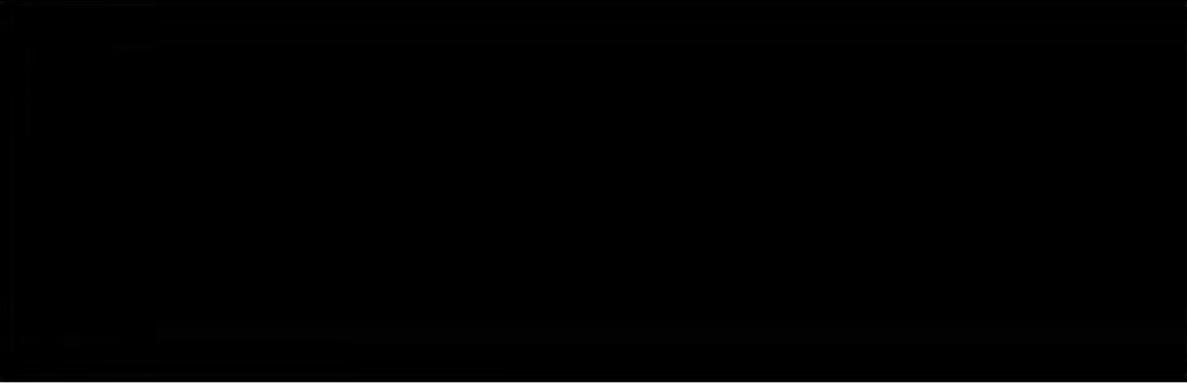
Key	Botanical Name	Common Name	Mature Height	Mature Spread
<b>Canopy Trees</b>				
B	<i>Buckinghamia celsissima</i>	Ivory Curl Tree	8m	4m
T	<i>Tristaniopsis laurina</i> 'Luscious'	Luscious	8m	4m
<b>Low Planting</b>				
L	<i>Lomandra longifolia</i>	Mat Rush	1m	1m
M	<i>Myoporum parvifolium</i>	Creeping Boobialla	0.1m	1m

**INDICATIVE PLANTING PLAN**



BUCKINGHAMIA CELSISSIMA TREES  
 LOMANDRA LONGIFOLIA AND MYOPORUM SP MASS PLANTING BENEATH  
 3 EQUALLY SPACED TRISTANIOPSIS LAURINA 'LUSCIOUS' TREES





16<sup>th</sup> January 2023

Muswellbrook Shire Council  
P.O. Box 122  
MUSWELLBROOK NSW 2333

Dear General Manager,

**RE: DA No: 2022/132 LOT 1 DP: 1203294 – 9036 NEW ENGLAND HIGHWAY, MUSWELLBROOK**

Firstly, we would like to thank Hamish McTaggart for his time this morning, to go across some queries we had in relation to the above DA Application.

We as adjoining property holders request you take into account the following items when considering this application; please note this isn't an objection to the development but clarification because of what council has approved for previous DAs on the above site.

**STORMWATER DRAINAGE**

We would appreciate being consulted with, in relation to the stormwater drainage as currently run-off from this property runs down across our property. Currently, the water also runs off the Highway and into our property Lot 1 (9070) New England Highway, Muswellbrook.

**ACCESS FROM and TO THE NEW ENGLAND HIGHWAY**

We request that you take into consideration that we have an approved DA Application on our adjoining property for a Residential Subdivision of 35 Lots. Our DA No. 336/2008 – of which we have made Physical Commencement. The former DA No: 350/2007/3 by The MAC Services Group Limited incorporated an access road that would service our 35 Lot Subdivision including our residence, this was at councils request that this be incorporated into DA Design. Please see the attached plan outlining this design – Drawing no: A005.

Development previously approved, we believe in design had a set of lights at this proposed intersection due to the predicted traffic movements.



As residents on the New England Highway, we know how difficult it can be access the highway.

We make the comment that the said By-pass will take away some of this traffic when it happens, but what happens in another 30 years time?

We have lived in this location for approximately 32 years, hence our ability to comment.

**SEWER**

We request that if the sewer is going past our properties as proposed in this DA that we can have point of entries that suit our properties. Properties being: Lot 2 (9058 N E H, DP1240750)-Our existing residence; Lot 1 (9070 N E H, DP1240750) our large shed and cottage and Lot 3 (DP1240750) – 35 Lot Subdivision DA.

Also attached are the approved Sewer Reticulation Plan and the General Arrangement Plan for our 35 Lot Subdivision.

Please feel free to call me on: \_\_\_\_\_ to discuss this letter.

Yours Faithfully



# "PROPOSED RESIDENTIAL SUBDIVISION" LOT 300 DP 810763

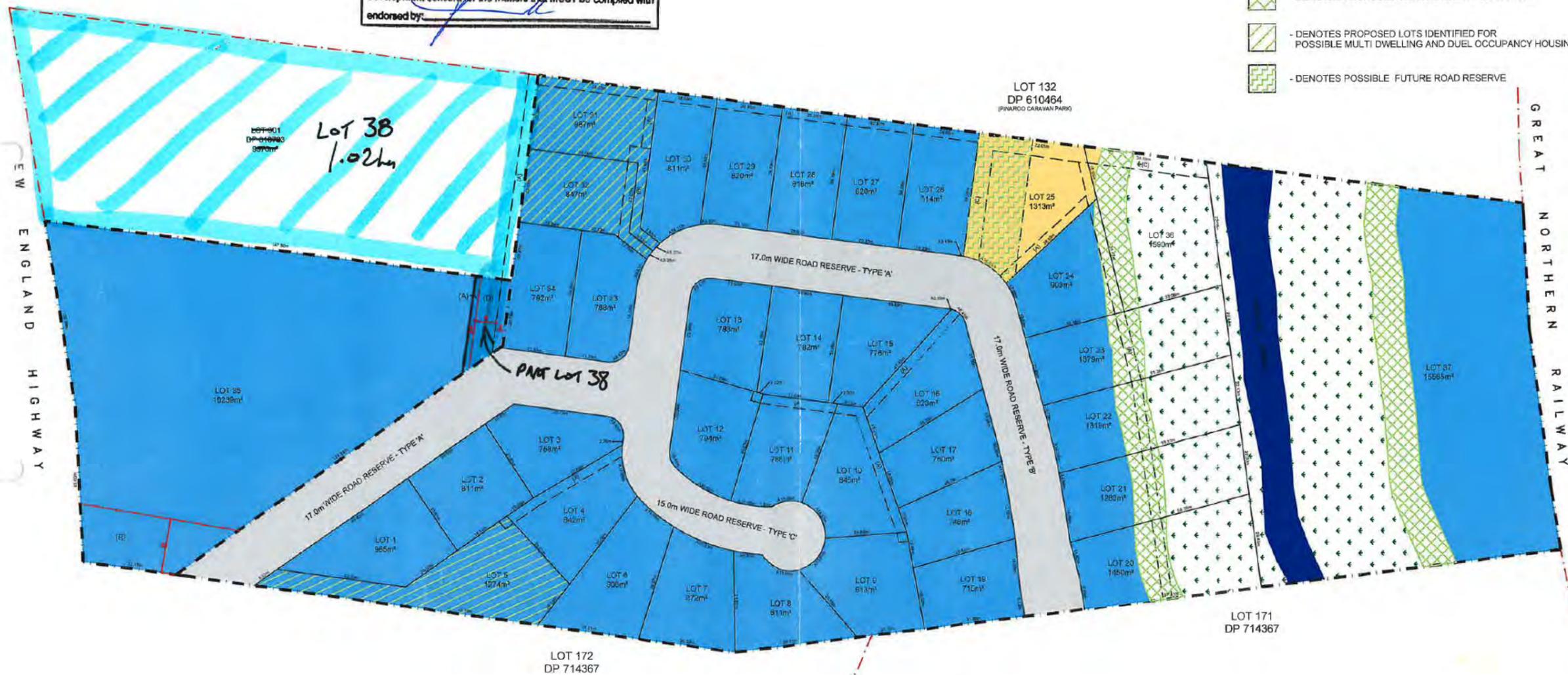


**MUSWELLBROOK SHIRE COUNCIL  
SECTION 96 MODIFICATION  
TO DEVELOPMENT CONSENT No 1**  
- 7 JUL 2014

Please refer to the amended conditions of the Development consent for the matters that MUST be complied with endorsed by: *[Signature]*

### LEGEND

- PROPOSED RESIDENTIAL SUBDIVISION (35 LOTS)
- PROPOSED OPEN SPACE (LOTS 25 & 36)
- DENOTES PROPOSED 30.0m RIPARIAN ZONE
- DENOTES PROPOSED 10.0m RIPARIAN BUFFER ZONE
- DENOTES PROPOSED LOTS IDENTIFIED FOR POSSIBLE MULTI DWELLING AND DUEL OCCUPANCY HOUSING
- DENOTES POSSIBLE FUTURE ROAD RESERVE



### NOTE

1. THIS PLAN IS FOR SALES PURPOSES ONLY.  
FINAL LOT DIMENSIONS, INTERSECTION DETAILS, AREAS AND EASEMENTS ARE SUBJECT TO FINAL DESIGN & SURVEY BY A REGISTERED LAND SURVEYOR.

### EASEMENTS

- (R) - 5.0m WIDE EASEMENT FOR SERVICES
- (S) - 5.0m RIGHT OF CARRIAGE WAY & EASEMENT FOR SERVICES
- (D) - 5.0m RIGHT OF CARRIAGE WAY & EASEMENT FOR SERVICES
- (C) - PROPOSED RIGHT OF CARRIAGEWAY 6 WIDE
- (B) - PROPOSED RIGHT OF CARRIAGEWAY 17 WIDE

**FOR SALES  
PURPOSES ONLY.**

07-1623 SALES PLAN rev D 27/10/08



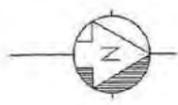
**RHM Consulting Engineers**  
Civil, Structural & Project Management  
Suite 6, 56-58 Brook St, Muswellbrook NSW  
Tel (02) 6541 3333 rhmce@rhmcce.com.au



PROPOSED SUBDIVISION OF LOT 300 DP 810763 NEW ENGLAND HIGHWAY, MUSWELLBROOK

07-1623DA101 (Rev D)

A1 SHEET



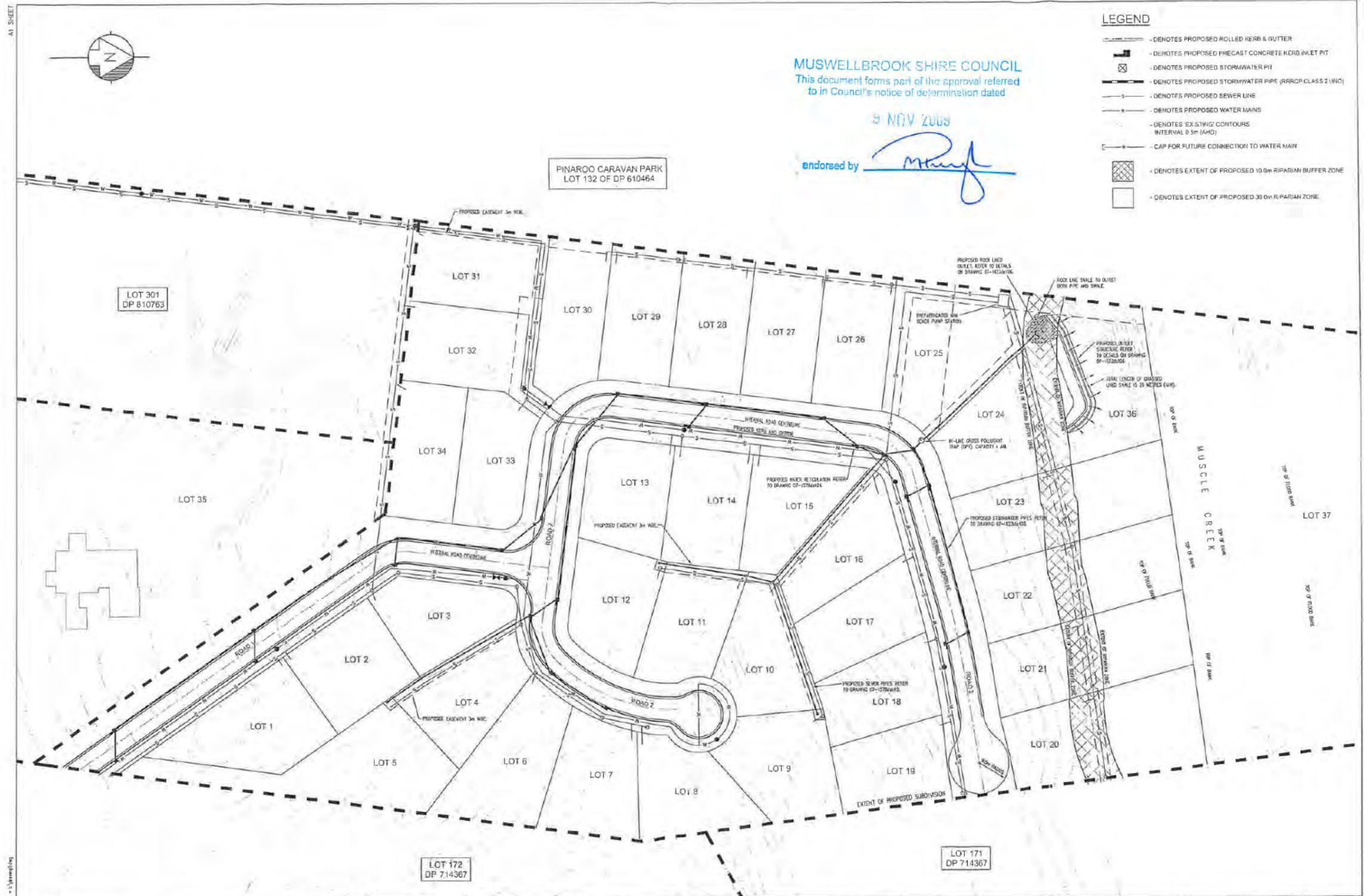
MUSWELLBROOK SHIRE COUNCIL  
This document forms part of the approval referred to in Council's notice of determination dated

9 NOV 2005

endorsed by

LEGEND

- DENOTES PROPOSED ROLLED KERB & GUTTER
- DENOTES PROPOSED PRECAST CONCRETE KERB INLET PIT
- DENOTES PROPOSED STORMWATER PIT
- DENOTES PROPOSED STORMWATER PIPE (RRRCP CLASS 2 UNO)
- DENOTES PROPOSED SEWER LINE
- DENOTES PROPOSED WATER MAINS
- DENOTES EXISTING CONTOURS INTERVAL 0.5m (AMD)
- CAP FOR FUTURE CONNECTION TO WATER MAIN
- DENOTES EXTENT OF PROPOSED 10m RIPARIAN BUFFER ZONE
- DENOTES EXTENT OF PROPOSED 30m RIPARIAN ZONE



REV	DESCRIPTION	DATE	BY	REV	DESCRIPTION	DATE	BY
C	ISSUED FOR COUNCIL APPROVAL	27/10/05	MC				
B	ISSUED FOR COUNCIL APPROVAL	18/07/05	MC				
A	ISSUED FOR COUNCIL APPROVAL	01/11/04	TJA				

Mr. ROBERT & Mrs. JUDIE HALL  
LOT 300 NEW ENGLAND HIGHWAY  
MUSWELLBROOK NSW 2333

PROPOSED SUBDIVISION  
OF LOT 300 DP 810763

COPYRIGHT  
Township of Muswellbrook  
All rights reserved  
No part of this document may be reproduced or transmitted in any form or by any means electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without permission in writing from the copyright owner.

**RHM Consulting Engineers**  
Civil & Structural Consulting Engineers  
Suite 6, 50 Brook Street, Muswellbrook, NSW 2333  
Tel: (02) 6541 2333 Fax: (02) 6541 3334  
Email: rhm@rhm.com.au

GENERAL ARRANGEMENT PLAN

Scale Horizontal: 1:500 (A1)

CIVIL DRAWING			
Designed	Checked	Approved	Date
Drawn	TJA	Project Engineer/Director	
Checked	MC	Drawing Pkg	
Date	27/10	07-1623-DA102	C