



muswellbrook  
shire council

Muswellbrook Shire Council

# ORDINARY COUNCIL MEETING

BUSINESS PAPER

TUESDAY 24 OCTOBER 2023



**MUSWELLBROOK SHIRE COUNCIL**

P.O Box 122  
MUSWELLBROOK  
18 October 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 24 October 2023** commencing at 6:00 pm.

Derek Finnigan  
**GENERAL MANAGER**



# Council Meetings

## Meeting Principles

Council and committee meetings should be:

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

## Public Forums

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

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

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

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



## Declarations of Interest

### **Statement of Ethical Obligations**

Councillors are reminded of their oath or affirmation of office, made under section 233A of the NSW Local Government Act 1993, to undertake the duties of the office of Councillor in the best interests of the people of Muswellbrook Shire and Muswellbrook Shire Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them, under the Local Government Act 1993 or any other Act, to the best of their ability and judgment. Pursuant to the provisions of the Muswellbrook Shire Council Code of Meeting Practice and the Muswellbrook Shire Council Code of Conduct, Councillors are reminded of their obligations to disclose and appropriately manage conflicts of interest.

Section 451 of the Local Government Act requires that if a Councillor or Member of a Council or committee has a pecuniary interest in any matter before the Council or Committee, he/she must disclose the nature of the interest to the meeting as soon as practicable and must not be present at, or in sight of, the meeting, when the matter is being discussed, considered or voted on.

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of financial gain or loss (see sections 442 and 443 of the Local Government Act).

A non-pecuniary interest can arise as a result of a private or personal interest which does not involve a financial gain or loss to the councillor or staff member (eg friendship, membership of an association, or involvement or interest in an activity). A Councillor must disclose the nature of the interest to the meeting as soon as practicable.

Council's Model Code of Conduct now recognises two forms of non-pecuniary conflict of interests:

- Significant
- Less than significant

A Councillor must make an assessment of the circumstances and determine if the conflict is significant.

If a Councillor determines that a non-pecuniary conflict of interests is less than significant and does not require further action, they must provide an explanation of why it is considered that the conflict does not require further action in the circumstances.

If the Councillor has disclosed the existence of a significant non-pecuniary conflict of interests at a meeting they must not be present at, or in sight of, the meeting, when the matter is being discussed, considered or voted on.





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

**RECOMMENDATION**

The Minutes of the Ordinary Council Meeting held on **26 September 2023**, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

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

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD IN TRAINING ROOM, UNIVERSITY OF NEWCASTLE - UPPER HUNTER - TEC 1, 87 HILL STREET, MUSWELLBROOK ON TUESDAY 26 SEPTEMBER, 2023 COMMENCING AT 6:00PM.**

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**PRESENT:** Cr S.M. Reynolds (Mayor), Cr A. Barry (VC), Cr M. Bowditch (VC), Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr J.A. Lecky, Cr G.T. McNeill, Cr R. Mahajan, Cr D.E. Marshall Cr R. Scholes and Cr B.N. Woodruff.

**IN ATTENDANCE:** Mr D. Finnigan (General Manager), Ms S. Pope (Director – Planning & Environment), Mr P. Chambers (Chief Engineer), Mr M. Lysaught (Director – Property & Place), Mr J. Hogan (Acting Chief Financial Officer), Mr P. Ball (Manager - Works), Mrs C. Middleton (Communications Co-Ordinator), Mrs M. Sandell-Hay (Governance Officer), Ms K. Hamm (Executive Assistant), Ms A. Cox (Corporate Planning & Reporting Officer) and 9 people and 1 media in the public gallery.

## **1. Applications for Attendance via Audio Visual Link**

85 RESOLVED on the motion of Cr R. Mahajan and Cr J. Lecky that:

Authority be given for Cr A. Barry, Cr M. Bowditch to attend the Council Meeting via video link.

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

Against: Nil.

## **2. Acknowledgement of Country**

The Acknowledgement of Country was read by Cr D. Douglas.

## **3. Civic Prayer**

The Civic Prayer was read by Cr J. Lecky.

## **4. Apologies and Applications for a Leave of Absence**

Nil.



## 5. Election of Mayor and Deputy Mayor

### 5.1 Election of Mayor and Deputy Mayor

86 RESOLVED on the motion of Cr S. Reynolds and Cr D. Marshall that:  
Council resolves to conduct an election for the position of Mayor and Deputy Mayor by the following method:

1. Open vote – by a show of hands.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr G. McNeill, Cr R. Mahajan and Cr D. Marshall.

Against: Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr R. Scholes and Cr B. Woodruff.

The General Manager conducted the election as the returning officer.

#### Election of Mayor

Nominations were invited for the office of Mayor for the ensuing term.

The Returning Officer reported that two (2) nominations for the Office of Mayor had been received.

The written nominations were for:

1. Cr Steven Reynolds proposed by Crs Lecky, Mahajan, Marshall and McNeill
2. Cr Jeff Drayton proposed by Crs Douglas and Dunn.

The Returning Officer reported that Cr Reynolds and Cr Drayton had indicated their consent to the nomination.

The Returning Officer called for further nominations to be made. No further nominations were received.

There being more than one nomination for the Office of Deputy Mayor, the Returning Officer indicated that an election would be conducted.

The voting resulted in five (5) votes for Cr Drayton and seven (7) votes for Cr Reynolds .

The Returning Officer declared Cr Steven Reynolds duly elected to the Office of Mayor of the Muswellbrook Shire Council for the ensuing one year term to September, 2024.

#### Election of Deputy Mayor

Nominations were invited for the office of Deputy Mayor for the ensuing term.

The Returning Office reported that two (2) nominations for the Office of Deputy Mayor had been received.

The written nominations were for:

1. Cr De-anne Douglas proposed by Crs Bowditch and Drayton.
2. Cr Graeme McNeill proposed by Crs Lecky, Mahajan, Marshall and Reynolds.

The Returning Officer reported that Cr Douglas and Cr McNeill had indicated their consent to the nomination.



The Returning Officer called for further nominations to be made. No further nominations were received.

There being more than one nomination for the Office of Deputy Mayor, the Returning Officer indicated that an election would be conducted.

The voting resulted in seven (7) votes for Cr McNeill and five (5) votes for Cr Douglas.

The Returning Officer declared Cr Graeme McNeill duly elected as Deputy Mayor of the Muswellbrook Shire Council for the ensuing one year term to September, 2024.

Cr Reynolds assumed the role of Chair at this point.

The Mayor thanked Cr Jennifer Lecky for her service as Deputy Mayor during the previous term and congratulated Cr McNeill on being appointed Deputy Mayor for the ensuing term.

## 6. Confirmation of Minutes

### Ordinary Council Meeting held in 22 August, 2023

87 RESOLVED on the motion of Cr B. Woodruff and Cr G. McNeill that:

The Minutes of the Ordinary Council Meeting held on **22 August, 2023**, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

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

Against: Nil.

## 7. Disclosure of any Pecuniary or Non-Pecuniary Interests

**Cr R. Mahajan** - Declared an insignificant non-pecuniary interest in Item 11.3.5. Cr Mahajan advised Council that he is attending the event.

**Cr R. Scholes** - Declared a pecuniary interest in Item in 11.5.2. Cr Scholes advised Council that he pays fees at the Aquatic Centre.

**Cr A. Barry** - Declared a pecuniary interest in Item 11.1.4. Cr Barry advised Council she is employed by AGL.

88 RESOLVED on the motion of Cr D. Marshall and Cr B. Woodruff that:

The apologies for inability to attend the meeting submitted by Cr A. Barry be ACCEPTED and the necessary Leave of Absence be GRANTED.

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

Against: Nil.

Cr A. Barry left the meeting at 6.14pm.



**Cr G. McNeill** - Declared a pecuniary interest in Item 11.1.4. Cr McNeill advised Council that he is employed by AGL.

**Cr G. McNeill** - Declared a pecuniary interest in Item 11.3.3. Cr McNeill advised Council that his employer provides funding for the project.

**Cr L. Dunn** - Declared an insignificant non-pecuniary interest in Item 11.1.1. Cr Dunn advised Council that the applicant is a family friend.

**Cr L. Dunn** - Declared a non-pecuniary interest in Item 11.1.7. Cr Dunn advised Council that her employer has applied for a grant.

**Cr L. Dunn** - Declared an insignificant non-pecuniary interest in Item 11.3.5. Cr Dunn advised Council that her co-worker is a member of the committee.

**Cr D. Douglas** - Declared a pecuniary interest in Item 11.1.4. Cr Douglas advised Council that AGL provides funding to the Wanaruah Local Aboriginal Land Council, of which she is CEO.

**Cr S. Reynolds** - Declared an insignificant non-pecuniary interest in Item 11.3.3. Cr Reynolds advised Council that he undertakes filming for the Rugby League.

**Cr S. Reynolds** - Declared an insignificant non-pecuniary interest in Item 12.1. Cr Reynolds advised Council that he undertakes filming for the Rugby League

## **8. Mayoral Minute**

Nil.

## **9. Public Participation**

Nil.

## **10. Business Arising (From Previous Meetings)**

Nil.



## 11. Business (Specific Reports)

### 11.1. Planning and Environment

#### 11.1.1. DA 2023-48 Granny Flat, Double Garage & Driveway - 11 Ogilvie Street, Denman

##### Disclosure of Interest

Cr L. Dunn declared an insignificant non-pecuniary interest in this Item. Cr Dunn advised Council that the applicant is a family friend.

At 6:17 pm Cr L. Dunn left the Council Chambers and therefore took no part in discussion or voting on this item.

89 RESOLVED on the motion of Cr D. Marshall and Cr D. Douglas that:

Council:

1. APPROVES DA 2023-48 for the construction of a secondary dwelling, double garage, and an associated driveway at 11 Ogilvie Street Denman (Lot 1 DP 306325) subject to conditions; and
2. DELEGATES the setting of conditions to the General Manager.

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

Against: Nil.

At 6:18 pm Cr L. Dunn returned to Council Chambers and resumed her chair at the meeting table.

#### 11.1.2. Preparation of Development Control Plan for 9036 New England Highway Muswellbrook

90 RESOLVED on the motion of Cr D. Marshall and Cr J. Lecky that:

Council ADOPTS the Draft Development Control Plan Chapter for 9036 New England Highway, Muswellbrook.

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

Against: Nil.





### 11.1.3. Finalisation of Dartbrook Mine Planning Agreement

91 RESOLVED on the motion of Cr J. Drayton and Cr J. Lecky that:  
Council RESOLVES to finalise the Planning Agreement in Attachment A by delegating the General Manager authority to sign the Agreement.

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

Against: Nil.

### 11.1.4. Finalisation of AGL Liddell Planning Agreement

#### Disclosure of Interest

Cr D. Douglas declared a pecuniary interest this Item. Cr Douglas advised Council that AGL provides funding to the Wanaruah Local Aboriginal Land Council, of which she is CEO.

Cr G. McNeill declared a pecuniary interest in this Item. Cr McNeill advised Council that he is employed by AGL.

At 6:20 pm Cr D. Douglas and Cr G. McNeill left the Council Chambers and therefore took no part in discussion or voting on this item.

92 RESOLVED on the motion of Cr R. Scholes and Cr M. Bowditch that:  
Council RESOLVES to finalise the Planning Agreement in Attachment A by delegating the General Manager authority to sign the Agreement.

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

Against: Nil.

At 6:21 pm Cr D. Douglas and Cr G. McNeill returned to Council Chambers and resumed their chairs at the meeting table.



**11.1.5. PP 020 – Administrative Amendment – Removal of Heritage Item 1112 (Muswellbrook Brickworks) - Post Exhibition Report**

- 93 RESOLVED on the motion of Cr R. Scholes and Cr J. Lecky that:  
Council, as a delegated Local Plan Making Authority, resolves to:
1. Endorse the Planning Proposal, as exhibited, and included in Attachment 1 to this report.
  2. Make the Plan in accordance with section 3.36 of the *Environmental Planning and Assessment Act 1979*, consistent with the Gateway Determination.
  3. Forward a copy of the Council resolution and the Planning Proposal, as exhibited, to the Parliamentary Counsel's Office and the Department of Planning and Environment to give effect to the Planning Proposal.

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

Against: Nil.

**11.1.6. Watering and Maintenance of Seedlings Along Muscle Creek**

- 94 RESOLVED on the motion of Cr B. Woodruff and Cr G. McNeill that:  
Council NOTES the information contained in the report

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

Against: Nil.

**11.1.7. Sustainability Grants****Disclosure of Interest**

Cr L. Dunn declared a non-pecuniary interest in this Item. Cr Dunn advised Council that her employer has applied for a grant.

At 6:23 pm Cr L. Dunn left the Council Chambers and therefore took no part in discussion or voting on this item.

95 RESOLVED on the motion of Cr D. Douglas and Cr D. Marshall that:

1. Council approves the following Sustainable Education grants:
  - a. Sandy Hollow Public School - \$2427.43
  - b. Muswellbrook Preschool and Kindergarten - \$1650
  - c. Muswellbrook South Public School - \$2500
  - d. Denman Pony Club - \$921.02
2. Council approves a water refill station grant for Muswellbrook Preschool and Kindergarten - \$2500
3. Council approves the following Landcare Grant:  
Lake Liddell Recreation Area Reserve Land Manager - \$800

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

Against: Nil.

At 6:24 pm Cr L. Dunn returned to Council Chambers and resumed her chair at the meeting table.

**11.1.8. Monthly Report to Council - Planning, Environment and Regulatory Services**

96 RESOLVED on the motion of Cr B. Woodruff and Cr D. Marshall that:

The information contained in this report be noted.

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

Against: Nil.



## 11.2. Community Infrastructure

### 11.2.1. Recycled Water Policy MSC23E for Adoption

97 RESOLVED on the motion of Cr R. Scholes and Cr B. Woodruff that:  
Council ADOPTS the attached *Recycled Water Policy*.

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

Against: Nil.

### 11.2.2. FOGO Education & Communication status report

98 RESOLVED on the motion of Cr R. Scholes and Cr B. Woodruff that:  
Council NOTES the progress of FOGO Communications and Education activities.

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

Against: Nil.

### 11.2.3. Construction of Replacement for Sewer Pumping Station-1 Muswellbrook

99 RESOLVED on the motion of Cr R. Scholes and Cr M. Bowditch that:  
Council APPROVES:

1. the replacement of Muswellbrook Sewer Pumping Station 1 (MSPS1), Sydney Street, Muswellbrook, to be carried out over fiscal years 2023-2024 and 2024-2025;
2. reallocating \$1,100,000 from the Solar Array Capital Project Funds at the Recycled Water Treatment Works (RWTW), and \$900,000 from the Section 64 Reserve, into a Sewer Capital Project budget for the replacement of MSPS1, with a budget of \$2.0m.

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

Against: Nil.

**11.2.4. Water and Wastewater Capital Works- Prioritized Projects 2023-2024**

100 RESOLVED on the motion of Cr R. Scholes and Cr B. Woodruff that:  
Council APPROVES the attached prioritised list of 2023-24 water and wastewater capital works projects, to the limit of approved funding under the various programs.

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

Against: Nil.

**11.3. Property and Place****11.3.1. Possum Gully Easement Affecting Lot 12 DP 232742**

101 RESOLVED on the motion of Cr D. Marshall and Cr D. Douglas that:  
Council authorises the General Manager to finalise the easement for drainage for Lot 12 DP 232742 and execution of documents.

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

Against: Nil.

**11.3.2. Muswellbrook Town Centre Plan - DRAFT Programme and Budget Allocations**

102 RESOLVED on the motion of Cr B. Woodruff and Cr D. Marshall that:  
Council ENDORSES the preliminary DRAFT Muswellbrook Town Centre Plan – Staging Delivery Programme and DRAFT Muswellbrook Town Centre Plan – Budget Allocations to inform the Australian Government - Priority Community Infrastructure Program (PCIP) for the delivery of the Muswellbrook Town Centre Plan.

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

Against: Nil.

**11.3.3. Olympic Park Grandstand and Amenities - Projects and Funding****Disclosure of Interest**

Cr G. McNeill declared a pecuniary interest in this Item. Cr McNeill advised Council that his employer provides funding for the project.

At 6:30 pm Cr G. McNeill left the Council Chambers and therefore took no part in discussion or voting on this item.

103 RESOLVED on the motion of Cr D. Marshall and Cr B. Woodruff that:  
Council:

1. ENDORSES the budgets and funding allocations for the Olympic Park Precinct Upgrade to inform Council's grant application under the Australian Government - Priority Community Infrastructure Program (PCIP) for the delivery of the Olympic Park Grandstand; and
2. requests a review and upgrade of the Capital Expenditure Review for the Olympic Park Precinct Upgrade be carried out.

In Favour: Cr S. Reynolds, Cr L. Dunn, Cr R. Mahajan, Cr D. Marshall and Cr B. Woodruff.

Against: Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton and Cr R. Scholes.

As the voting was even the Mayor used his casting vote and the motion was CARRIED.

At 6:34 pm Cr G. McNeill returned to Council Chambers and resumed his chair at the meeting table.

**11.3.4. Denman Public School - Fee Waiver Request**

104 RESOLVED on the motion of Cr J. Lecky and Cr B. Woodruff that:  
Council APPROVES the partial waiving of hire fees requested by Denman Public School, and will only charge for the hire of Denman Memorial Hall for the performance conducted 19 September 2023, which will result in a total charge to Denman Public School of \$529.50, inclusive of GST.

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

Against: Nil.



### **11.3.5. Diwali Festival Sponsorship Request**

#### **Disclosure of Interest**

Cr L. Dunn declared an insignificant non-pecuniary interest in this Item. Cr Dunn advised Council that her co-worker is a member of the committee.

Cr R. Mahajan declared an insignificant non-pecuniary interest in this Item. Cr Mahajan advised Council that he is attending the event.

At 6:36 pm Cr L. Dunn and Cr R. Mahajan left the Council Chambers and therefore took no part in discussion or voting on this item.

105 RESOLVED on the motion of Cr D. Douglas and Cr M. Bowditch that:

Council approves a \$1,000 (including GST) sponsorship for the local Diwali festival to be held at the Upper Hunter Conservatorium of Music, Campbells Corner, on Saturday, 28 October 2023.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr G. McNeill, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

At 6:37 pm Cr L. Dunn and Cr R. Mahajan returned to Council Chambers and resumed their chairs at the meeting table.

### **11.3.6. Major Projects Status Report**

106 RESOLVED on the motion of Cr B. Woodruff and Cr D. Marshall that:

Council NOTES the information contained in the report.

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

Against: Nil.



## 11.4. Corporate Services

### 11.4.1. Fixing Day and Hour of Regular Council Meetings

- 107 RESOLVED on the motion of Cr D. Marshall and Cr J. Drayton that:  
Council determines that:
1. Ordinary Meetings of Council be held in the Training Room, Level 2, University of Newcastle - Upper Hunter Campus, 87 Hill Street Muswellbrook, from 6:00pm to 9:00pm on the fourth Tuesday of each calendar month;
  2. A pre-meeting briefing session for Councillors be held from 4:00pm to 6:00pm immediately prior to each Ordinary Meeting on the fourth Tuesday of each calendar month;
  3. As the fourth Tuesday in December 2023 will fall on the Boxing Day public holiday, the meeting be scheduled for Tuesday 19 December 2023 and be held in Denman Memorial Hall;
  4. The Ordinary Council Meeting scheduled for Tuesday 24 October 2023 be held in Sandy Hollow.
  5. The Ordinary Council Meeting scheduled for Tuesday 23 July 2024 be held in Denman Memorial Hall.
- In Favour: Cr S. Reynolds, Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.
- Against: Nil.

### 11.4.2. Recruitment of Chief Financial Officer and Information and Communication Technology (ICT) Manager

- 108 RESOLVED on the motion of Cr B. Woodruff and Cr J. Lecky that:  
Council APPROVES carrying out recruitment to the following three positions:
1. Chief Financial Officer;
  2. Information and Communication Technology (ICT) Manager; and
  3. Staff Training and Professional Development Officer.
- The above is subject to sustainable structural savings being made through the September Budget Review process so that the positions can be funded on a full-time basis.
- In Favour: Cr S. Reynolds, Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.
- Against: Nil.



**11.4.3. Register of Pecuniary Interest**

- 109 RESOLVED on the motion of Cr J. Lecky and Cr B. Woodruff that:  
The tabling of the Register of Pecuniary Interests for the period 30/06/2022 to 30/06/2023 be NOTED.
- In Favour: Cr S. Reynolds, Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.
- Against: Nil.

**11.4.4. Authorisation Under Section 226 of the Local Government Act**

- 110 RESOLVED on the motion of Cr M. Bowditch and Cr R. Mahajan that:  
Council notes the information provided in the report.
- In Favour: Cr S. Reynolds, Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.
- Against: Nil.

**11.4.5. Sandy Hollow Motor Fest Sponsorship Request**

- 111 RESOLVED on the motion of Cr G. McNeill and Cr D. Douglas that:  
Council APPROVES the request from the Sandy Hollow Motorfest 2023 for sponsorship of \$2,500.00 to cover the cost of Waste Services and Development Application Fees.
- In Favour: Cr S. Reynolds, Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.
- Against: Nil.

**11.4.6. Procurement Policy MSC01E for Adoption**

- 112 RESOLVED on the motion of Cr B. Woodruff and Cr R. Scholes that:  
1. Council ADOPTS the *Procurement Policy* attached to the report.  
2. The Policy be reviewed after 12 months to include Australian made and owned.
- In Favour: Cr S. Reynolds, Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.
- Against: Nil.



**11.4.7. DRAFT Public Interest Disclosure Policy MSC16E for Public Exhibition**

113 RESOLVED on the motion of Cr B. Woodruff and Cr D. Marshall that:

1. Council APPROVES the attached *DRAFT Public Interest Disclosure Policy* to be placed on public exhibition via Council's website for a period of 28 days; and
2. A further report be submitted to Council for consideration of submissions received during the exhibition period.

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

Against: Nil.

**11.4.8. Return to Work Policy S25/36 for rescission**

114 RESOLVED on the motion of Cr B. Woodruff and Cr D. Marshall that:  
Council RESCINDS the *Return to Work Policy*.

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

Against: Nil.

**11.4.9. Community Satisfaction Survey**

115 RESOLVED on the motion of Cr B. Woodruff and Cr D. Douglas that:  
Council NOTES the attached 2023 Community Satisfaction Survey report.

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

Against: Nil.



**11.4.10. 2022/2023 Operational Plan - 30 June 2023, Quarterly Review**

116 RESOLVED on the motion of Cr R. Scholes and Cr R. Mahajan that:  
Council NOTES the 2022-23 Operational Plan fourth quarter.

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

Against: Nil.

**11.4.11. Monthly Financial Report - August 2023**

117 RESOLVED on the motion of Cr R. Mahajan and Cr J. Lecky that:  
Council NOTES the Financial Reports for the month ending 31 August 2023.

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

Against: Nil.

**11.4.12. Report on Investments held as at 31 August 2023**

118 RESOLVED on the motion of Cr R. Scholes and Cr J. Lecky that:  
Council NOTES Council's Investments as at 31 August 2023.

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

Against: Nil.



## 11.5. Community and Economy

### 11.5.1. Australia Day 2024 Community Awards Criteria and Guidelines

119 RESOLVED on the motion of Cr J. Lecky and Cr M. Bowditch that:

Council ENDORSES:

1. Inclusion of the Northoak Agricultural Award to the 2024 Australia Day Award categories;
2. The amendment of the 2024 Australia Day Award guidelines to read the Australia Day Nominations Committee will consist of all Councillors; and
3. The 2024 Australia Day Award nomination period to be from 9 October 2023 to 30 November 2023.

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

Against: Nil.

### 11.5.2. Aquatic Centre Membership Discount- September

#### Disclosure of Interest

Cr R. Scholes declared a pecuniary interest in this Item. Cr Scholes advised Council that he pays fees at the Aquatic Centre.

At 6:49 pm Cr R. Scholes left the Council Chambers and therefore took no part in discussion or voting on this item.

120 RESOLVED on the motion of Cr B. Woodruff and Cr G. McNeill that:

Council APPROVES a 20% discount being made available to the community during the months of September and October 2023 for annual and upfront memberships.

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

Against: Nil.

At 6:50 pm Cr R. Scholes returned to Council Chambers and resumed his chair at the meeting table.

**11.5.3. Request for Councillor representative to NSW Public Libraries Association**

121 RESOLVED on the motion of Cr B. Woodruff and Cr G. McNeill that:  
Council appoints Cr J. Lecky as Council's representative to the New South Wales Public Libraries Association.

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

Against: Nil.

**11.5.4. Muswellbrook Regional Arts Centre Management Policy MSC051E for ADOPTION**

122 RESOLVED on the motion of Cr B. Woodruff and Cr R. Scholes that:  
Council:

1. ADOPTS the attached *Muswellbrook Regional Arts Centre Management Policy*; and
2. RESCINDS the three superseded Art Gallery Policies:
  - i. *Aims and Objectives of Muswellbrook Regional Arts Centre*;
  - ii. *Muswellbrook Shire Art Collection Deaccessioning Policy*; and
  - iii. *Muswellbrook Shire Art Collection Management Policy*.

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

Against: Nil.

**11.5.5. Community Services**

123 RESOLVED on the motion of Cr D. Douglas and Cr J. Lecky that:  
The information contained in this report be noted.

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

Against: Nil.



## 12. Minutes of Committee Meetings

### 12.1. Olympic Park Precinct Development Advisory Committee - 26 June, 2023 and 5 September, 2023

#### Disclosure of Interest

Cr S. Reynolds declared an insignificant non-pecuniary interest in this Item. Cr Reynolds advised Council that he undertakes filming for the Rugby League.

124 RESOLVED on the motion of Cr G. McNeill and Cr D. Marshall that:

The minutes for the Olympic Park Precinct Development Committee meeting held on 26 June 2023 and 5 September 2023 be NOTED.

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

Against: Nil.

### 12.2. State Significant Development Committee - 14 August, 2023 and 11 September, 2023

125 RESOLVED on the motion of Cr R. Scholes and Cr J. Lecky that:

The minutes for the State Significant Development Committee meeting held on 14 August, 2023 and 11 September, 2023 be NOTED.

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

Against: Nil.

### 12.3. Finance Review Advisory Committee - 15 August, 2023

126 RESOLVED on the motion of Cr R. Mahajan and Cr J. Lecky that:

The minutes for the Finance Review Committee meeting held on 15 August 2023 be NOTED.

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

Against: Nil.



**12.4. Industrial Closures Committee - 16 August, 2023**

127 RESOLVED on the motion of Cr R. Scholes and Cr B. Woodruff that:  
The minutes for the Industrial Closures Committee meeting held on 16 August, 2023 be NOTED.

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

Against: Nil.

**12.5. Local Traffic Committee - 12 September, 2023**

128 RESOLVED on the motion of Cr M. Bowditch and Cr D. Marshall that:  
The minutes for the Local Traffic Committee meeting held on 12 September 2023 be accepted and the recommendations contained therein be ADOPTED by Council.

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

Against: Nil.

**12.6. Events Steering Committee Meeting - 12 September, 2023**

129 RESOLVED on the motion of Cr J. Drayton and Cr J. Lecky that:  
The minutes for the Events Steering Committee meeting held on 12 September, 2023 be NOTED.

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

Against: Nil.

**12.7. Grants Review Committee - 14 September, 2023**

- 130 RESOLVED on the motion of Cr L. Dunn and Cr D. Marshall that:
- The minutes for the Grants Review Committee meeting held on 14 September, 2023 be NOTED, subject to the following amendment:
- The recommendation for the Minutes of Previous Meeting to read " The Minutes of the Grants Review Committee Meeting held on 12 July, 2023, a copy of which has been distributed to all members, be taken as read and confirmed as a true record."
- In Favour: Cr S. Reynolds, Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.
- Against: Nil.

**13. Notices of Motion****13.1. Transition from Hydrocarbon-based Industries**

- 131 RESOLVED on the motion of Cr G. McNeill and Cr D. Marshall that:
- Council writes to relevant State and Federal Ministers requesting meetings to discuss and formulate an economic roadmap for our LGA post coal mining and thermal power generation.
- In Favour: Cr S. Reynolds, Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.
- Against: Nil.

**13.2. Rescission Motion - Amendments to State Planning Policy**

- 132 RESOLVED on the motion of Cr J. Drayton and Cr S. Reynolds that:
1. Resolution 78 of 22 August 2023 Ordinary Council Meeting be rescinded.
  2. In consultation with Councillors and key stakeholders, the General Manager is instructed to prepare an advocacy strategy requesting the NSW Government to undertake a review of the State Environmental Planning Policy (Resources and Energy) 2021 (Resources SEPP), with the aim of introducing terms in the Resources SEPP that promote local employment and incentives for employees to live locally.
- In Favour: Cr S. Reynolds, Cr J. Lecky, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.
- Against: Nil.





## 14. Councillors Reports

### 14.1 Denman Public School - Dancing through the Ages

Cr Lecky advised she attended the Denman Public School's Dancing through the ages and thoroughly enjoyed the performance by the School. Cr Lecky also applauded the way the hall was utilised for this type of performance.

### 14.2 Library Author Visit

Cr Lecky advised Council that she attended the Author Talk by Bill Spicer at Muswellbrok library and she thoroughly enjoyed the talk

### 14.3 Denman Public School - Dancing through the Ages

Cr Marshall also advised Council that he attended the Denman Public School performance and he also enjoyed the afternoon.

## 15. Written Questions

### 15.1. Monitoring and Maintenance of Council's Trees and Shrubs Assets - Newly Planted and Semi-Established

133 RESOLVED on the motion of Cr G. McNeill and Cr R. Scholes that:  
The information contained in the report be noted.

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

Against: Nil.

## 16. Questions for Next Meeting

### 16.1 Emergency Services Discount

Cr Bowditch inquired if Council could investigate a policy for Emergency Services to receive a discount on Land Rates?

The General Manager requested that emergency services personnel write to Council in regards to this matter.



## 17. Adjournment into Closed Council

134 RESOLVED on the motion of Cr D. Douglas and Cr G. McNeill that:

Council adjourn into Closed Session and members of the press and public be excluded from the meeting of the Closed Session, and access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the provisions outlined in Section 17 below.

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

Against: Nil.

Ms Pope, Mr Chambers and members of the public left the meeting at this stage.

## 18. Closed Council

### 18.1. 2023-2024-0572 – Restaurant Fit-out Donald Horne Building Request for Quote

135 RESOLVED on the motion of Cr R. Scholes and Cr J. Drayton that:

Council authorises the General Manager to negotiate the award of a contract for project 2023-2024-0572 – Restaurant Fit-out Donald Horne Building.

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

Against: Nil.

**18.2. Project 2023-2024-0578A Processing of FOGO - Tender Evaluation Plan**

136 RESOLVED on the motion of Cr R. Scholes and Cr D. Douglas that:

Council:

1. ENDORSES the Evaluation Plan for project 2023-2024-0578A to proceed to selective tender for Food Organics Garden Organics (FOGO) processing to commence on 01 July 2024; and
2. NOTES that the tender process for establishment of a FOGO processing facility on Council premises will be undertaken with support from an external consultant, and the associated evaluation plan will be reported to Council prior to release to market.

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

Against: Nil.

**18.3. Regional Procurement Tender T162324HUN - Linemarking**

137 RESOLVED on the motion of Cr B. Woodruff and Cr G. McNeill that:

Council resolves:

1. Complete Linemarking Services Pty Ltd;
2. Dolphin Line Marking Pty Ltd t/a Dolphin Line Marking;
3. J&M Road marking Specialists Pty Ltd;
4. Oz Linemarking NSW Pty Ltd;
5. Jenelad Pty Ltd t/a Whiteline Road Services; and
6. Workforce Road Services Pty Ltd

be awarded the contract for Linemarking services as panel source suppliers to Muswellbrook Shire Council for the period 1 October 2023 to 30 September 2025, and a provision be allowed for a 12-month extension based on satisfactory supplier performance, which may take this contract through to 30 June 2026

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

Against: Nil.



#### **18.4. Regional Procurement Contract T152324HUN - Traffic Control**

138 RESOLVED on the motion of Cr B. Woodruff and Cr D. Marshall that:  
Council REJECTS all submission for Regional Procurement Tender T152324HUN in favour of engaging contractors under the Local Government Procurement Standing Offer Deed for Traffic Management Services.

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

Against: Nil.

#### **19. Resumption of Open Council**

139 RESOLVED on the motion of Cr D. Douglas and Cr D. Marshall that:

The meeting return to Open Council.

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

Against: Nil.

Members of the public returned to the meeting.

The Mayor read out the resolutions from Closed Council.

#### **20. Closure**

The meeting was declared closed at 7.27pm.

**THE MINUTES OF THE MEETING (PAGES 1 to 25) WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON 24 OCTOBER 2023 AND ARE A FULL AND ACCURATE RECORD OF PROCEEDINGS OF THE MEETING HELD ON 26 SEPTEMBER 2023.**

.....  
Mr D. Finnigan  
**General Manager**

.....  
Cr S. Reynolds  
**Chairperson**



**6. Disclosure of any Pecuniary or Non-Pecuniary Interests**

**7. Mayoral Minute**

Nil

**8. Public Participation**

**9. Business Arising (From Previous Meetings)**

Nil



## 10. Business (Specific Reports)

### 10.1. Planning and Environment

#### 10.1.1. DA 2022-80 - Remediation and Earthworks at Coal Road, Muswellbrook

**Attachments:**

1. Attachment A - DA 2022-80 Remediation and Earthworks Plans [**10.1.1.1** - 34 pages]
2. Attachment B - DA 2022 80 Development Assessment Report [**10.1.1.2** - 24 pages]
3. Attachment C - DA 2022 80 Recommended Conditions of Consent [**10.1.1.3** - 15 pages]
4. Attachment D - Redacted Submissions [**10.1.1.4** - 5 pages]

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

**Author:** Tanya Alsleben (Project Planner)

**Community Plan Issue:** 6 - Community Leadership

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

**Community Plan Strategy:** Not Applicable

Not applicable

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#### PURPOSE

The report has been prepared to assist Council in the determination of DA 2022-80, involving decontamination and remediation of a site comprising 35 Lots at the corner of Clendenning Street and Coal Road, Muswellbrook. The site was previously operated by Muswellbrook Coal Company as the Colliery No.1 Pit Top.

The development application has been reported to Council to determine as a development application that relates to mining.

#### OFFICER'S RECOMMENDATION

Council grants development consent to DA 2022-80 for the decontamination and remediation of land at the corner of Clendenning Street and Coal Road (the full list of Lots and DP's is included in attachment B), subject to the conditions of development consent included in Attachment C.

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

#### DESCRIPTION OF THE PROPOSED DEVELOPMENT

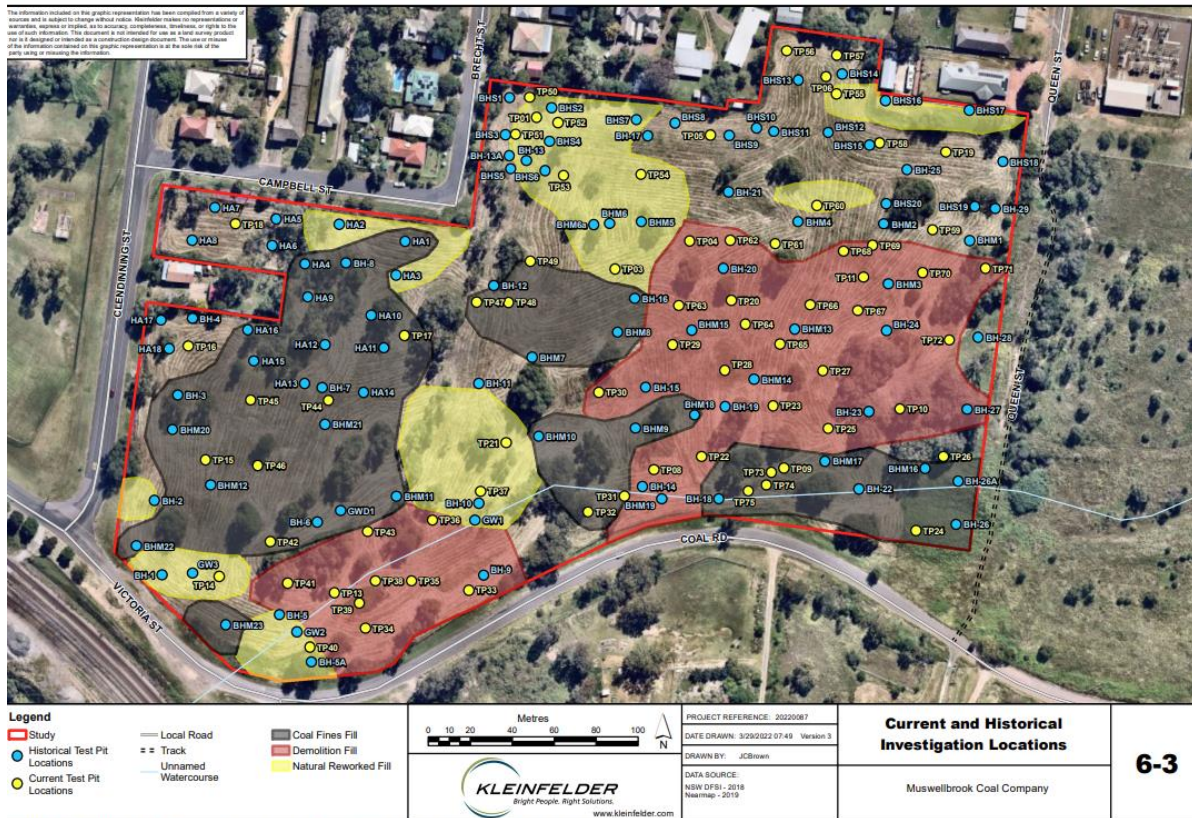
This development application seeks development consent to carry out decontamination and remediation of the subject site.

#### Description of Site Contamination

The site is recognised as being potentially contaminated due to historical mining, energy generation, and related land uses.

Technical investigations have previously been carried out in relation to the site to identify the extent of site contamination, and remediation pathways. These reports and their findings have informed the development application and Remediation Action Plan prepared in relation to the site. A set of plans showing the proposed works are provided in Attachment A.

The figure below is an excerpt from the Remediation Action Plan and provides a useful overview of soil sampling bore holes undertaken to inform site investigation, and maps the locations of identified fill.



### Asbestos Containing Material

- The distribution of Asbestos Containing Material (ACM) found on the surface of the site was predominantly within the central eastern portion of the site and in the northern part of the site. Small clusters of ACM were identified on the ground surface in other isolated areas of the site as shown in Figure 6-3.
- ACM located below the ground surface was predominantly found in the central eastern part of the site, ranging in depth from the surface down to 1.4m below ground level (BGL), and in the southern part of the site in the vicinity of the old dams, ranging in depth from 0.3m to 1.8m BGL.
- Asbestos Fines (AF) and Fibrous Asbestos (FA) was identified in the central eastern part of the site, generally within the top 0.5m of soil.
- Free fibres were identified at three locations within the central eastern part of the site, ranging in depth from 0.5m to 0.8m BGL.

### Chemical contamination

- Concentrations of chemicals detected in soil and groundwater were limited in nature and extent





- Test pit BH19 identified hydrocarbon contamination. Related investigation attributed this to diesel spill.
- Test pit BH2 identified petroleum hydrocarbons.

#### Shaft and Void Assessment

- An historical mine shaft may be present close to the central eastern site boundary, and some historical ground subsidence has been observed in this area.
- A Ground Penetrating Radar survey was undertaken. The survey did not identify any voids at shallow depths. However, it could not be ruled out that a void may exist.
- Notwithstanding, the risk related to the carrying out of works contained in the Remediation Action Plan documents has been assessed as low.

#### **Description of Remediation Work Proposed**

A summary of the work involved is:

- Construction of two bio-retention basins to manage stormwater during remediation works. The bio-retention basins are proposed to be retained on-site at the completion of work.
- Removal of coal fines fill from the existing residential areas (and any adjoining lots).
- Removal of topsoil identified to be contaminated with asbestos from both residential and recreational zoned land and placement in zone 6.
- Install a geotextile membrane and 0.5m of clean capping over the central eastern portion of the site where on-site material capping is to occur (the area is identified as zone 6).
- Re-establish vegetation across the site – minimum 50mm pre-seeded compost blanket to be applied across the site.

Significant earthworks are required as part of the site's remediation. The EIS has provided a conceptual estimate of the volumes of cut and fill within the total site to achieve the remediation objectives.

Estimated total cut of 42,442m<sup>3</sup> comprising:

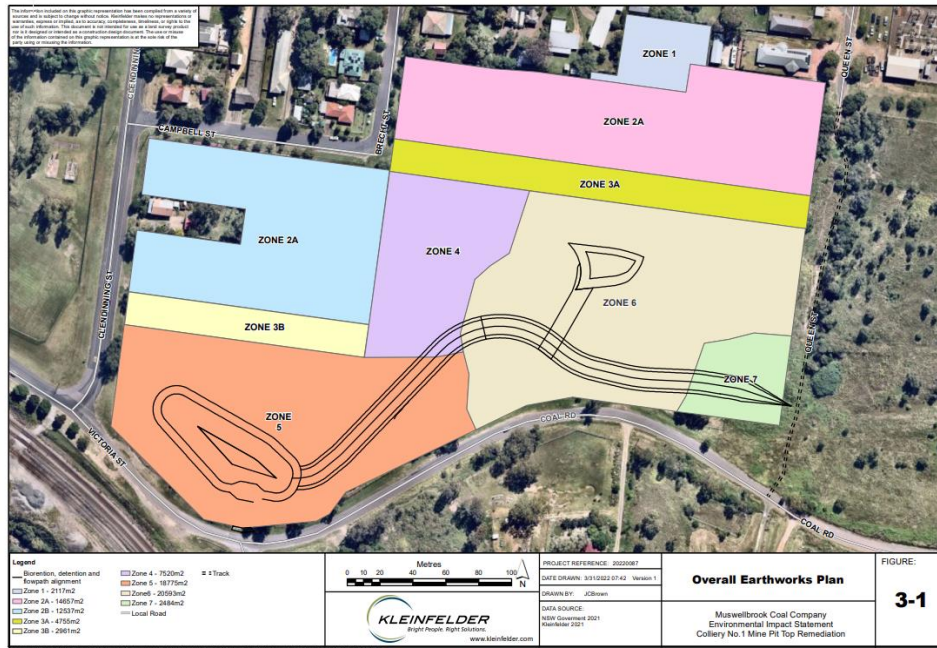
- 19,588m<sup>3</sup> Excavated material.
- 22,854m<sup>3</sup> Inter-area cut material.

Estimated total fill (including capping material) = 42,442m<sup>3</sup> comprising:

- 22,854m<sup>3</sup> inter area fill material.
- 19,588m<sup>3</sup> capping and additional fill material.

The image below identifies various zones in the construction work program (including zone 6, where capped material is proposed to be deposited) and the location of waterway and bio-retention basins.





## ASSESSMENT SUMMARY

Various technical documents were submitted as part of the proposed development. Given the volume of documentation, the full extent of the submitted reports and information have not been included as attachments to this Council Report. A summary of the key reports has been included below for Council's information. If requested, copies of reports can be circulated to Councillors under separate cover.

- **Environmental Impact Statement** – the proposed development is 'designated development'. Accordingly, an Environmental Impact Statement has been prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARs). This document outlines and reviews the development scope against the relevant assessment criteria. Council Officers are satisfied that the document has been professionally prepared and responds to the relevant assessment criteria.
- **Remediation Action Plan (RAP)** – This report has been prepared by contamination and remediation specialists. The report has been informed by previous studies related to the site contamination, and explores the extent of on-site contamination, and proposes the strategy for remediating the site to achieve the NSW Environmental Protection Authority (EPA) guidelines for site remediation.
- **Site Auditor Report** - this report is an independent review of the Remediation Action Plan by a NSW accredited Site Auditor. The Auditor report conclusions and recommendations note the RAP to have been prepared in a manner consistent with current NSW and national guidance and is an acceptable plan to remediate the site.
- **Stormwater Management Plan** – plan prepared by ACOR Consulting Engineers to explore and detail stormwater management related to the proposed remediation works and landform management. The report and related engineering plans propose the bio-retention basins to manage stormwater and erosion during the carrying out of works.
- **Air Quality Assessment** – this report investigates potential air quality emissions from the carrying out of remediation works against relevant NSW EPA assessment criteria. The document recommends the implementation of management and control measures, including a monitoring program to mitigate risk to nearby sensitive receivers. Air quality monitoring, reporting, and control will form part of the Environmental Protection Licence which will be administered by the NSW EPA.



- *Biodiversity Assessment* – this report examines biodiversity impacts related to the proposed development, and vegetation removal associated with the works. The report findings observe:
  - No threatened species of fauna were recorded within the site.
  - The site includes an endangered ecological community, and the Biodiversity Off-set Scheme will require the proponent to retire 11 ecosystem credits for impacts to this community for the proposal to go ahead.
  - Recommended conditions have been put forward related to the retirement of these credits.
- *Noise and Vibration Assessment* – this report investigates potential noise and vibration emissions from the proposed development. The report recommends related mitigation measures. The management of noise impacts will form part of the Environmental Protection Licence, which will be administered by the NSW EPA.
- *Traffic Impact Assessment* – this report identifies that the proposed earthworks will have a minor impact on the local traffic network. The proposed works will not involve the importing or exporting of significant volumes of fill, so daily traffic movements are anticipated to be largely associated with staff movements and water carts. The report and its findings have been considered by Council's Roads and Drainage Engineers, who requested a dilapidation survey be provided prior to the commencement of the works to identify any related road surface damage to be restored prior to completion.
- *Aboriginal Heritage Due Diligence Assessment* – this due diligence assessment considered the likelihood of any items of Aboriginal heritage being uncovered through the carrying out of works. Noting the vast amount of disturbance to the site in the last 110 years, the report concluded the work was unlikely to cause harm to Aboriginal heritage.

Council Officers have assessed the proposal under Section 4.15 of the Environmental Planning and Assessment Act 1979 (see Attachment B). Key section 4.15 assessment issues and findings are:

- The proposed development is 'Designated Development'.
- The proposed development involves works that met the criteria for integrated development and requiring concurrence from the EPA, NSW Subsidence Advisory, and the Department of Planning and Environment – Water. The proposed development has been referred to these approval authorities, the result of which is that each has granted General Terms of Approval to the proposed development.
- The proposed development requires an Environmental Protection Licence (EPL) from the EPA under the Protection of the Environment Operations Act 1997. The EPA will assume the role of regulating aspects of the activity related to pollution management and control through the provisions of the Protection of the Environment Operations Act 1997.
- Section 4.10 of The State Environmental Planning Policy (SEPP) Resilience and Hazards 2021 restricts a Consent Authority from refusing a development application for remediation works where concurrence has been granted from relevant approval authorities, except where there would be a more significant risk of harm to human health or the environment from the carrying out of the work. Concurrence has been granted from relevant approval bodies related to this application. There is more risk of harm from leaving the site in a contaminated state.
- The Remediation Action plan has in turn been reviewed by a NSW Accredited Site Auditor independent of the firm that prepared the RAP.
- The proposed development is compliant with the provisions of relevant State



Environmental Planning Policies (SEPP). A review of the proposal against the provisions of relevant SEPPs is included in the attached assessment report.

- The proposed development is compliant with the provisions of the Muswellbrook Local Environmental Plan (LEP) 2009. The proposal is permissible with consent as development for the purpose of 'environmental protection works' within the relevant R1 General Residential and RE2 Private Recreation land use zones.
- The proposed development is compliant with the relevant provisions of the Muswellbrook Development Control Plan (DCP). A review of the proposed development against relevant DCP provisions is included in the attached assessment report.

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

## CONSULTATION

The Application was notified to adjoining owners from 27 July 2022 to 7 September 2022 (42-day notification period). A notice was also placed on the Council's website and Facebook page at the commencement of the notification period.

A total of five (5) submissions were received during the notification period. Redacted copies of the submissions have been included as attachment D. Matters raised by the submissions have also been reviewed and commented on in Section 4.15 Assessment. Matters raised by the submissions primarily relate to concerns about future residential use of the land and managing pollution during the carrying out of the works.

The development application has also been referred to relevant external Government Agencies, who support the application. No residential construction work is proposed as part of this application. Future residential use of the site has informed the scope of remediation activity, as this is the highest level of decontamination/remediation required.

## OPTIONS

Council may:

- A. Approve the proposed development subject to the recommended conditions of consent.
- B. Approve the proposed development subject to amended conditions of consent.
- C. Refuse the proposed development and, in doing so, provide reasons for refusal.

## CONCLUSION

DA 2022-80 has been reported for determination to Council due to the scale of the proposed development, the number of submissions received, and that the proposed activity is related to a former mining use.

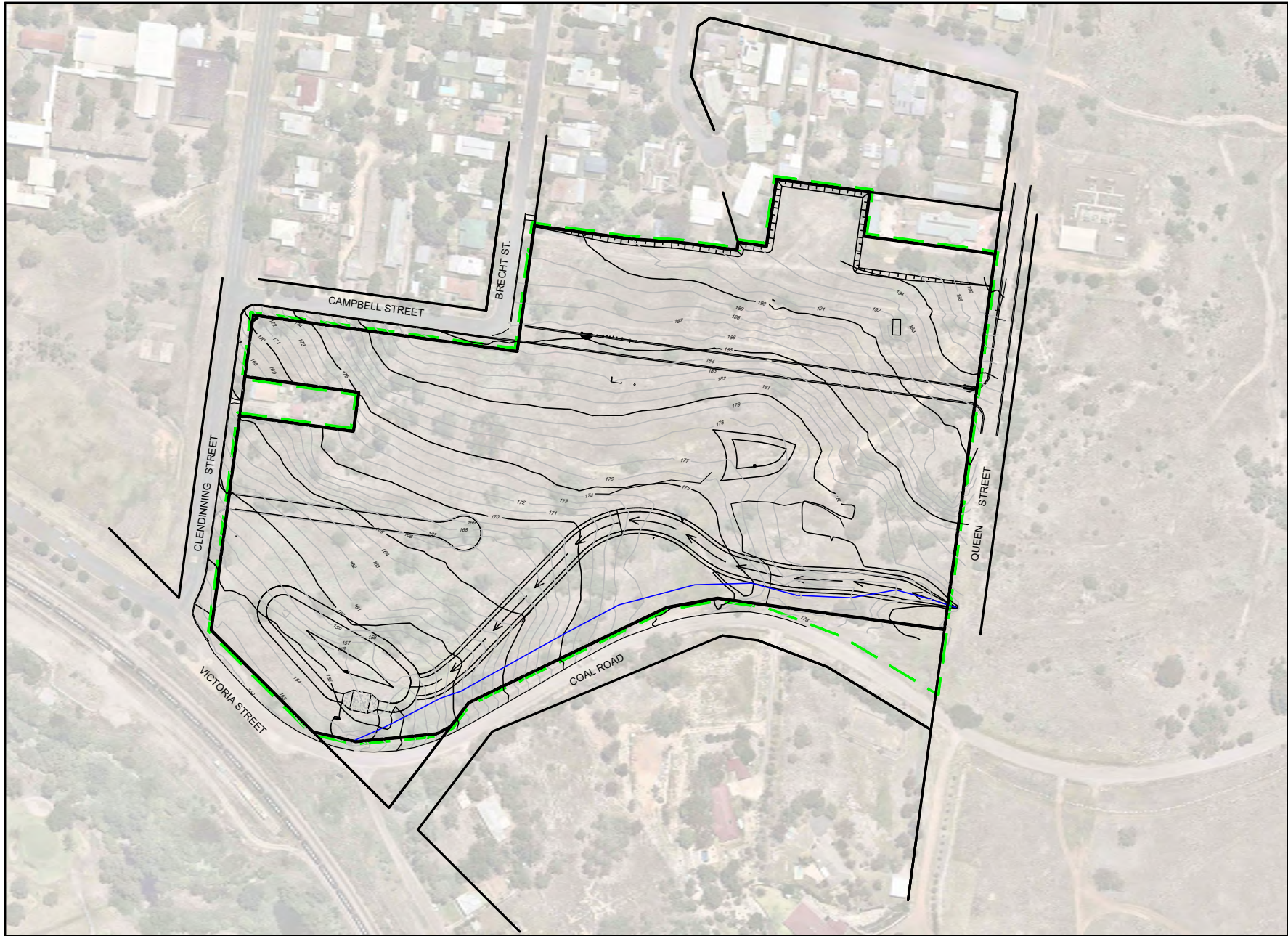
The proposed development was assessed against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979. Council staff recommend that the development be approved subject to the recommended conditions outlined in Attachment C.

## 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.



MUSWELLBROOK COAL  
OLD PIT TOP REMEDIATION  
VICTORIA STREET, MUSWELLBROOK, NSW 2333  
DETAILED REMEDIATION DESIGN WORKS



LOCALITY PLAN  
NOT TO SCALE

DRAWING SCHEDULE	
DRAWING No.	DESCRIPTION
C00.01	COVER SHEET, LOCALITY PLAN AND DRAWING SCHEDULE
C01.01	CONSTRUCTION NOTES
C02.01	OVERALL LAYOUT PLAN
C02.02	OVERALL EARTHWORKS PLAN
C02.03	FUTURE LAYOUT PLAN
C03.01	GENERAL ARRANGEMENT PLAN - SHEET 1
C03.02	GENERAL ARRANGEMENT PLAN - SHEET 2
C04.01	BULK EARTHWORKS ISOPACH PLAN
C05.01	ALIGNMENT PLAN
C06.01	TYPICAL SITE SECTIONS SHEET 1
C06.02	TYPICAL SITE SECTIONS SHEET 2
C07.01	MCA5 CLENDINNING STREET LONGITUDINAL SECTION
C07.02	MCA3 BRECHT STREET LONGITUDINAL SECTION
C07.03	MCA2 CAMPBELL STREET LONGITUDINAL SECTION SHEET 1
C07.04	MCA2 CAMPBELL STREET LONGITUDINAL SECTION SHEET 2
C07.05	MCA2 CAMPBELL STREET LONGITUDINAL SECTION SHEET 3
C07.06	MCA4 QUEEN STREET LONGITUDINAL SECTION
C07.07	MCA1 CUL-DE-SAC LONGITUDINAL SECTION
C07.08	MP01 PATH1 LONGITUDINAL SECTION SHEET 1
C07.09	MP01 PATH1 LONGITUDINAL SECTION SHEET 2
C07.10	MP01 PATH1 LONGITUDINAL SECTION SHEET 3
C07.11	MP02 PATH2 LONGITUDINAL SECTION
C07.12	MC01 FLOWPATH LONGITUDINAL SECTION SHEET 1
C07.13	MC01 FLOWPATH LONGITUDINAL SECTION SHEET 2
C07.14	MC01 FLOWPATH LONGITUDINAL SECTION SHEET 3
C08.01	BASIN 1 LAYOUT PLAN
C08.02	BASIN 1 BIORETENTION NOTES AND DETAILS
C08.03	BASIN 1 SECTIONS AND DETAILS
C09.01	PRE-CATCHMENT PLAN
C09.02	POST-CATCHMENT PLAN
C09.03	CATCHMENT PLAN
C10.01	EROSION AND SEDIMENT CONTROL NOTES AND LEGEND
C10.02	EROSION AND SEDIMENT PLAN
C10.03	EROSION AND SEDIMENT DETAILS

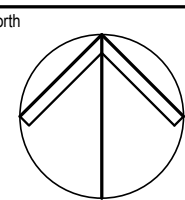


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Drawing Title  
COVER SHEET, LOCALITY PLAN  
AND DRAWING SCHEDULE

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JER	NOV 2019	N.T.S		TB	26.11.19
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SJO	20193469	C00.01	B		



## GENERAL NOTES

1. THE DRAWING DIMENSIONS SHALL NOT BE OBTAINED BY SCALING.
  2. THESE DRAWINGS SHALL BE READ IN CONJUNCTION WITH THE SPECIFICATION AND WRITTEN INSTRUCTIONS. ANY DISCREPANCY OR VARIATION SHALL BE REFERRED TO THE SUPERINTENDENT BEFORE PROCEEDING WITH THE WORK.
  3. NO ADDITIONAL OR P.C. WORKS SHALL BE UNDERTAKEN WITHOUT THE SUPERINTENDENTS APPROVAL. CONFIRM COUNCIL INSTRUCTIONS WITH SUPERINTENDENT.
  4. THE CONTRACTOR MUST ENSURE SUPERINTENDENT AND/OR COUNCIL APPROVAL OF MATERIALS, PRIOR TO DELIVERY TO SITE.
  5. DIVERSION OF WATER AND THE PROTECTION OF WORKS IS THE CONTRACTORS RESPONSIBILITY.
  6. THE CONTRACTOR HAS SOLE RESPONSIBILITY TO EXERCISE CARE AND TAKE PRECAUTIONS TO ENSURE CONSTRUCTION ACTIVITIES DO NOT AFFECT ADJACENT PROPERTIES, ACCESS OR STRUCTURES. MAINTAIN EMBANKMENTS AND STRUCTURES IN STABLE CONDITION DURING CONSTRUCTION ENSURING NO PART IS OVERSTRESSED.
  7. THE CONTRACTOR WILL BE RESPONSIBLE FOR THE FULL QA DOCUMENTATION OF THE PROJECT TO ENSURE WORKS MEET THE RELEVANT SECTIONS OF AUSPEC FOR ROADS, DRAINAGE, WATER AND SEWER. A COMPLETE ITP PLAN SHALL BE SUBMITTED TO THE SUPERINTENDENT FOR APPROVAL PRIOR TO WORKS COMMENCING ON SITE.
  8. CONTRACTOR IS TO VERIFY THE LOCATION OF ALL SERVICES WITH EACH RELEVANT AUTHORITY. ANY DAMAGE TO SERVICES SHALL BE REPAIRED BY THE CONTRACTOR OR THE RELEVANT AUTHORITY AT THE CONTRACTOR'S EXPENSE. SERVICES SHOWN ON THESE PLANS ARE ONLY THOSE EVIDENT AT THE TIME OF SURVEY.
  9. UNDERTAKE WORKS TO PRINCIPLES OF AS 9001. SUBMIT WORK METHOD STATEMENT TO SUPERINTENDENT.
- HOLD POINTS SHALL APPLY TO:
- APPROVAL OF WORK METHOD STATEMENT
  - APPROVAL OF TRAFFIC CONTROL PLAN
  - LOCATION OF INGROUND SERVICES
  - SETOUT OF EACH AREA OF WORKS
  - CERTIFICATION OF SUBGRADE
  - STORMWATER PIPEWORK PRIOR TO BACKFILL
  - CONDUITS PRIOR TO BACKFILL
  - WORK AS EXECUTED SURVEY
  - GEOTECHNICAL CERTIFICATION.
10. ALL WORKS ARE TO BE SETOUT BY A REGISTERED SURVEYOR.
  11. ALL LEVELS SHALL BE OBTAINED FROM ESTABLISHED BENCH MARKS ONLY. STANDARD DATUM FOR ALL DRAWINGS IS AUSTRALIAN HEIGHT DATUM (A.H.D.).
  12. A TRAFFIC CONTROL PLAN TO AS 1742.3 IS TO BE SUBMITTED TO COUNCIL FOR APPROVAL PRIOR TO WORKS COMMENCING.
  13. PROPOSED SERVICES CROSSING EXISTING ROADS SHALL BE THRUST BORED UNDER THE ROAD SO AS NOT TO DAMAGE EXISTING SURFACES.
  14. ALL NEW WORKS ARE TO MAKE SMOOTH JUNCTIONS WITH ALL EXISTING CONDITIONS. THE CONTRACTOR IS TO MAKE ALL DUE ALLOWANCES FOR WORKS DURING CONSTRUCTION.

## STORMWATER NOTES

1. ALL RCP PIPES SHALL BE CLASS "2" WITH RUBBER RING JOINTS (U.N.O.). ALL PVC-U PIPES SHALL BE CLASS "SN8" WITH RUBBER RING JOINTS OR SOLVENT WELDED (U.N.O.).
2. RCP PIPEWORK INSTALLATION TO AS 3725 AND MANUFACTURER'S STANDARDS AND SPECIFICATIONS.
3. RCP PIPE BEDDING SHALL BE (U.N.O.) TYPE HS2, IN ACCORDANCE WITH CURRENT RELEVANT AUSTRALIAN STANDARDS.
4. MINIMUM GRADE TO STORMWATER LINES TO BE 1% (U.N.O.).
5. CONTRACTOR TO SUPPLY AND INSTALL ALL FITTINGS AND SPECIALS INCLUDING VARIOUS PIPE ADAPTORS TO ENSURE PROPER CONNECTION BETWEEN DISSIMILAR PIPEWORK.
6. ALL PIPE JUNCTIONS UP TO AND INCLUDING 450 DIA. AND TAPERS SHALL BE VIA PURPOSE MADE FITTINGS.
7. ALL CONNECTIONS TO EXISTING DRAINAGE PITS SHALL BE MADE IN A TRADESMAN-LIKE MANNER AND THE INTERNAL WALL OF THE PIT AT THE POINT OF ENTRY SHALL BE CEMENT RENDERED TO ENSURE A SMOOTH FINISH.
8. PRECAST PITS SHALL NOT BE USED UNLESS WRITTEN APPROVAL IS OBTAINED FROM THE SUPERINTENDENT.
9. ENSURE ADEQUATE TRENCH FOUNDATION AND BEDDING COMPACTION SPECIFICALLY ADJACENT TO DRAINAGE STRUCTURES AND PROTECTION TO PIPES FROM CONSTRUCTION TRAFFIC. CRACKED STORMWATER PIPES WILL NOT BE ACCEPTED.
10. ALL INLET PIT GRATINGS AND PRECAST INLETS SHALL BE CONSTRUCTED TO COUNCILS STANDARD DRAWINGS.
11. ALL PITS DEEPER THAN 0.9m BUT LESS THAN 1.2m TO BE MINIMUM INTERNAL WIDTH 600 x 900 UNO. ALL PITS DEEPER THAN 1.2m TO BE MINIMUM INTERNAL WIDTH 900SQ UNO AND ARE TO BE CONSTRUCTED WITH STEP IRONS IN ACCORDANCE WITH AS 1657 AND DETAILS.
12. SIDE WALLS OF ALL PITS DEEPER THAN 1.5m SHALL BE REINFORCED WITH ONE LAYER OF SL82 MESH RETURNED 300 INTO BASE.
13. CARE TO BE TAKEN BY CONTRACTOR WHEN COMPACTING OVER BURIED PIPES.
14. PLACED ROCK SCOUR PROTECTION
  - ROCK SIZE 300-600mm NOM DIAMETER, HARD DURABLE STONE.
  - GEOTEXTILE BIDIM A34 OR EQUAL KEYED 300mm EACH END AND INSTALLED TO MANUFACTURERS SPECIFICATION.

## EXISTING SERVICES AND FEATURES

1. THE CONTRACTOR SHALL ALLOW FOR THE CAPPING OFF, EXCAVATION, REMOVAL AND DISPOSAL, IF REQUIRED OF ALL EXISTING SERVICES IN AREAS AFFECTED BY WORKS WITHIN THE CONTRACT AREA AS DIRECTED OTHERWISE BY THE SUPERINTENDENT.
2. THE CONTRACTOR SHALL ENSURE THAT AT ALL TIMES SERVICES TO ALL SURROUNDING BUILDINGS NOT AFFECTED BY THE WORKS ARE NOT DISRUPTED.
3. EXISTING BUILDINGS, EXTERNAL STRUCTURES, AND TREES SHOWN ON THESE DRAWINGS ARE FEATURES EXISTING PRIOR TO ANY DEMOLITION WORKS.

## EARTHWORKS AND PAVEMENT NOTES

1. ALL DISTURBED AREAS SHALL BE 50-75mm HYDRO MULCH AS SOON AS PRACTICABLE, AND BATTERS AND BERMS TREATED IMMEDIATELY AFTER CONSTRUCTION OF STORMWATER. AREAS OF DISTURBANCE SHALL BE APPROVED BY THE SUPERINTENDENT. REFER EROSION AND SEDIMENT CONTROL PLAN.
2. A SINGLE CONTINUOUS STRIP OF GRASS TURF SHALL BE PLACED AROUND THE PERIMETER OF ALL INLET PITS. EACH SIDE OF FOOTPAVING, FRONT OF LOT BOUNDARIES, DRAIN OUTLETS, TOP OF EXCAVATED BATTERS AND DIAGONALLY TO STEEP GRADES EXCEEDING 10% AND AS DIRECTED IMMEDIATELY AFTER THE CONSTRUCTION OF PITS RESPECTIVELY. TURFING/LANDSCAPE GRASS SHALL ALSO BE PLACED TO THE FULL WIDTH OF SWALE DRAINS UPON COMPLETION.
3. REMOVE TOPSOIL, SLOPEWASH & DELETERIOUS MATERIAL. GEOTECHNICAL ENGINEER TO CONFIRM SPOIL & UNSUITABLE.
4. EXCAVATED MATERIAL SHALL BE SELECTED TO PLACE BETTER QUALITY AT FILL SUBGRADES. REPLACEMENT OF CUT SUB-GRADES MAY BE INSTRUCTED BY THE SUPERINTENDENT AS EARTHWORKS OPERATION.
5. IN-SITU DENSITY TESTS ARE TO BE CARRIED OUT ON ALL SIGNIFICANT FILLS, ROAD SUB-GRADES AND PAVEMENT COURSES AS DIRECTED BY THE SUPERINTENDENT. BENKELMAN BEAM TEST PAVEMENT BASECOURSE. ALL TESTS ARE TO BE CARRIED OUT BY A REGISTERED N.A.T.A. GEOTECHNICAL LABORATORY.
6. LOTS REQUIRING FILL SHALL BE CONSTRUCTED TO LEVEL 1 SUPERVISION WITH TESTING AND DOCUMENTATION SUITABLE TO DETERMINE FUTURE LOT CLASSIFICATION.
7. THE CONTROL TESTING OF EARTHWORKS SHALL BE IN ACCORDANCE WITH THE GUIDELINES IN AS 3798. WHERE IT IS PROPOSED TO USE TEST METHOD AS 1289 EB.1 OR AS 1289 EB.2 TO DETERMINE THE FIELD DENSITY, A SAND REPLACEMENT METHOD SHALL BE USED TO CONFIRM THE RESULTS AS DIRECTED.
8. NO MATERIALS TO BE STOCKPILED ON FUTURE ALLOTMENTS WITHOUT APPROVAL IN WRITING FROM THE SUPERINTENDENT.
9. COMPACTION REQUIREMENTS:
  - FILL UP TO 0.5m BELOW SUB-GRADE MIN 95% STD (AS 1289 - 5.1.1).
  - MOISTURE CONTENT SUB-GRADE 60-90% STD OMC.



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Project  
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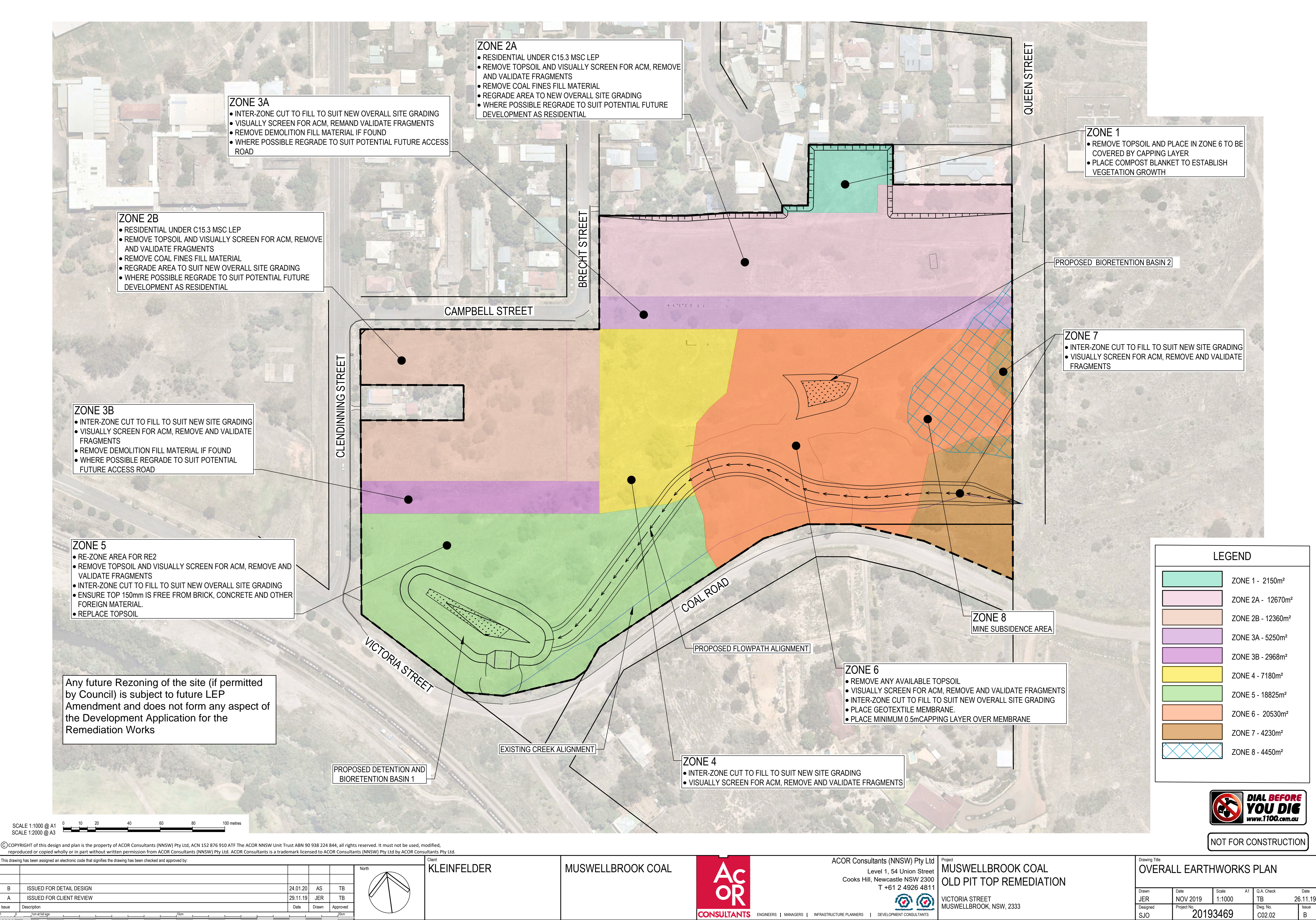
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Designed SJO	Project No. 20193469			Dwg. No. C01.01	Issue B

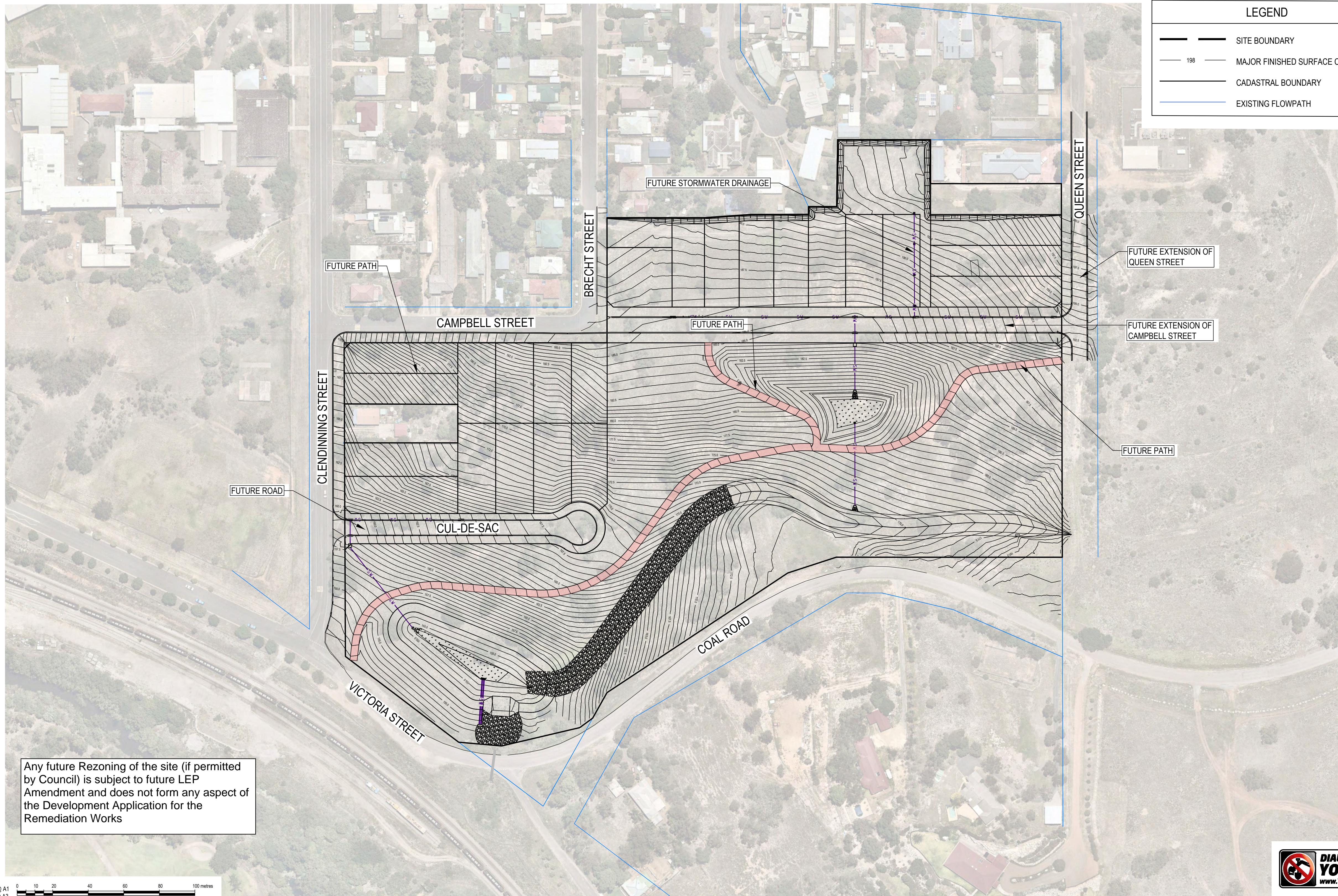












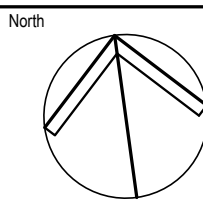
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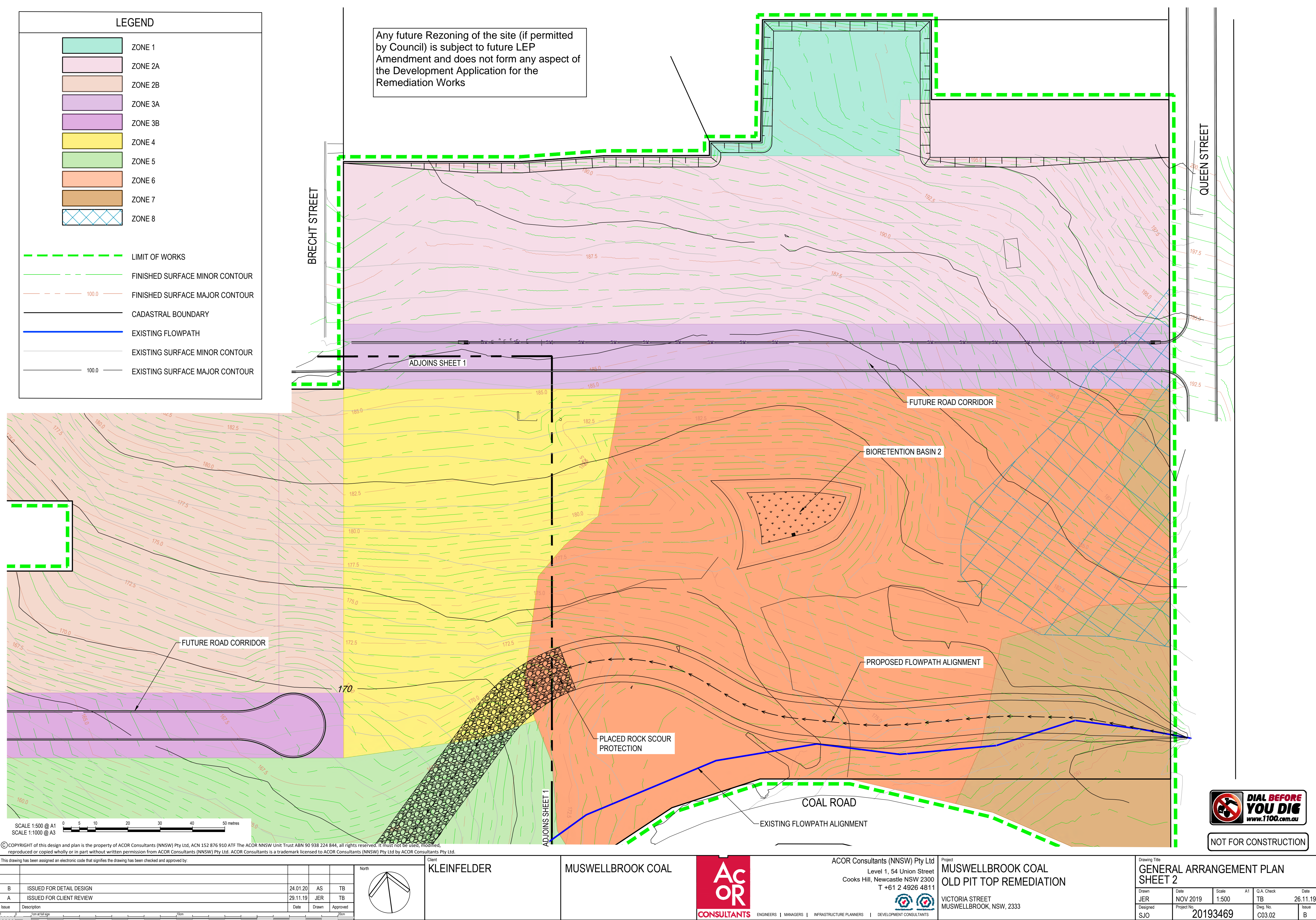
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**FUTURE LAYOUT PLAN**

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Designed	Project No.	Dwg. No.	Issue		
SJO	20193469	C02.03	A		

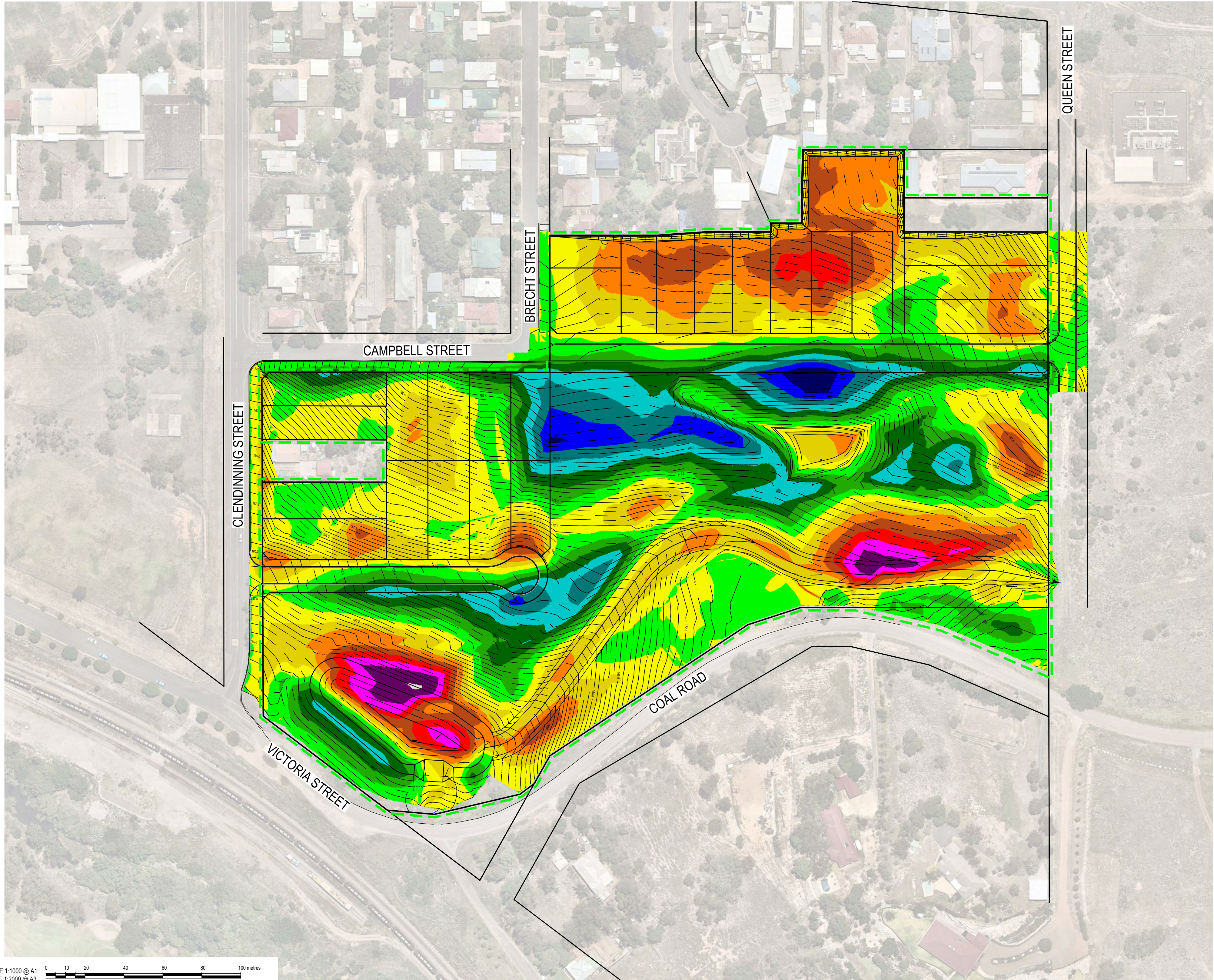




















CUT / FILL ISOPACH				Colour	
Lower_value	Upper_value	M			
-4	to	-3.0	M	CUT	
-3.0	to	-2.5	M		
-2.5	to	-2.0	M	CUT	
-2.0	to	-1.5	M		
-1.5	to	-1.0	M	CUT	
-1.0	to	-0.5	M		
-0.5	to	0.00	M	CUT	
0.00	to	0.5	M		
0.5	to	1.0	M	FILL	
1.0	to	1.5	M		
1.5	to	2.0	M	FILL	
2.0	to	2.5	M		
2.5	to	3	M	FILL	
3	to	4	M		
4	to	5	M	FILL	
5	to	6	M		

TOTAL CUT = - 42360m³  
TOTAL FILL = 36950m³  
TOTAL BALANCE = - 5410m³

LEGEND

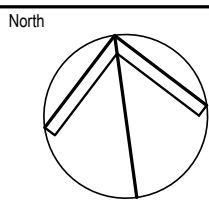
- LIMIT OF WORKS
- FINISHED SURFACE MINOR CONTOUR
- 100.0 --- FINISHED SURFACE MAJOR CONTOUR
- CADASTRAL BOUNDARY
- EXISTING FLOWPATH

SCALE 1:1000 @ A1  
SCALE 1:2000 @ A3

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Project  
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OLD PIT TOP REMEDIATION

VICTORIA STREET  
MUSWELLBROOK, NSW, 2333



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Drawing Title  
BULK EARTHWORKS ISOPACH PLAN

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JER	NOV 2019	1:1000	TB	TB	26.11.19
Designed	Project No.	Dwg. No.	Issue		
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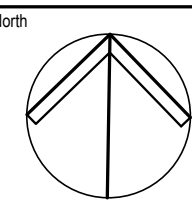
Any future Rezoning of the site (if permitted by Council) is subject to future LEP Amendment and does not form any aspect of the Development Application for the Remediation Works

SCALE 1:1000 @ A1  
SCALE 1:2000 @ A3

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MUSWELLBROOK, NSW, 2333

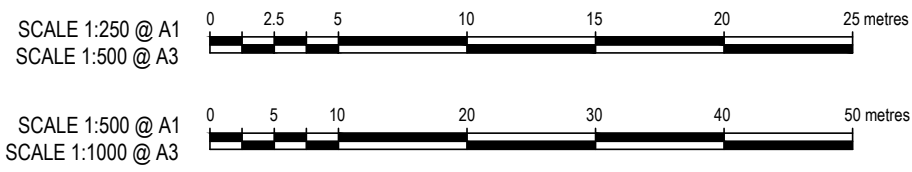
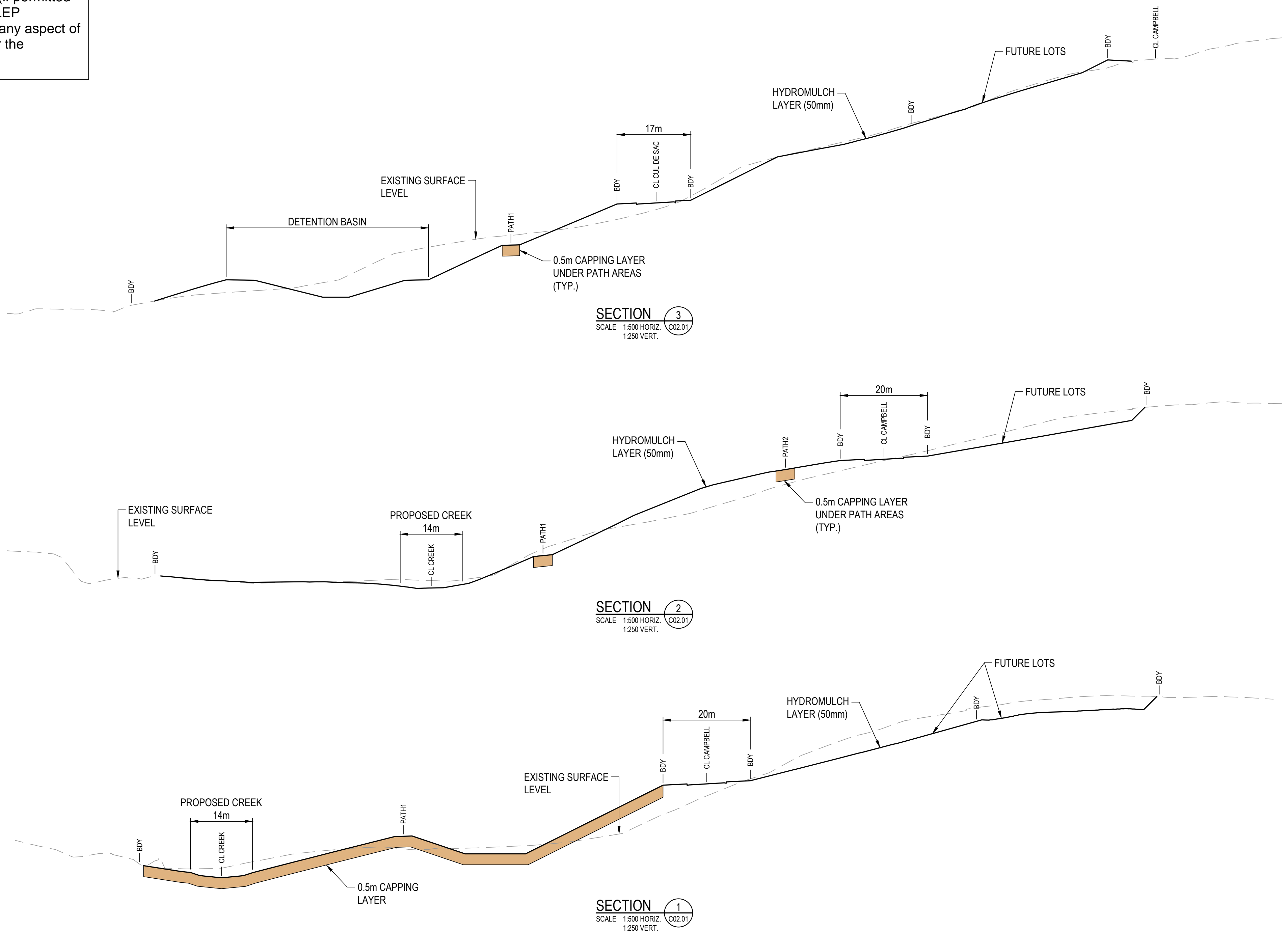


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Drawing Title  
**ALIGNMENT PLAN**

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Designed	Project No.	Dwg. No.	Issue		
SJO	20193469	C05.01	A		

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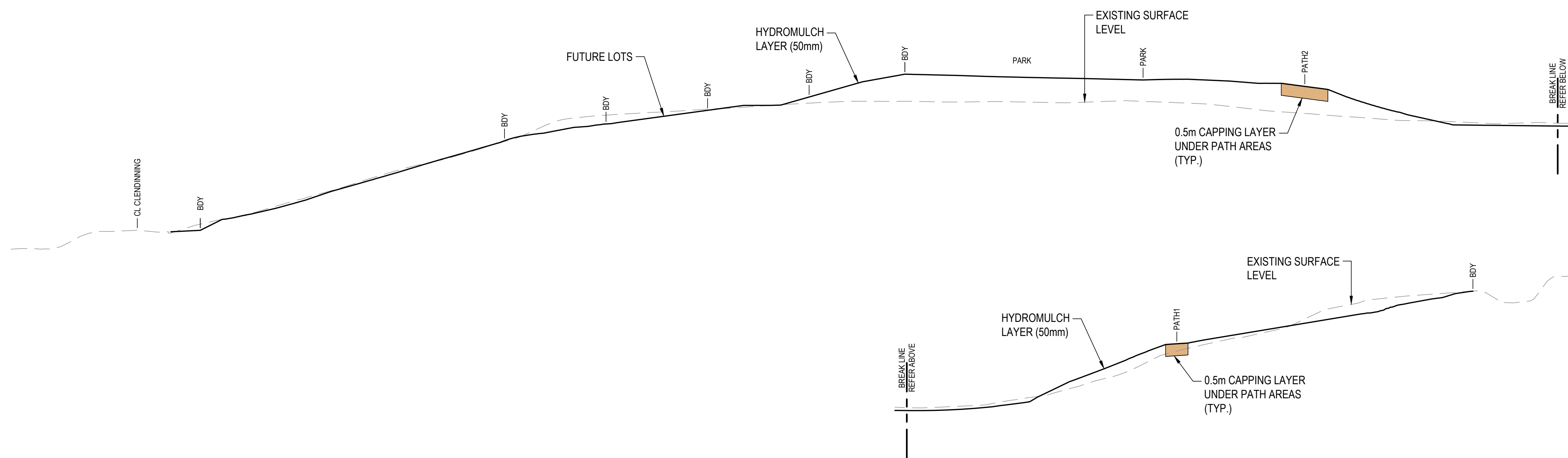
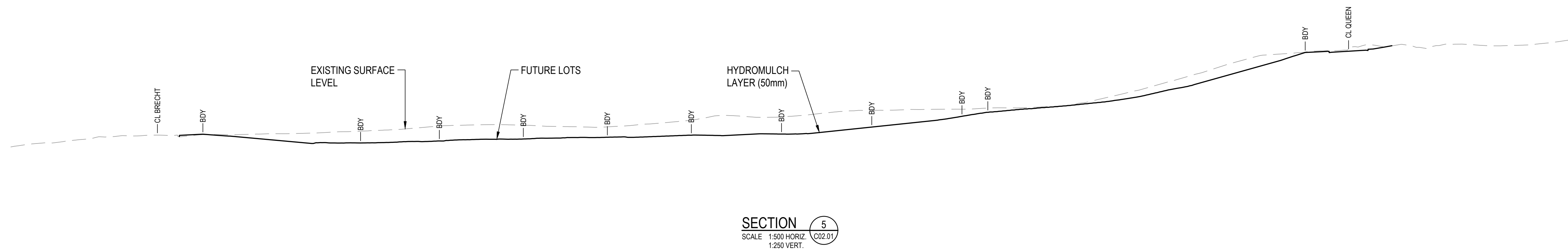


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ENGINEERS   MANAGERS   INFRASTRUCTURE PLANNERS   DEVELOPMENT CONSULTANTS			
Project			
MUSWELLBROOK COAL OLD PIT TOP REMEDIATION			
VICTORIA STREET MUSWELLBROOK, NSW, 2333			
Drawing Title			
TYPICAL SITE SECTIONS SHEET 1			
Drawn	Date	Scale	A1
JER	NOV 2019	AS SHOWN	TB
Designed	Project No.	Dwg. No.	Issue
SJO	20193469	C06.01	A



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SCALE 1:250 @ A1  
SCALE 1:500 @ A3

SCALE 1:500 @ A1  
SCALE 1:1000 @ A3

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Issue	Description	Date	Drawn	Approved	

Client  
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Project  
MUSWELLBROOK COAL  
OLD PIT TOP REMEDIATION

VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

Drawing Title  
TYPICAL SITE SECTIONS  
SHEET 2

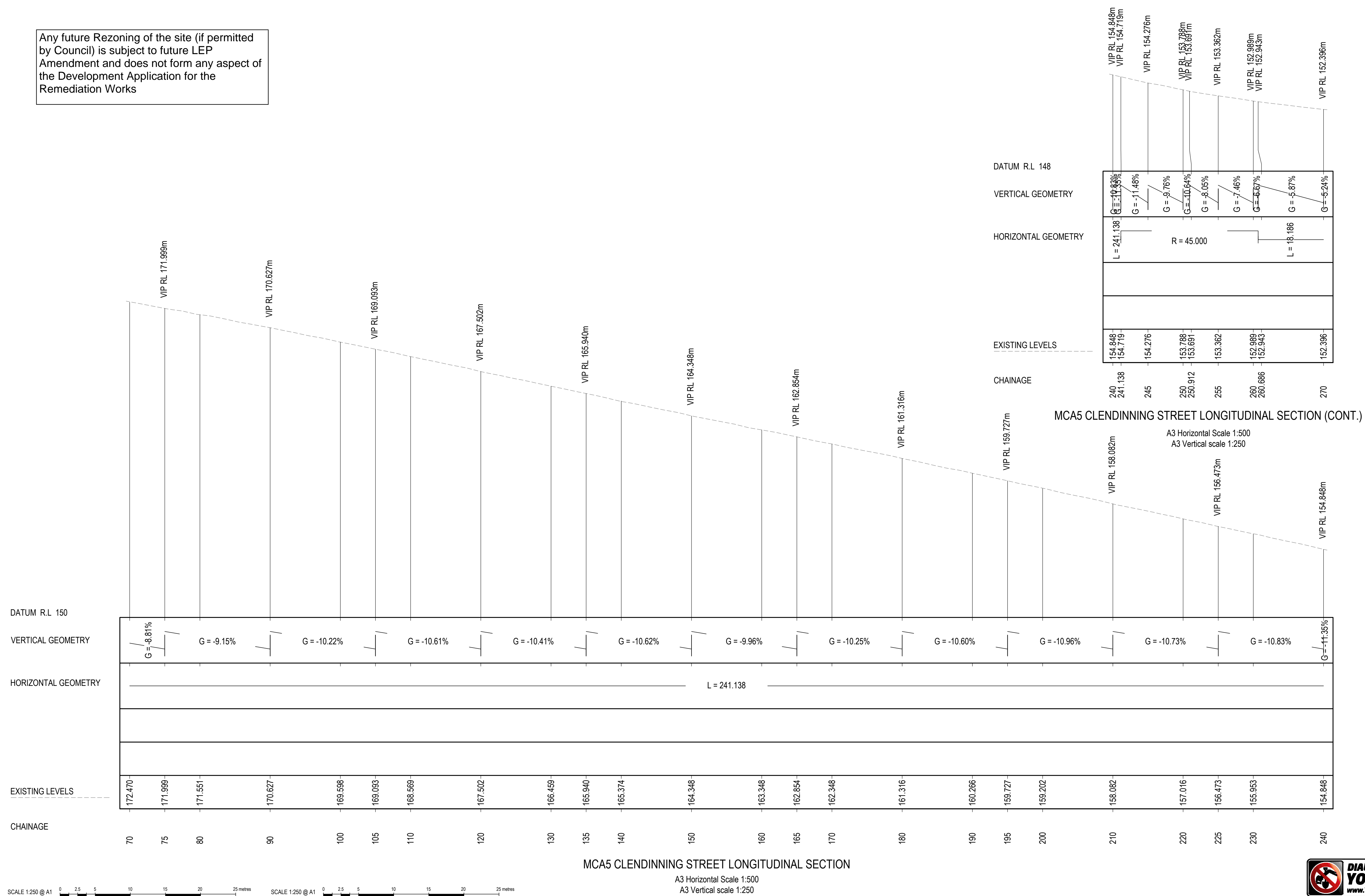
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SJO	20193469	C06.02	A		



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A	ISSUED FOR DETAIL DESIGN			24.01.20	AS	TB	
Issue	Description			Date	Drawn	Approved	
1	0	from initial size			0/00m		200m

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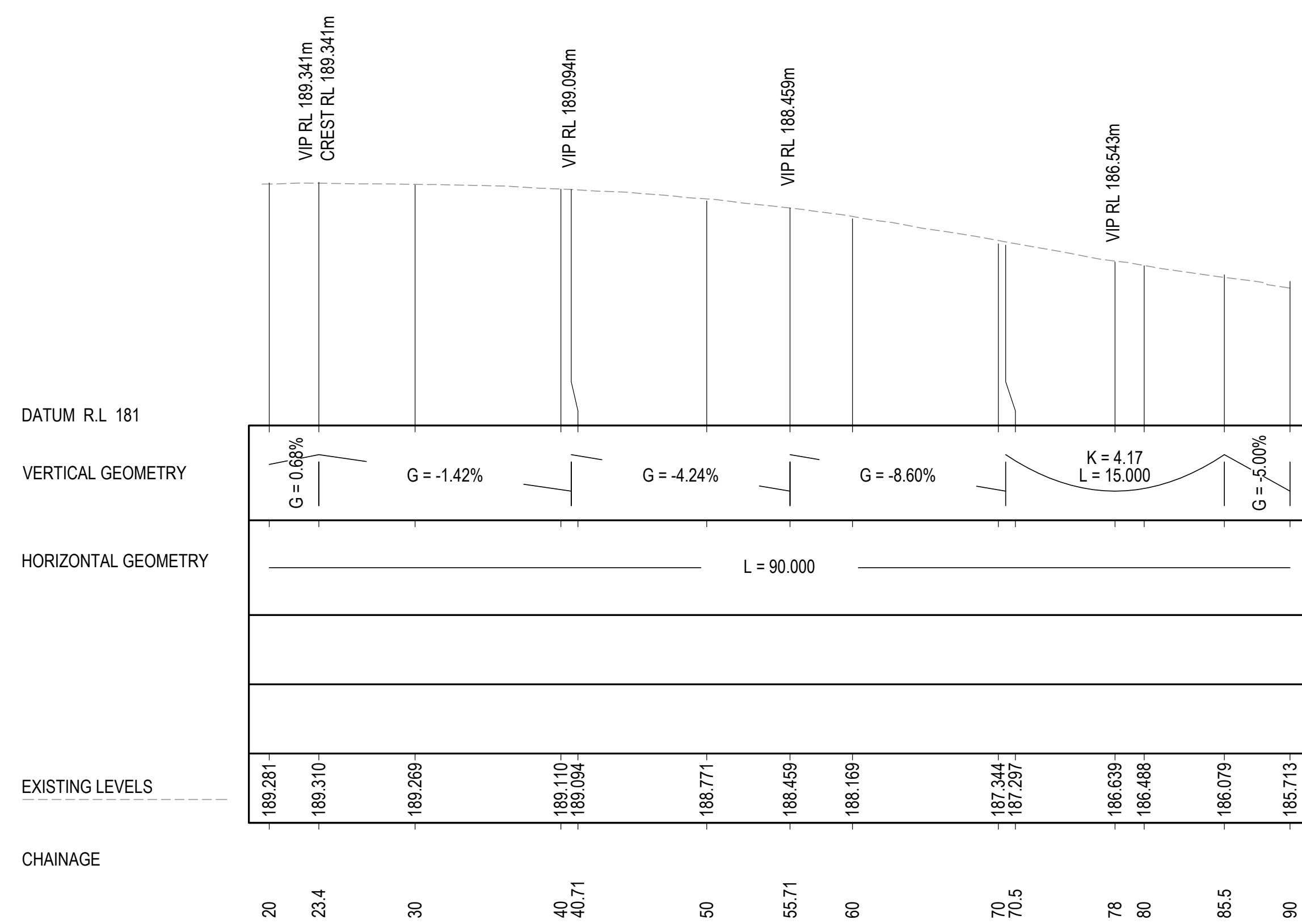
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VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

Drawing Title	GLENDINNING STREET LONGITUDINAL SECTION
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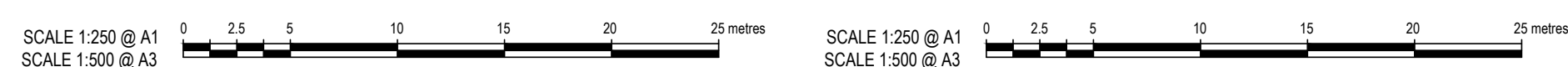
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SJO	20193469			C07.01	A

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MCA3 BRECHT STREET LONGITUDINAL SECTION

A3 Horizontal Scale 1:500  
A3 Vertical scale 1:250



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A	ISSUED FOR DETAIL DESIGN							24.01.20	AS	TB		
Issue	Description							Date	Drawn	Approved		
0	0	1/00 at full size				1/00				2/00		

Client	
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td	Project
et	MUSWELLBROOK COAL
00	OLD PIT TOP REMEDIATION

VICTORIA STREET  
MUSWELLBROOK, NSW, 2333



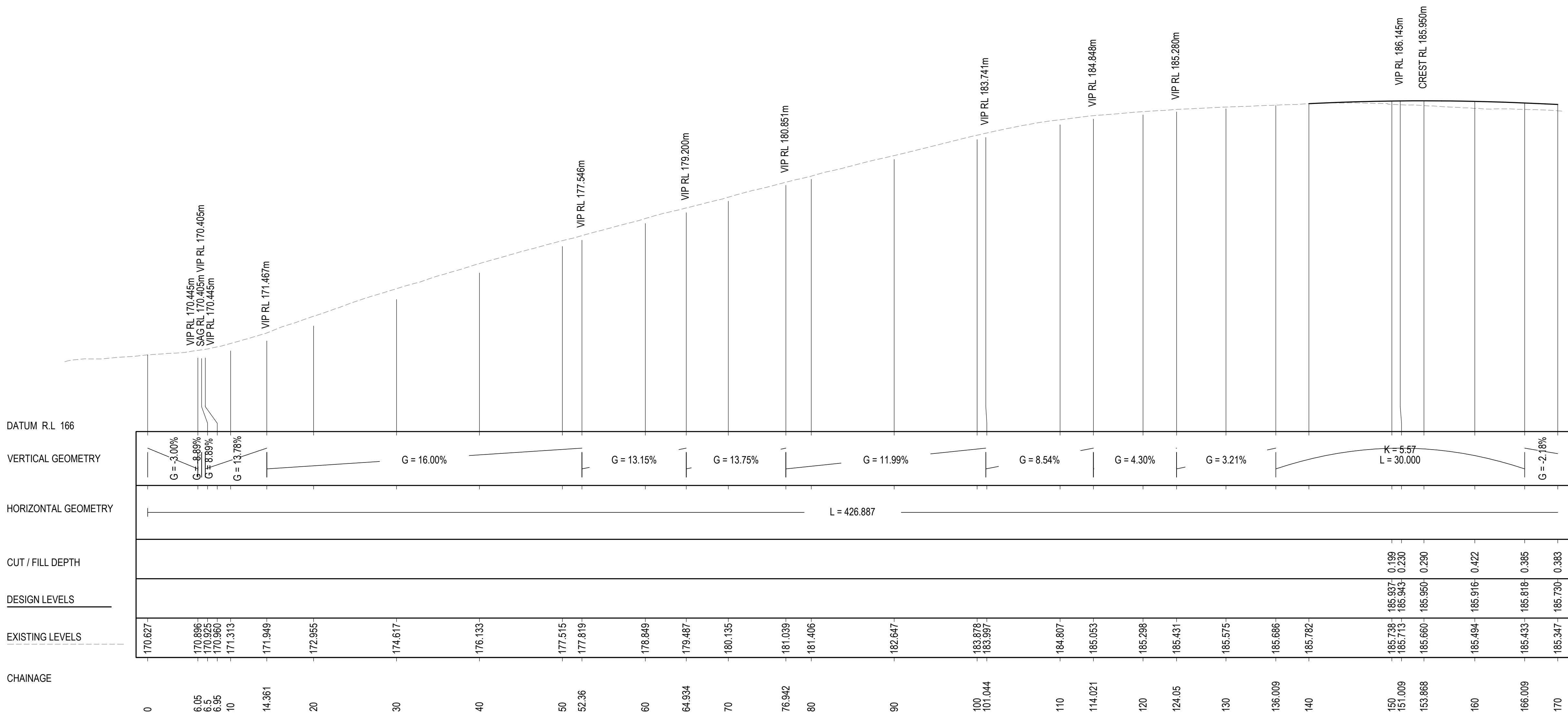
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Designed SJO	Project No. 20193469		Dwg. No. C07 02	Issue A

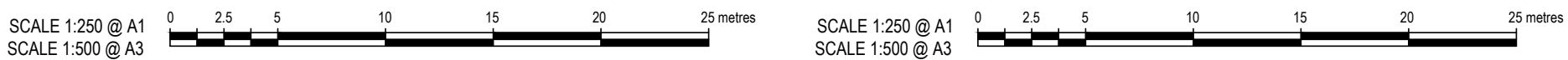
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MCA2 CAMPBELL STREET LONGITUDINAL SECTION  
A3 Horizontal Scale 1:500  
A3 Vertical scale 1:250



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A		24.01.20		AS		TB	
Description		Date		Drawn		Approved	
ISSUED FOR DETAIL DESIGN		24.01.20		AS		TB	

Client	
KLEINFELDER	

Client	
MUSWELLBROOK COAL	

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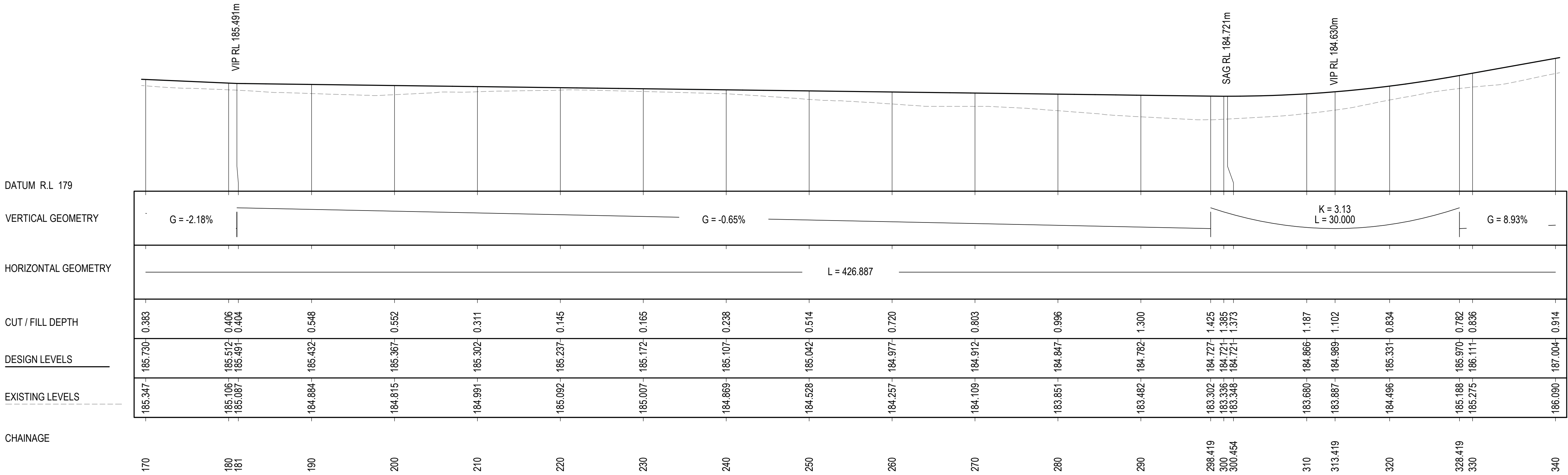
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Project  
MUSWELLBROOK COAL  
OLD PIT TOP REMEDIATION  
VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

Drawing Title			
MCA2 CAMPBELL STREET LONGITUDINAL SECTION SHEET 1			
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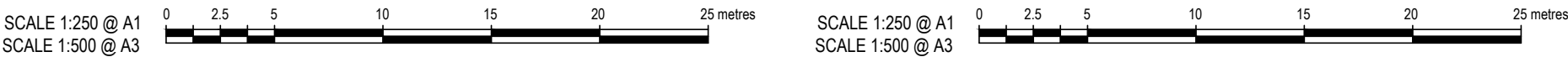
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## MCA2 CAMPBELL STREET LONGITUDINAL SECTION

A3 Horizontal Scale 1:500  
A3 Vertical scale 1:250



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Project  
MUSWELLBROOK COAL  
OLD PIT TOP REMEDIATION

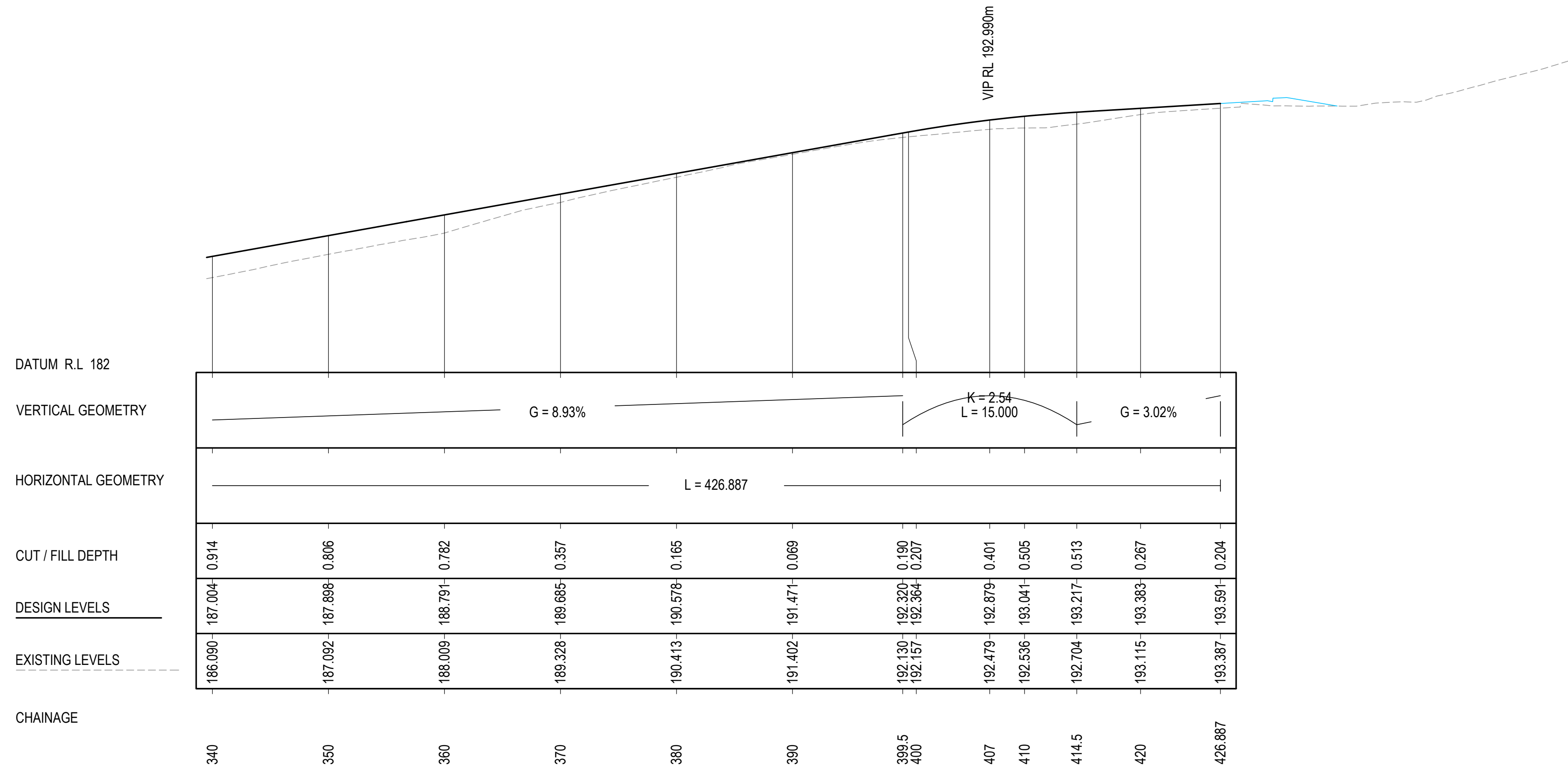
VICTORIA STREET  
MUSWELLBROOK, NSW, 2333



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Drawing Title					
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Designed SJO	Project No. 20193469		Dwg. No. C07 04	Issue A	

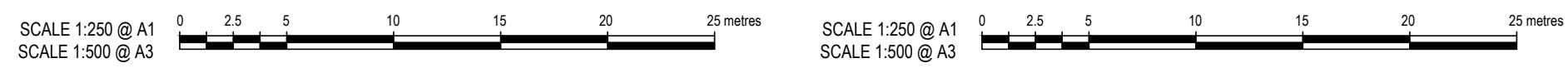
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MCA2 CAMPBELL STREET LONGITUDINAL SECTION

A3 Horizontal Scale 1:500

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Project	MUSWELLBROOK COAL OLD PIT TOP REMEDIATION
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VICTORIA STREET  
MUSWELLBROOK, NSW, 2333



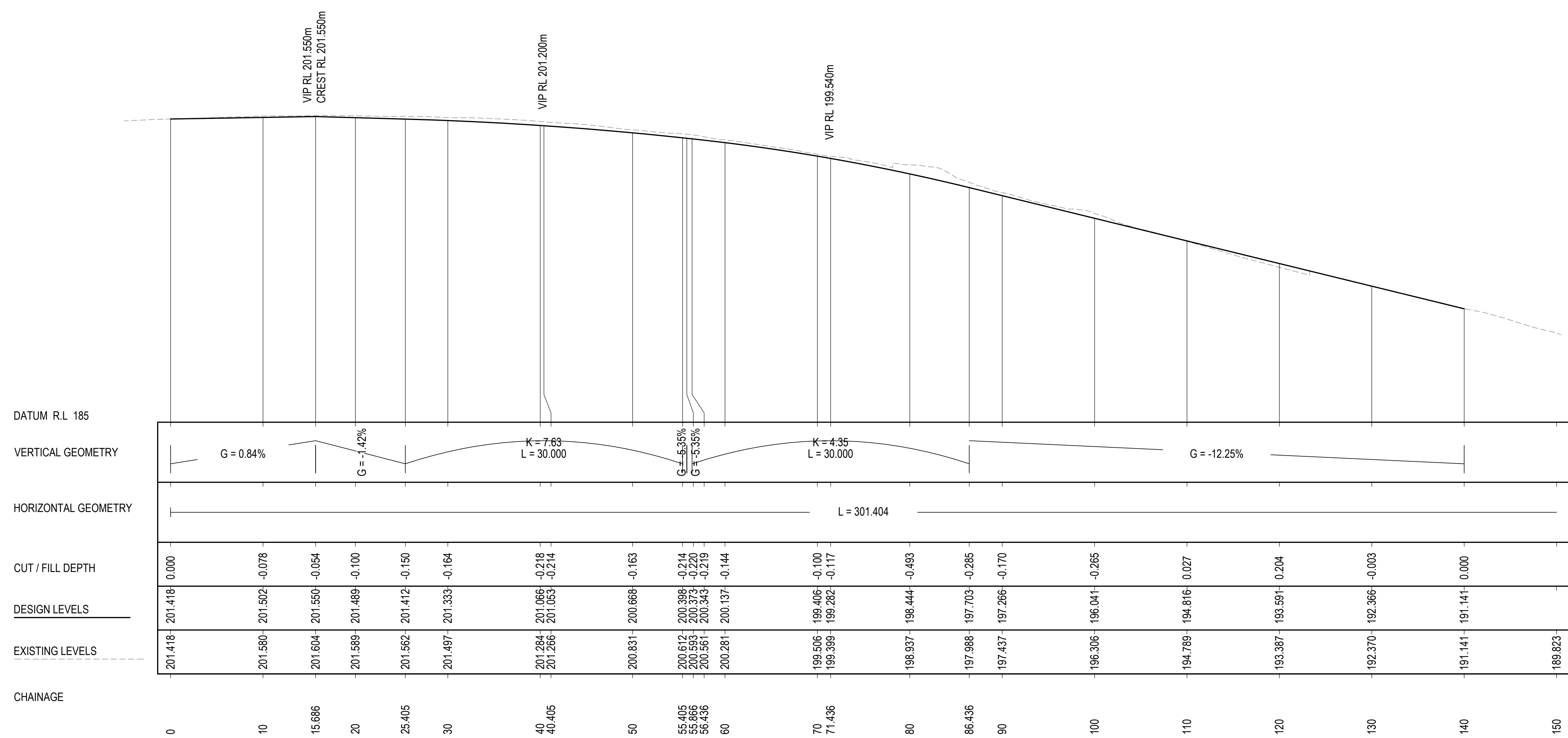
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LONGITUDINAL SECTION SHEET 3

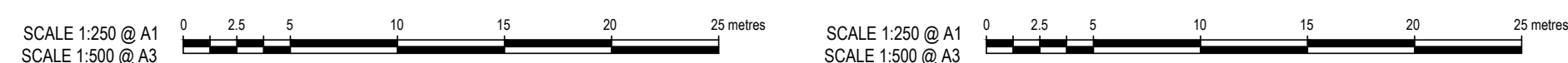
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Designed SJO	Project No. 20193469		Dwg. No. C07.05	Issue A

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## MCA4 QUEEN STREET LONGITUDINAL SECTION

A3 Horizontal Scale 1:500  
A3 Vertical scale 1:250



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Issue	Description	Date	Drawn	Approved	Scale			
0	0' - 1cm at full size				20mm			

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Project	MUSWELLBROOK COAL OLD PIT TOP REMEDIATION
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VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

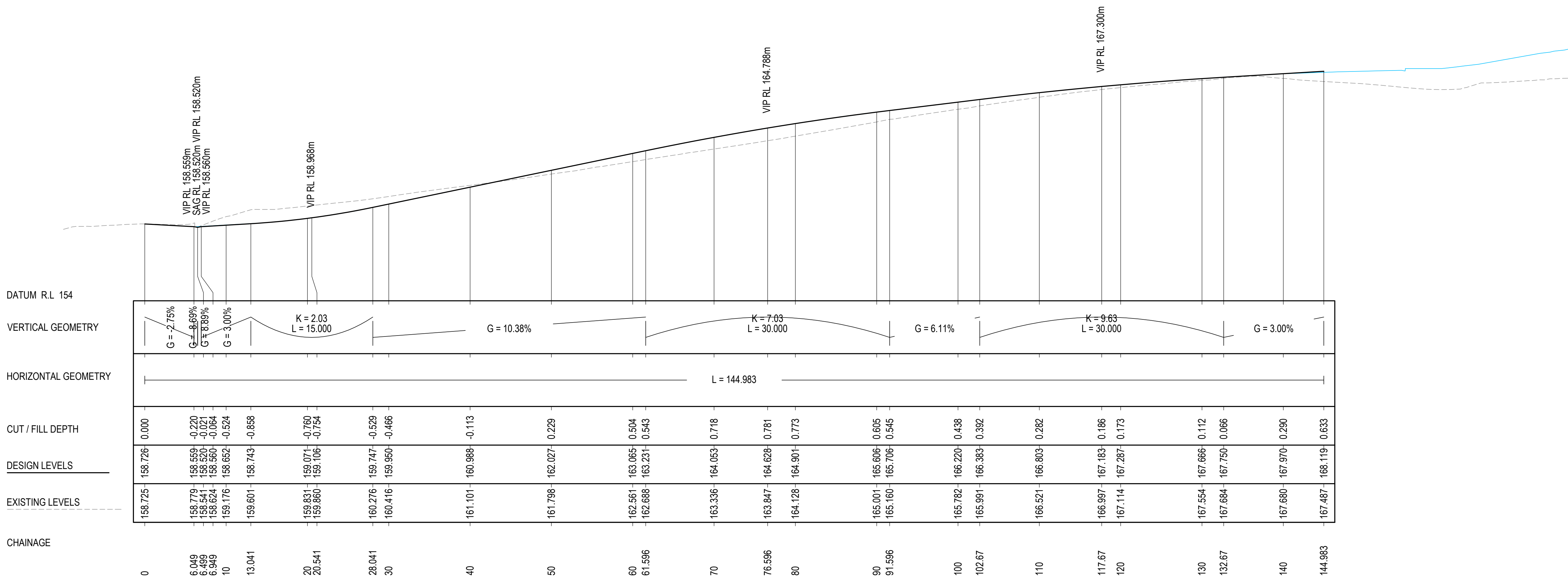


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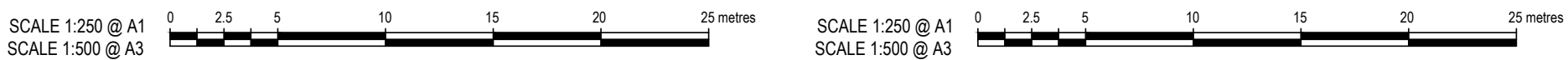


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MCA1 CUL-DE-SAC LONGITUDINAL SECTION

A3 Horizontal Scale 1:500  
A3 Vertical scale 1:250



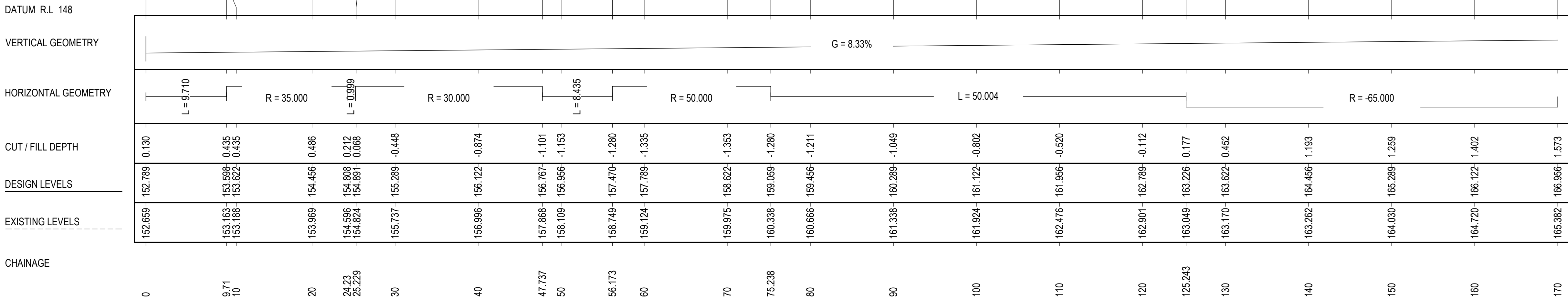
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MUSWELLBROOK COAL			
OLD PIT TOP REMEDIATION			
VICTORIA STREET			
MUSWELLBROOK, NSW, 2333			
Drawing Title			
MCA1 CUL-DE-SAC			
LONGITUDINAL SECTION			
Drawn			
JER			
Date			
NOV 2019			
Scale			
AS SHOWN			
A1			
Q.A. Check			
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26.11.19			
Designed			
SJO			
Project No.			
20193469			
Dwg. No.			
C07.07			
Issue			
A			



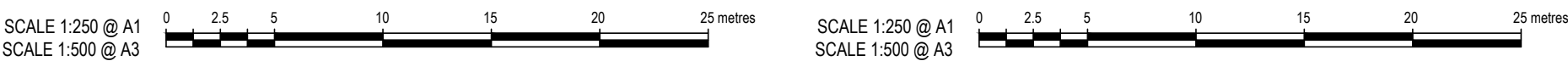
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MP01 PATH1 LONGITUDINAL SECTION

A3 Horizontal Scale 1:50  
A3 Vertical scale 1:250



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T +61 2 4926 4811



Project  
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OLD PIT TOP REMEDIATION

VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

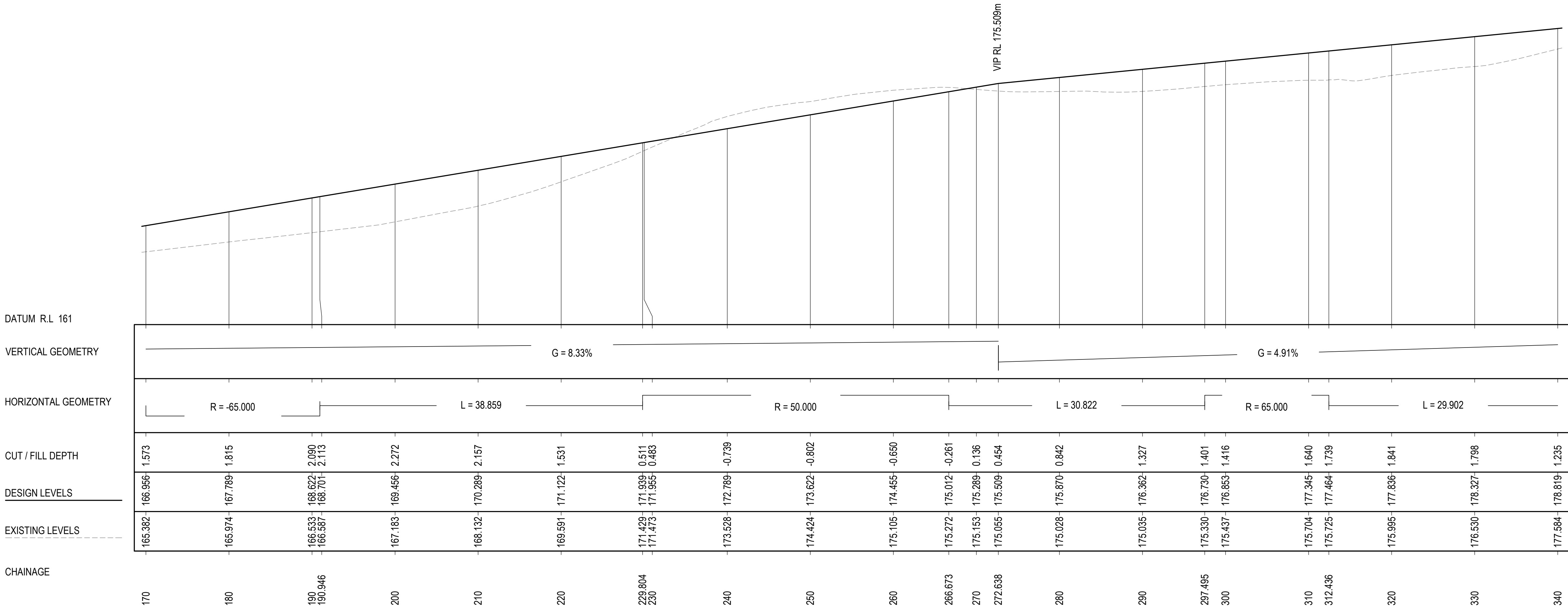


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Drawing Title  
MP01 PATH1 LONGITUDINAL  
SECTION SHEET 1

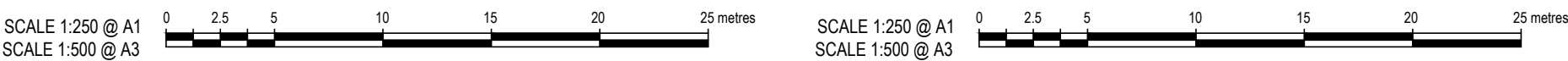
Drawn JER	Date NOV 2019	Scale AS SHOWN	A1	Q.A. Check TB	Date 26.11.19
Designed S.IQ	Project No. 20193469			Dwg. No. C07 08	Issue A

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## MP01 PATH1 LONGITUDINAL SECTION

A3 Horizontal Scale 1:50  
A3 Vertical scale 1:250



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Project  
MUSWELLBROOK COAL  
OLD PIT TOP REMEDIATION

VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

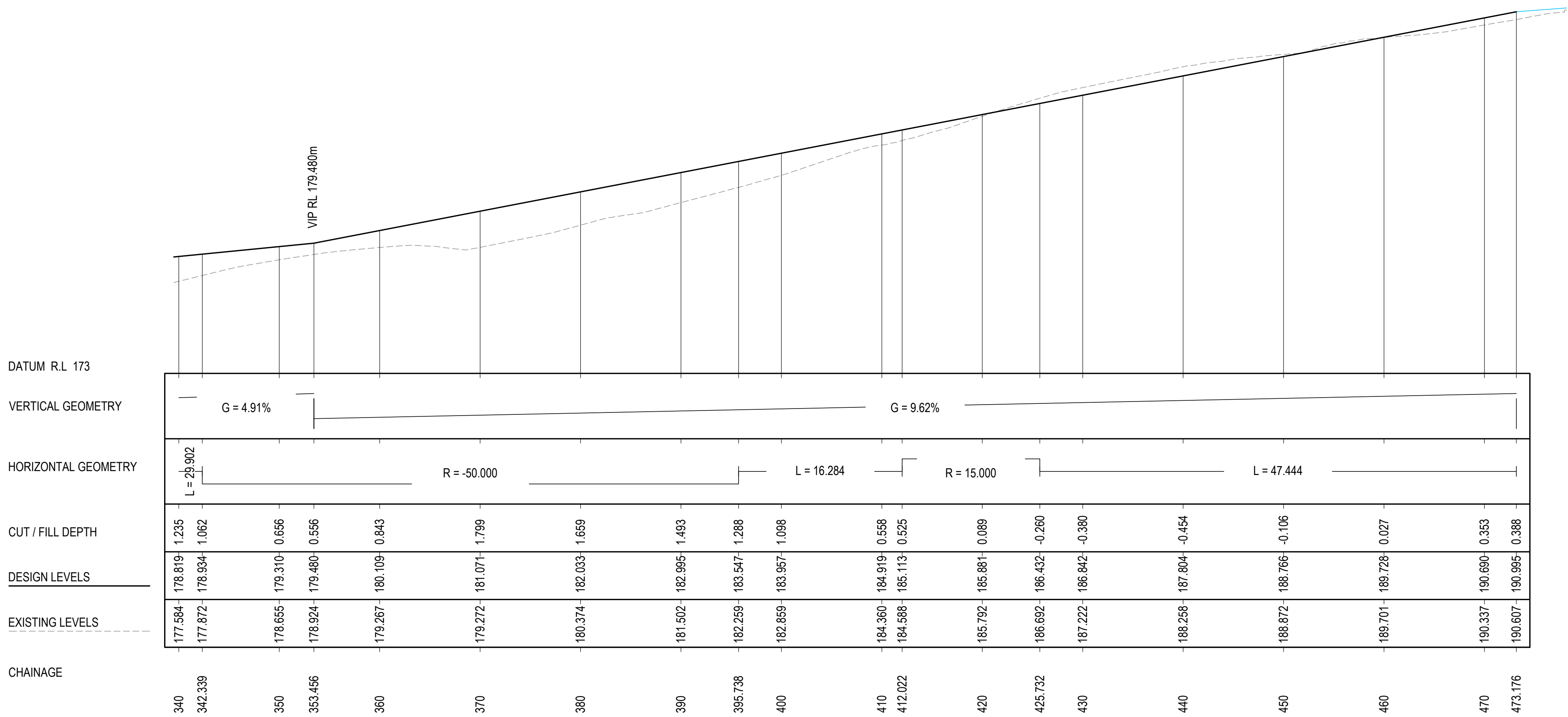
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SECTION SHEET 2

Drawn JER	Date NOV 2019	Scale AS SHOWN	A1 Q.A. Check TB	Date 26.11.19
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Project  
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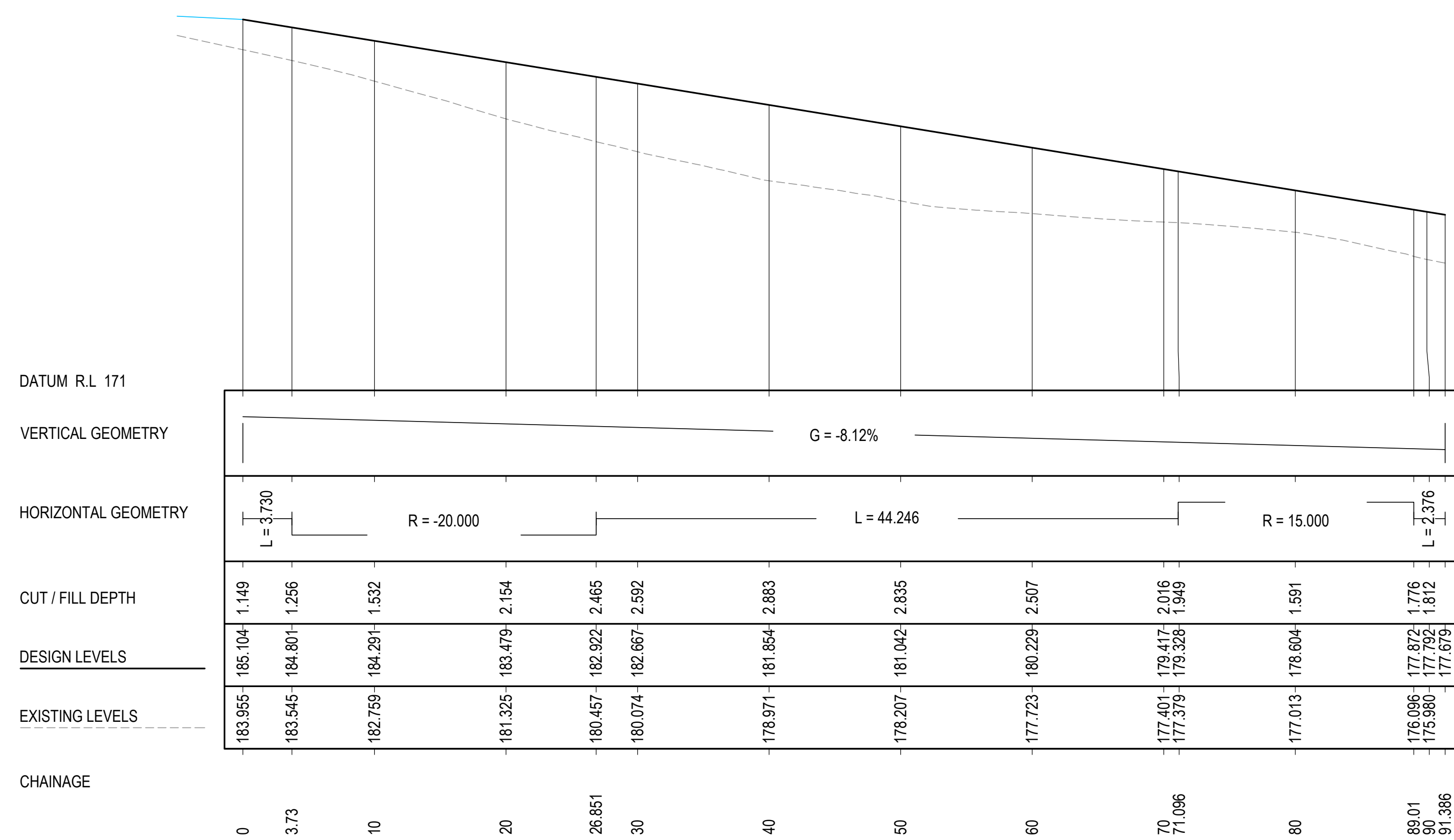
VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

Drawing Title  
MP01 PATH1 LONGITUDINAL  
SECTION SHEET 3

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Designed	Project No.	Dwg. No.	Issue		
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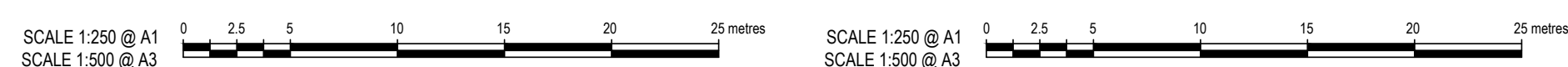


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MP02 PATH2 LONGITUDINAL SECTION

A3 Horizontal Scale 1:500  
A3 Vertical scale 1:250



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Issue	Description							Date	Drawn	Approved		
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Project  
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OLD PIT TOP REMEDIATION

VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

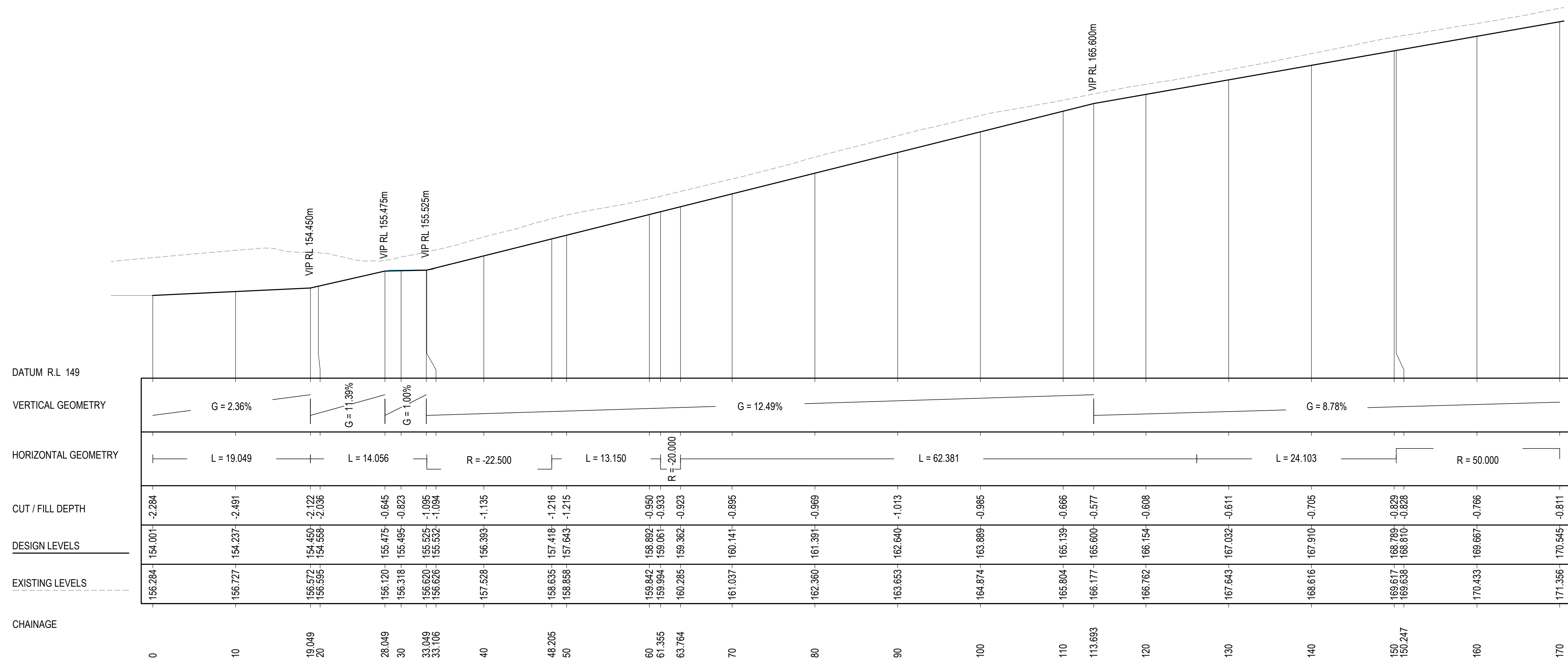


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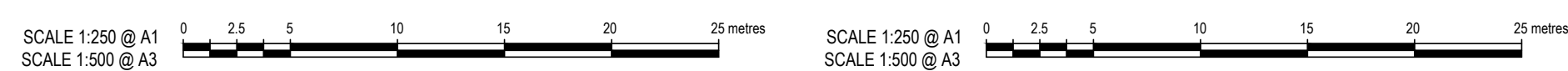
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MC01 FLOWPATH LONGITUDINAL SECTION

A3 Horizontal Scale 1:500  
A3 Vertical scale 1:250



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1	P - 1 cm at tail edge				20mm	
	- 10 mm					

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Project	MUSWELLBROOK COAL OLD PIT TOP REMEDIATION
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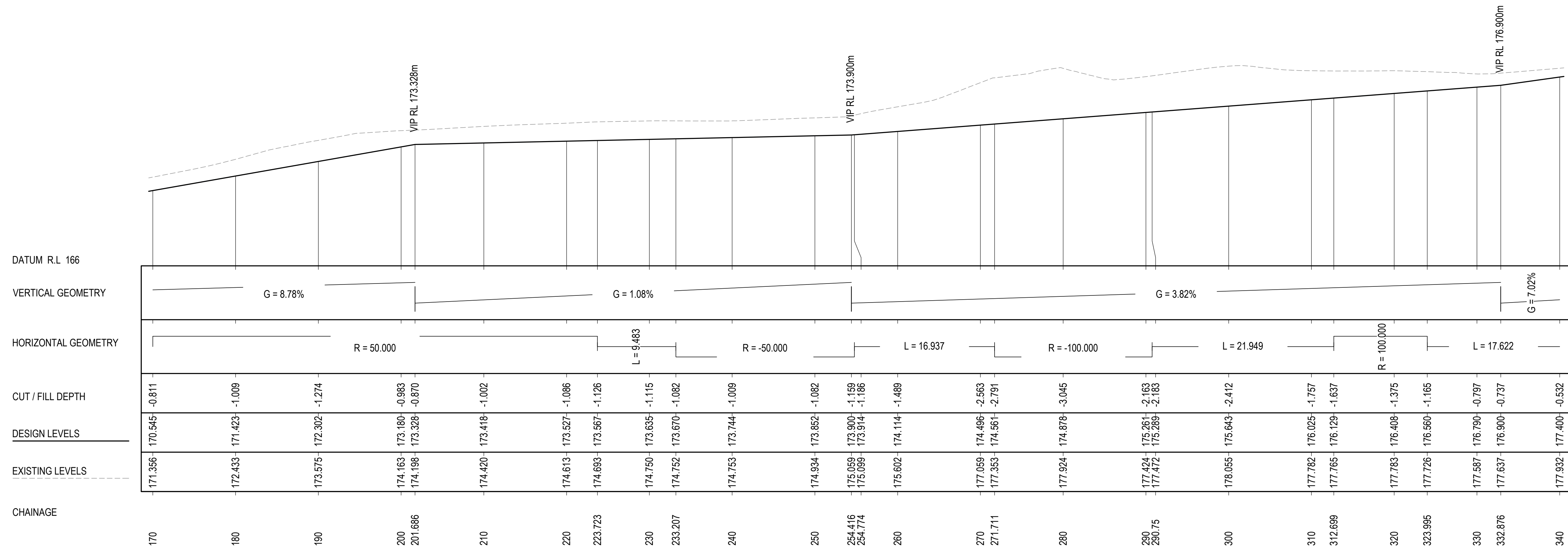
VICTORIA STREET  
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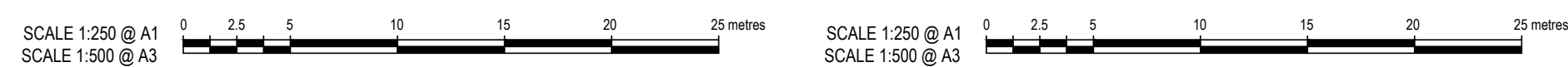
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Designed	Project No.	Dwg. No.	Issue
SLO	20193469	C07 12	A

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MC01 FLOWPATH LONGITUDINAL SECTION

A3 Horizontal Scale 1:500  
A3 Vertical scale 1:250



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Issue	Description									Date	Drawn	Approved
0	0	1:500 at full size										20mm

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Cooks Hill, Newcastle NSW 2300  
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Project	MUSWELLBROOK COAL OLD PIT TOP REMEDIATION
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VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

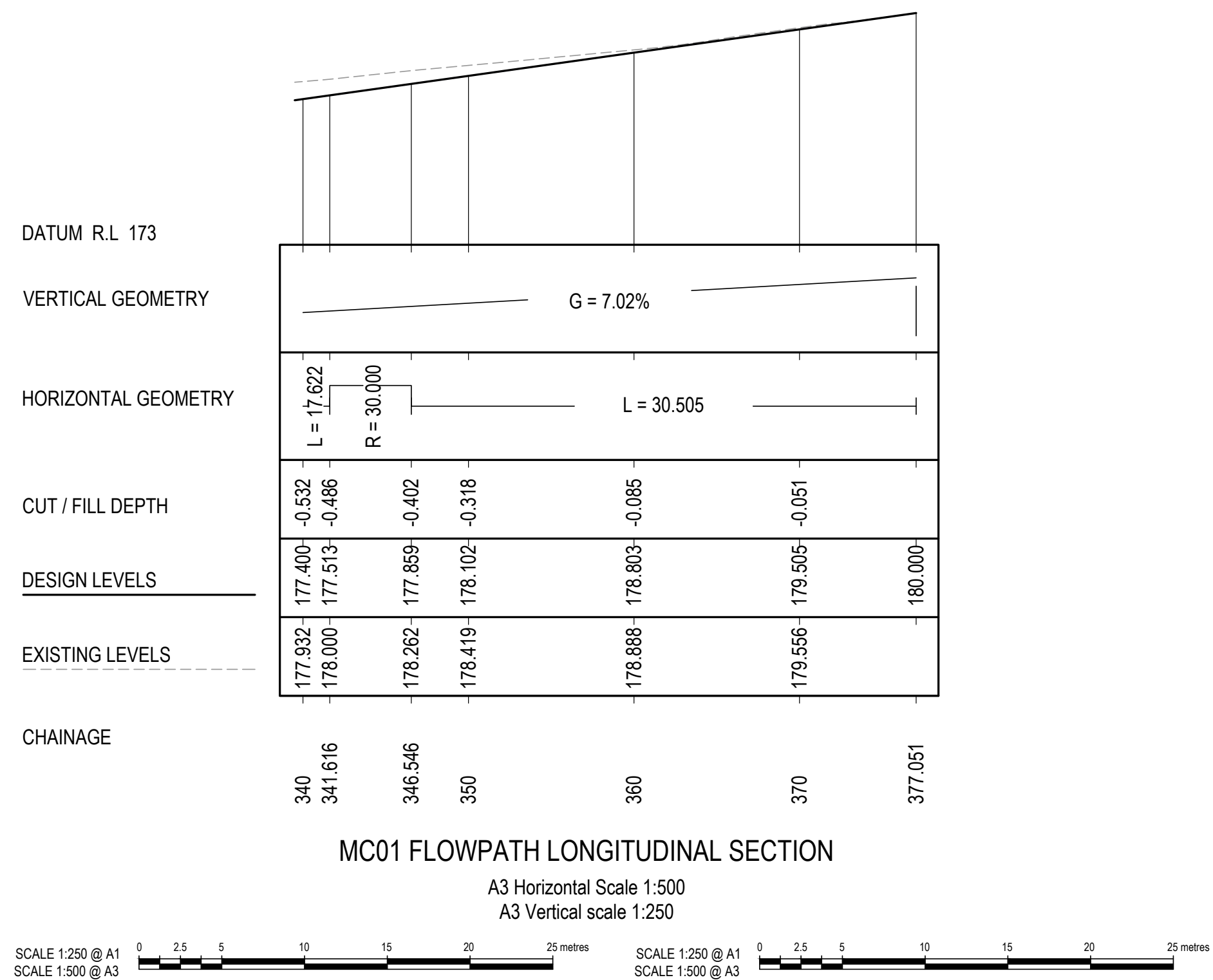
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Designed SJO	Project No. 20193469			Dwg. No. C07 13	Issue A



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Issue	Description			Date	Drawn	Approved
1	0	10m	at full scale			20m

Client	
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td	Project
et	MUSWELLBROOK COAL
00	OLD PIT TOP REMEDIATION

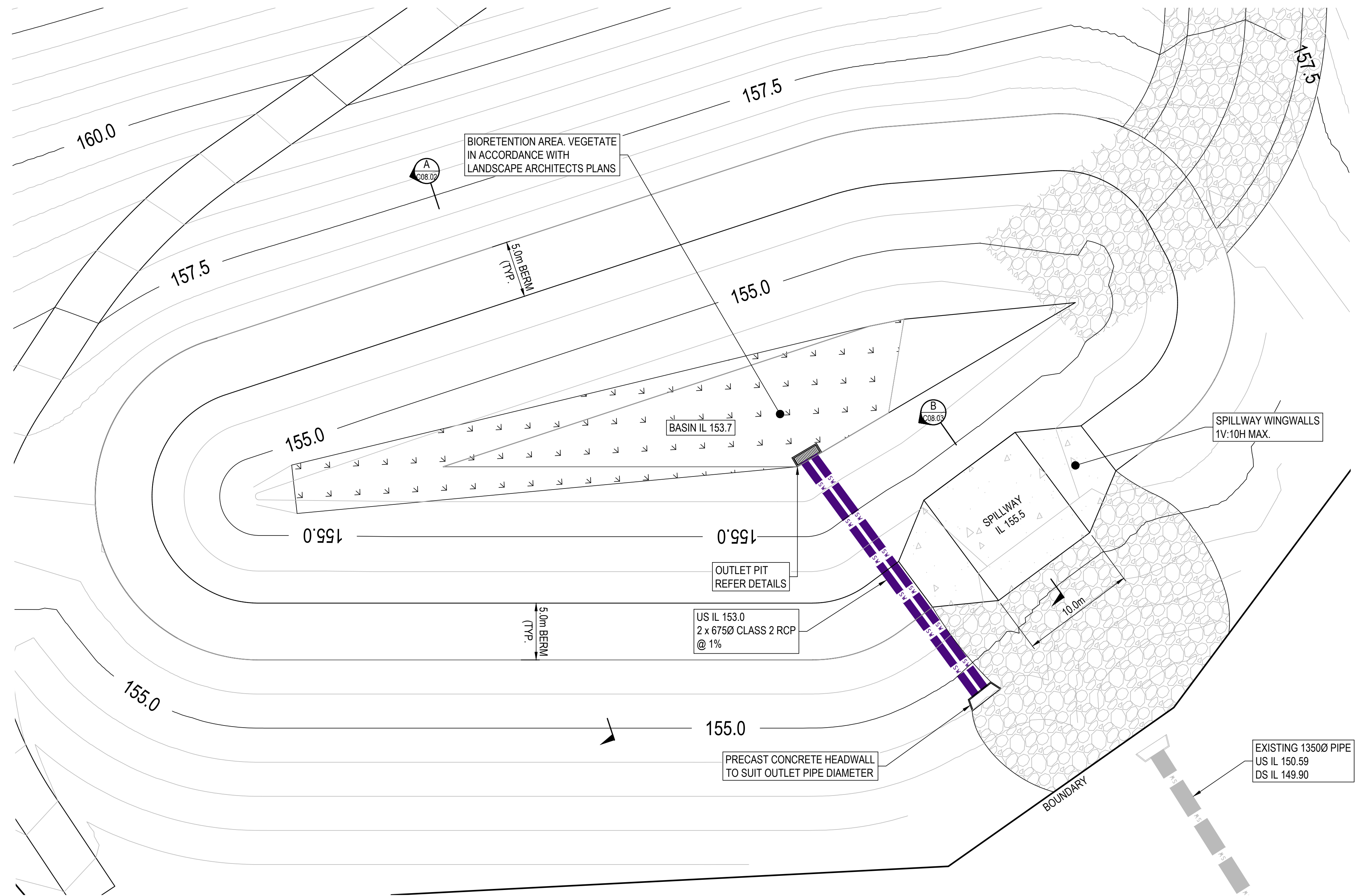
VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

Drawing Title	MC01 FLOWPATH LONGITUDINAL SECTION SHEET 3
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Drawn JER	Date NOV 2019	Scale AS SHOWN	A1 Q.A. Check TB	Date 26.11.19
Designed S.IQ	Project No. 20193469		Dwg. No. C07 14	Issue A

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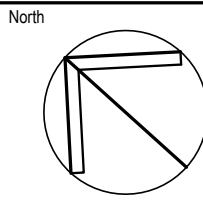
BASIN 1 LAYOUT PLAN  
SCALE 1:200

SCALE 1:200 @ A1  
SCALE 1:400 @ A3

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**MUSWELLBROOK COAL**



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Project  
**MUSWELLBROOK COAL  
OLD PIT TOP REMEDIATION**

VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

Drawing Title  
**BASIN 1 LAYOUT PLAN**

Drawn	Date	Scale	A1	Q.A. Check	Date
JER	NOV 2019	AS SHOWN	TB		26.11.19
Designed	Project No.	Dwg. No.	Issue		
SJO	20193469	C08.01	A		



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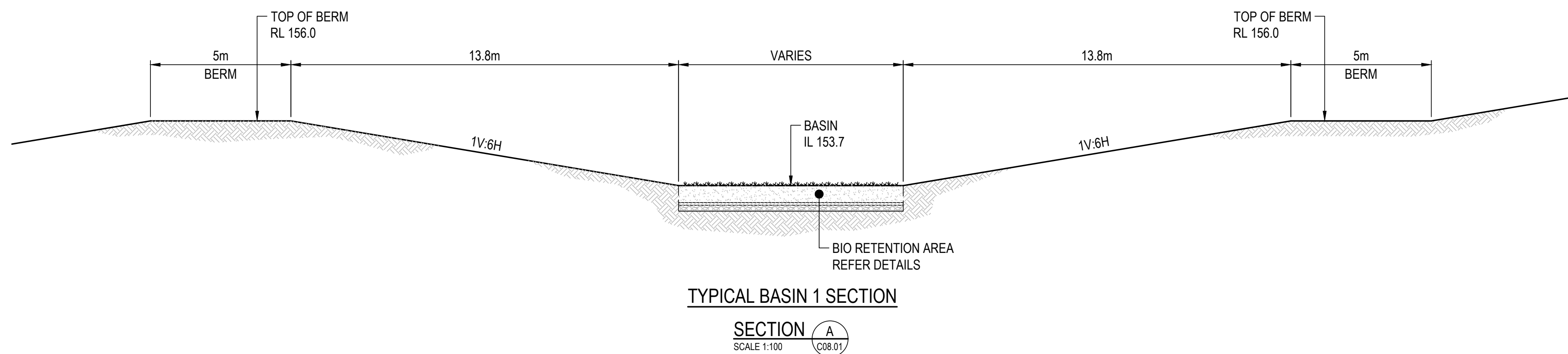
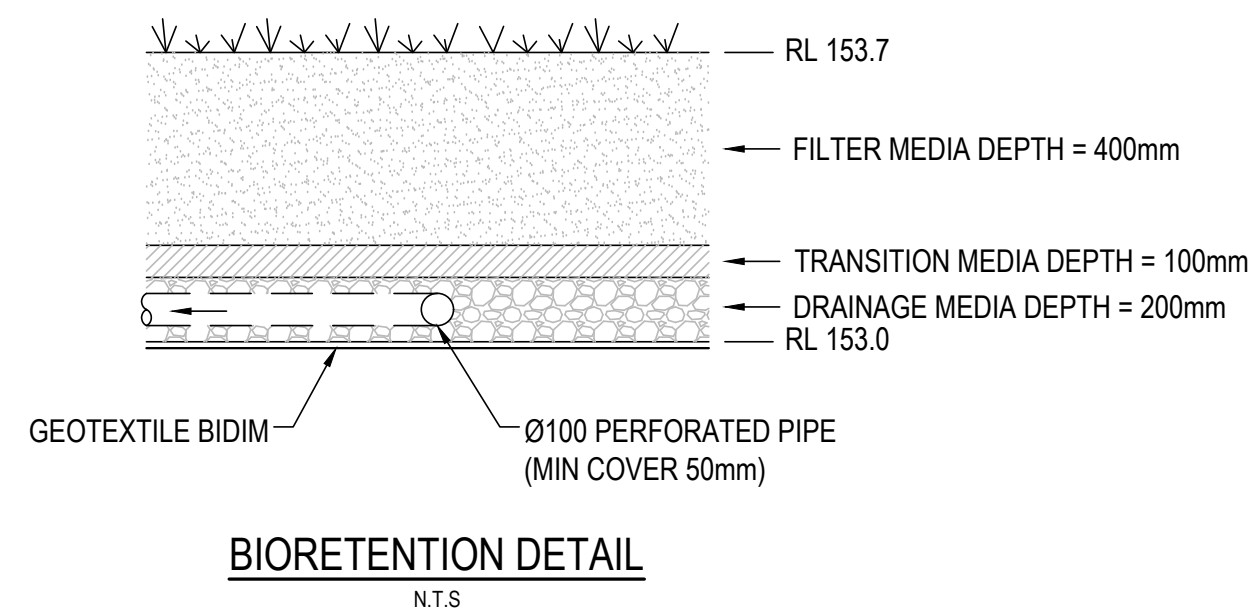


1. THE UNDERDRAIN FOR THE BIO-RETENTION SYSTEM SHALL BE 100mm SLOTTED PVC PIPE TO THE REQUIREMENTS OF AS2439 PART 1 ACCORDING TO THE FOLLOWING:
  - MAXIMUM SPACING FOR SYSTEMS < 100m<sup>2</sup> IS 1.5m AND FOR SYSTEMS > 100m<sup>2</sup> IS 2.5m OR AS SHOWN ON DRAWINGS.
  - THE MINIMUM CLEARANCE FOR SLOTS SHOULD BE 1500 mm<sup>2</sup>/m, WITH A MAXIMUM SLOT WIDTH OF 1.5mm.
  - ALL PIPE JOINTS AND CONNECTIONS TO THE OVERFLOW PIT SHALL BE SEALED TO PREVENT SOIL ENTERING THE PIPE NETWORK.
  - FILTER CLOTH WRAPPINGS OR SOCKS ARE NOT PERMITTED AROUND SLOTTED UNDERDRAINS.
  - AN INSPECTION WELL SHALL BE PROVIDED BY EXTENDING THE UNDERDRAIN VERTICALLY BEYOND THE SURFACE OF THE BIO-RETENTION SYSTEM BY A MINIMUM OF 50mm. ALL VERTICAL SECTIONS OF THE UNDERDRAIN SHALL NOT BE PERFORATED AND SHALL BE CAPPED WITH SECURE SCREWS TO REDUCE THE RISK OF VANDALISM. USE 45 DEGREE ELBOWS RATHER THAN 90 DEGREE ELBOWS TO FACILITATE ENTRY OF MAINTENANCE EQUIPMENT.
2. UNDERDRAINS SHALL BE LAID IN A MINIMUM OF 200mm DRAINAGE LAYER COMPRISED OF FINE GRAVEL (2-5)mm, WITH <2% FINES AND HYDRAULIC CONDUCTIVITY OF 400mm/HR. THE DRAINAGE LAYER DEPTH MUST ENSURE AT LEAST 50mm COVER OVER THE UNDERDRAIN. BRIDGING CRITERIA SHALL BE APPLIED TO AVOID MIGRATION OF THE ON-TOP LAYER INTO THE DRAINAGE LAYER.
3. WHERE INDICATED ON THE DESIGN DRAWINGS A TRANSITION LAYER SHALL BE INCLUDED. THE TRANSITION LAYER MATERIAL SHALL BE CLEAN, WELL GRADED SAND MATERIAL (TYPICALLY 1mm) CONTAINING <2% FINES. THE PARTICLE SIZE DISTRIBUTION OF THE SAND SHALL BE ASSESSED TO MEET BRIDGING CRITERIA THAT THE SMALLEST 15% OF THE SAND PARTICLES BRIDGE WITH THE LARGEST 15% OF THE FILTER MEDIA.
4. BIO-RETENTION FILTER MEDIA SHALL COMPLY WITH THE FOLLOWING:
  - HAVE A MINIMUM HYDRAULIC CONDUCTIVITY OF 200mm/HR. THIS SHOULD BE MEASURED ACCORDING TO ASTM F1815-06 STANDARD TEST METHODS FOR SATURATED HYDRAULIC CONDUCTIVITY, WATER RETENTION, POROSITY, AND BULK DENSITY OF PUTTING GREEN AND SPORTS TURF ROOT ZONES METHOD.
  - HAVE TOTAL CLAY AND SILT MIX LESS THAN 3% (W/W) TO REDUCE THE LIKELIHOOD OF STRUCTURAL COLLAPSE OF SUCH SOILS.
  - THE FILTER MEDIA SHALL BE GRADED LOAMY SAND WITHOUT GAP IN THE PARTICLE SIZE GRADING AND THE COMPOSITION SHALL NOT BE DOMINATED BY A SMALL PARTICLE SIZE RANGE. THE FOLLOWING IS A GUIDE FOR THE FILTER MEDIA PARTICLE SIZE DISTRIBUTION:
    - o CLAY AND SILT <3% (<0.05mm)
    - o VERY FINE SAND 5-30% (0.05-0.15mm)
    - o FINE SAND 10-30% (0.25-1.0mm)
    - o MEDIUM TO COARSE SAND 40-60% (0.25-1.0mm)
    - o COARSE SAND 7-10% (1.0-2.0mm)
    - o FINE GRAVEL <3% (2.0-3.4mm)
  - FILTER MEDIA SHALL BE TESTED (ACCORDING TO AS4419-2003) TO COMPLY WITH THE FOLLOWING:
    - o TOTAL NITROGEN (TN) CONTENT < 400MG/KG
    - o ORTHOPHOSPHATE (PO4) CONTENT < 40MG/KG
    - o ORGANIC MATTER AT LEAST 3% (W/W)
    - o PH 5.5-7.5 (PH 1:5 IN WATER)
    - o ELECTRICAL CONDUCTIVITY (EC) <1.2DS/M
    - o DISPERSIBILITY
5. THE BIO-RETENTION FILTER MEDIA SHALL BE TESTED TO DEMONSTRATE THE COMPLIANCE WITH THE ABOVE MENTIONED REQUIREMENTS AT THE FOLLOWING FREQUENCIES:
  - FOR BIO-RETENTION SYSTEMS <500m<sup>2</sup>, ONE SAMPLE PER 500m<sup>2</sup> OF FILTER MEDIA.
  - FOR BIO-RETENTION SYSTEMS >500m<sup>2</sup>, ONE SAMPLE PER 500m<sup>2</sup> OF FILTER MEDIA
  - FOR THE HYDRAULIC CONDUCTIVITY TEST PLUS ONE SAMPLE PER 2000m<sup>2</sup> OF FILTER
  - MEDIA FOR ALL OTHER REQUIRED TESTS.

6. TESTING SHALL BE UNDERTAKEN ON THE ACTUAL MATERIAL TO BE DELIVERED TO THE SITE. THE SUPPLIER AND CONTRACTOR WILL BE RESPONSIBLE FOR ENSURING THE FILTER MEDIA MEETS THE SPECIFICATIONS AND THE CORRECT MATERIAL IS DELIVERED TO THE SITE PRIOR TO INSTALLATION. THE SUPPLIER SHALL ARRANGE FOR THE FILTER MEDIA TO BE TESTED BY A CERTIFIED LABORATORY IN ACCORDANCE WITH THE ABOVE SPECIFICATIONS. ON THE BASIS OF THE TESTING, THE SOIL LABORATORY AND SUPPLIER SHALL CERTIFY THAT THE MATERIAL MEETS THESE SPECIFICATIONS. THE CONTRACTOR SHALL PROVIDE A COPY OF THE SUPPLIER'S CERTIFICATION, TEST RESULTS, AND SUPPLY DOCKETS TO THE DESIGNER (THROUGH THE SITE SUPERINTENDENT) FOR REVIEW AND APPROVAL.
7. AN IN-SITU MEASUREMENT OF HYDRAULIC CONDUCTIVITY SHALL BE UNDERTAKEN FOLLOWING COMPLETING THE CONSTRUCTION OF THE BIO-RETENTION SYSTEM AND PRIOR TO HAND OVER OF THE SYSTEM. THIS TESTING SHALL BE ACCORDING TO PRACTICE NOTE 1: IN-SITU MEASUREMENT OF HYDRAULIC CONDUCTIVITY (HATT AND LE CUSTOMER, 2008), WHICH CAN BE FOUND IN [WWW.MONASH.EDU.AU/FAWB/PUBLICATIONS/INDEX.HTML](http://WWW.MONASH.EDU.AU/FAWB/PUBLICATIONS/INDEX.HTML).
8. THE FILTER MEDIA SHALL BE LIGHTLY COMPACTED DURING INSTALLATION TO PREVENT MIGRATION OF FINE PARTICLES. A SINGLE PASS OF COMPACTING MACHINERY (VIBRATING PLATE FOR SMALL SYSTEMS AND DRUM LAWN ROLLER FOR LARGER SYSTEMS) SHALL BE USED. NO HEAVY COMPACTION OR MULTI-PASS SHALL BE MADE.
9. FILTER MEDIA SHALL BE INSTALLED IN TWO LIFTS FOR DEPTHS OF OVER 400MM
10. THE BIO-RETENTION SYSTEMS SHALL BE CONSTRUCTED TO THE FOLLOWING TOLERANCES:

BIO - RETENTION ELEMENT	TOLERANCE
HYDRAULIC STRUCTURES (OVERFLOW PIT, PIPE AND WEIRS)	+/-25mm
	WHERE SYSTEM INSTALLED IN STREET SCAPE THEN +/-15mm
UNDERDRAINS	+/-25mm
EARTHWORKS (BASE OF BIO-RETENTION)	+/-50mm
DRAINAGE AND TRANSITION LAYER	+/-25mm
SURFACE LEVEL (FILTER MEDIA SURFACE)	+/-25mm FOR BASINS <300m²
	+/-40mm FOR BASINS >300m²
EMBANKMENTS AND BUNDS	-25mm
	-50mm

11. BIO-RETENTION SHALL BE INSTALLED UNTIL 80% OF THE UPSTREAM CATCHMENT IS DEVELOPED.
12. BIO-RETENTION AND DETENTION BASIN PLANTING TO LANDSCAPE ARCHITECTS DETAIL.



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A	ISSUED FOR DETAIL DESIGN	24.01.20	AS	TB
Issue	Description	Date	Drawn	Approved

Client

Client **KLEINFELDER**

MUSWELLBROOK COAL



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Project  
MUSWELLBROOK COAL  
OLD PIT TOP REMEDIATION

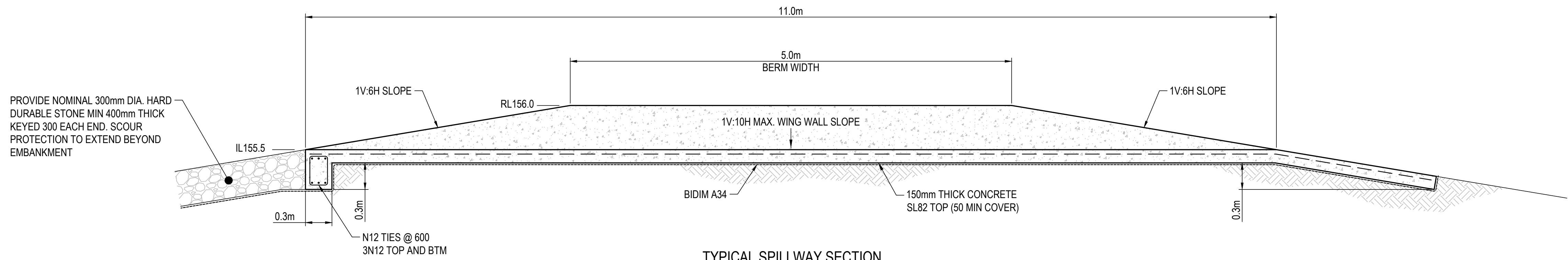
VICTORIA STREET  
MUSWELLBROOK, NSW, 2333



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Drawing Title				
BASIN 1 BIORETENTION NOTES AND DETAILS				
Drawn	Date	Scale	A1	O.A. Check
JER	NOV 2019	AS SHOWN		TB
Designed	Project No.	Dwg. No.		Issue
SJO	20193469	C08.02		A

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TYPICAL SPILLWAY SECTION

SECTION B  
SCALE 1:25  
C08.01

SCALE 1:100 @ A1  
SCALE 1:200 @ A3

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North	

Client	KLEINFELDER

MUSWELLBROOK COAL



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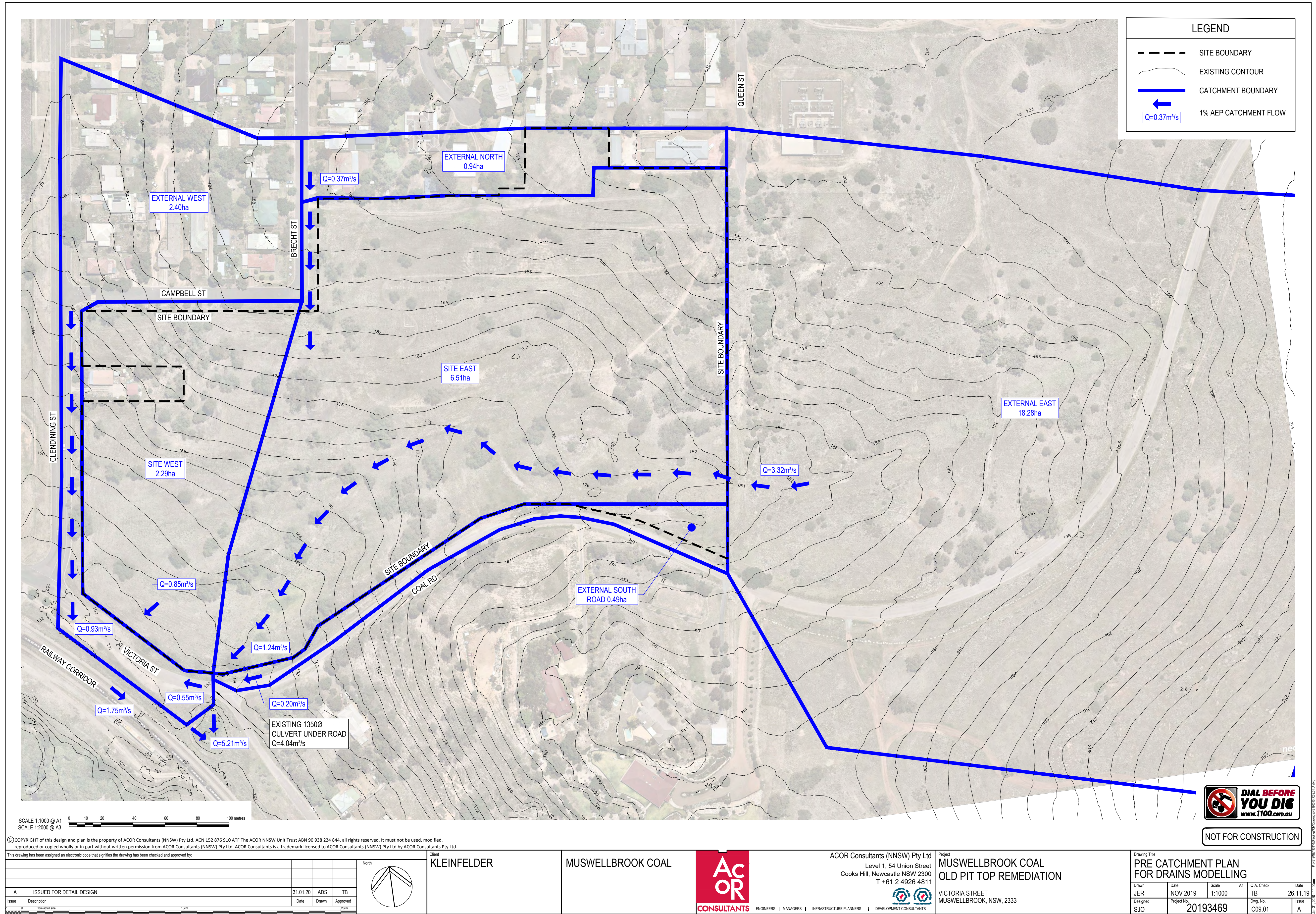
Project	MUSWELLBROOK COAL OLD PIT TOP REMEDIATION
VICTORIA STREET MUSWELLBROOK, NSW, 2333	

Drawing Title			
BASIN 1 SECTIONS AND DETAILS			
Drawn	Date	Scale	A1
JER	NOV 2019	AS SHOWN	TB
Designed	Project No.	Dwg. No.	Issue
SJO	20193469	C08.03	A

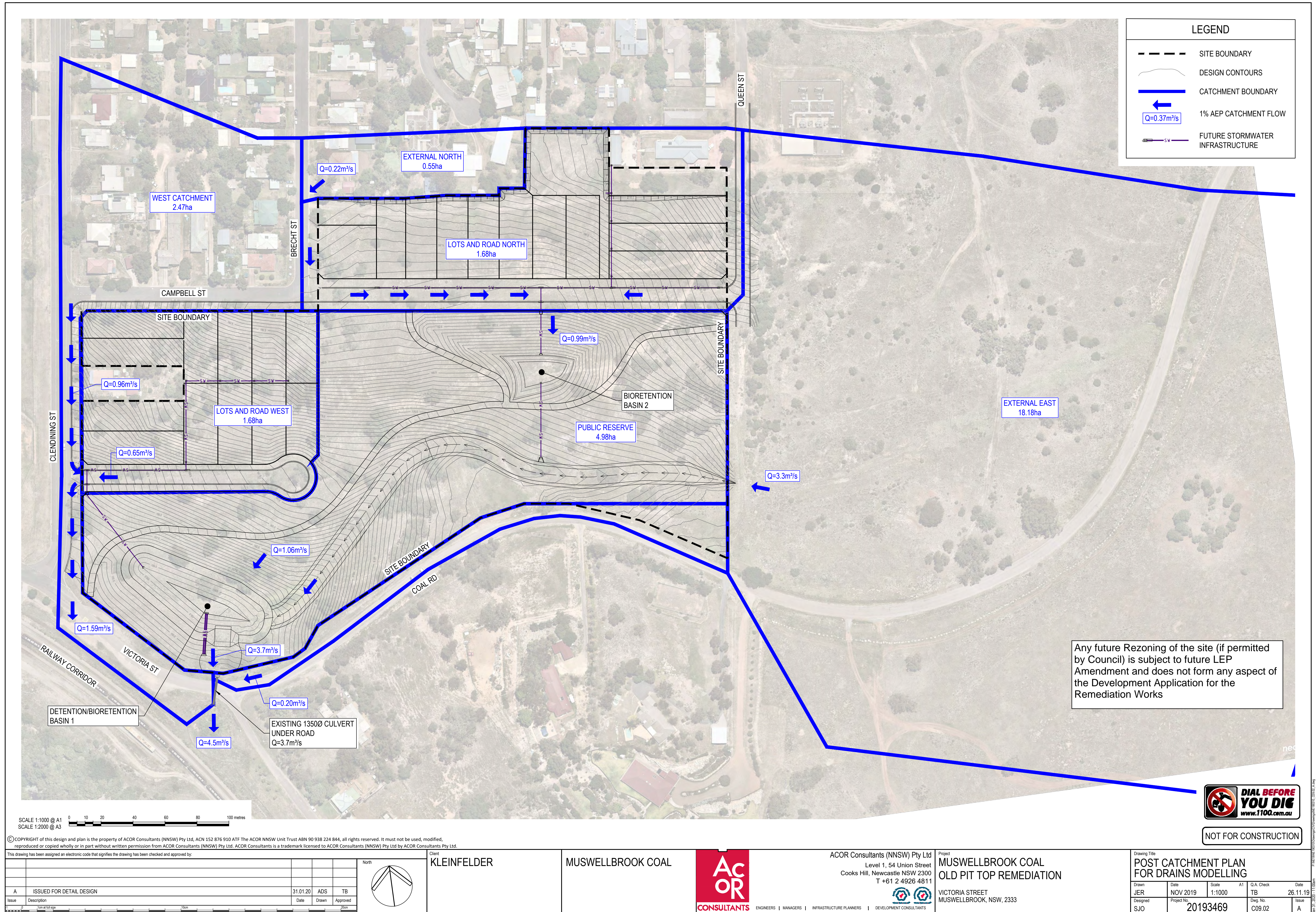


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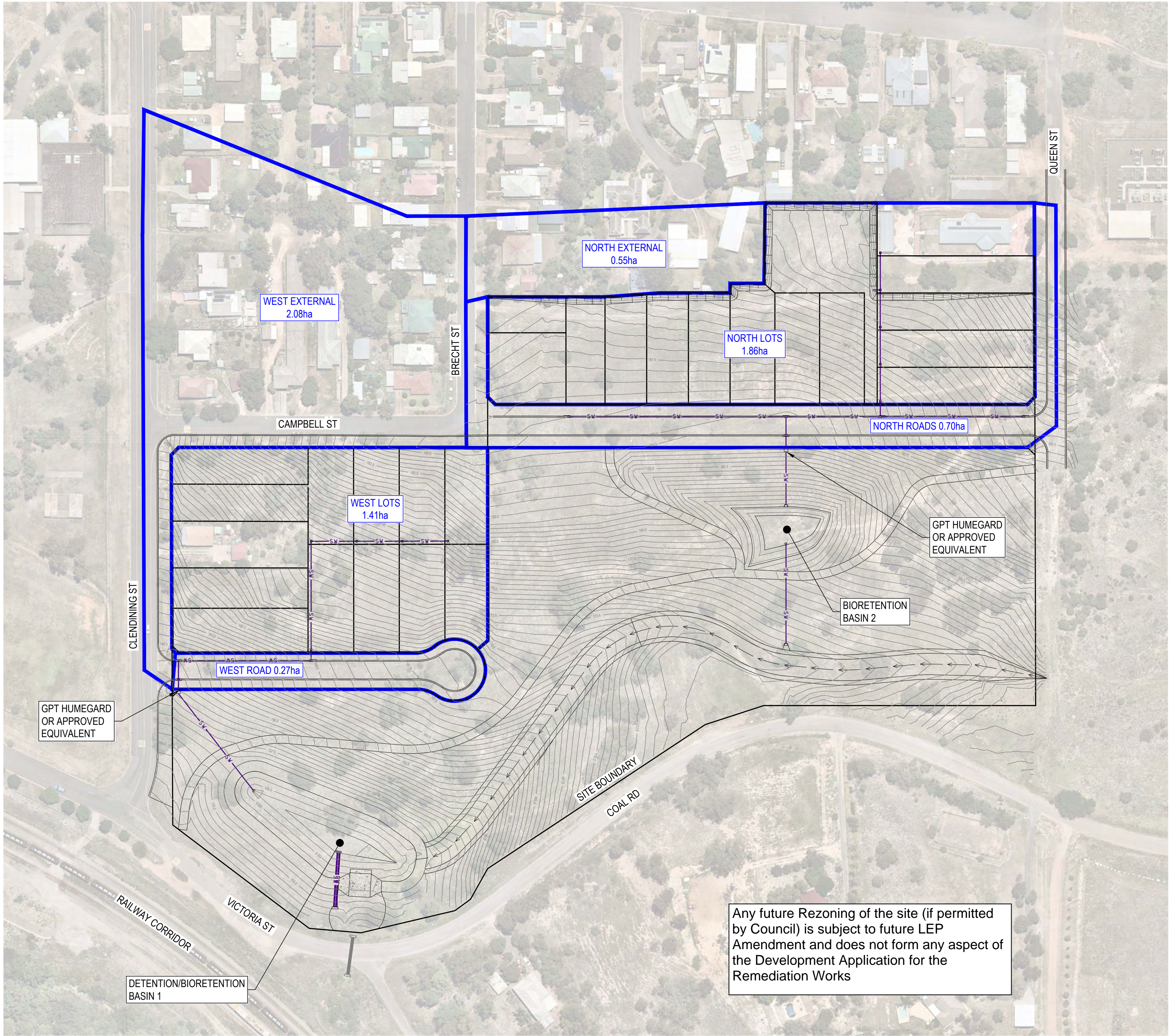






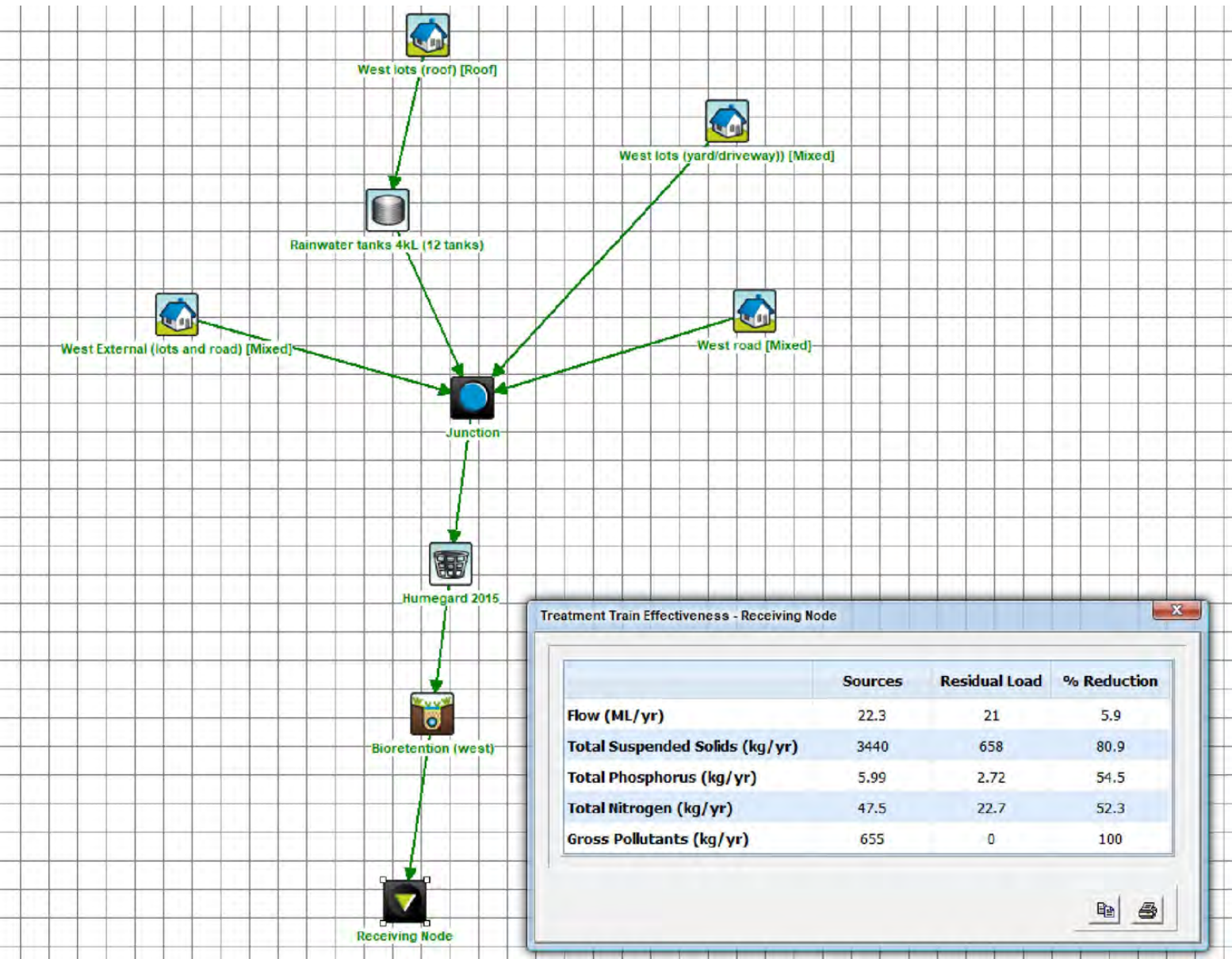
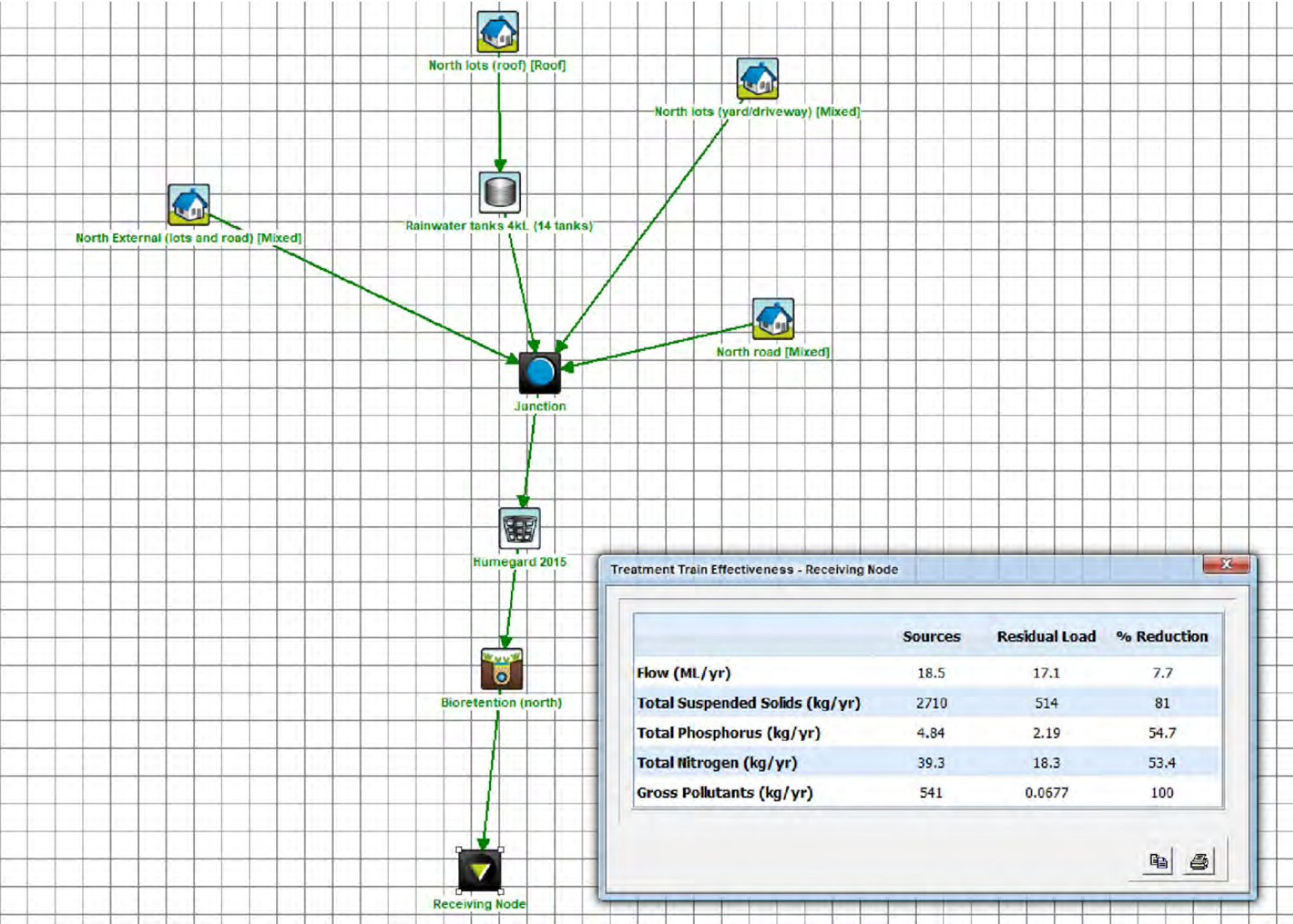






**LEGEND**

- SITE BOUNDARY
- DESIGN CONTOURS
- CATCHMENT BOUNDARY
- FUTURE STORMWATER INFRASTRUCTURE



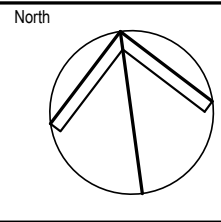
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SCALE 1:1000 @ A1  
SCALE 1:2000 @ A3

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Client  
**KLEINFELDER**

**MUSWELLBROOK COAL**



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Project  
**MUSWELLBROOK COAL  
OLD PIT TOP REMEDIATION**

VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

Drawing Title  
**CATCHMENT PLAN FOR MUSIC  
MODELLING**

Drawn	Date	Scale	AT	G.A. Check	Date
JER	NOV 2019	1:1000	TB		26.11.19
Designed	Project No.	Dwg. No.	Issue		
SJO	20193469	C09.03	A		



## EROSION AND SEDIMENT CONTROL NOTES

1. PROVIDE EROSION AND SEDIMENT CONTROL MEASURES DURING CONSTRUCTION TO COUNCIL STANDARDS AND CONFORMING TO LANDCOM SOILS & CONSTRUCTION Vol 1, 4th EDITION, MARCH 2004.
2. PREPARE EROSION AND SEDIMENT CONTROL PLAN AND OBTAIN COUNCIL APPROVAL PRIOR TO WORKS.
3. ALL PERIMETER CONTROL DEVICES ARE TO BE INSTALLED PRIOR TO WORK COMMENCING AND BE MAINTAINED DURING CONSTRUCTION. LOCATE SEDIMENT FENCE WITHIN WORKS BOUNDARY.
4. CONTRACTOR TO DEFINE ACCESS, STOCKPILE AND OTHER AREAS PRIOR TO WORK COMMENCING.
5. PROVIDE A SINGLE POINT OF ACCESS TO THE SITE.
6. MINIMISE SITE DISTURBANCE AND REDUCE STOCKPILING TO A LEVEL NECESSARY TO CONSTRUCT THE WORKS. STOCKPILE AREAS, CONSTRUCTION ACCESSES AND NO GO AREAS TO BE DEFINED AND CONFIRMED PRIOR TO COMMENCEMENT OF WORK. FENCE NO GO AREAS.
7. PROVIDE MEASURES AT STOCKPILES TO DIVERT CLEAN WATER AND COLLECT SEDIMENT DOWNSTREAM, LOCATE STOCKPILES AWAY FROM STORMWATER FLOWS.
8. PROVIDE AND MAINTAIN PERMANENT GRASSING AS SOON AS POSSIBLE AFTER CONSTRUCTION. STAGE WORKS AS NECESSARY. GRASS SPECIES SHALL BE TO COUNCIL REQUIREMENTS. GRASS TURF TABLEDRAINS AND SWALES. MULCH (IF AVAILABLE FROM SITE CLEARING) AND SEED ALL OTHER DISTURBED AREAS INCLUDING TRENCHES, WHICH HAVE NOT BEEN TURFED. ON COMPLETION OF WORKS PROVIDE STRIP TURFING. SEE GENERAL NOTES.
9. CONTROL DUST BY WINDBREAKS, WATERING ETC.
10. EROSION AND SILT PROTECTION MEASURES ARE TO BE MAINTAINED AT ALL TIMES. ADJUST TO SUIT STAGING AND PROGRESS.
11. HIGH EROSION AREAS, INCLUDING BATTERS TO BE STABILISED WITHIN 7 DAYS OF COMPLETING OF WORKS AND EARLIER IF DIRECTED BY SUPERINTENDENT.
12. CONSTRUCT THE BASIN PRIOR TO ANY SITE WORKS INCLUDING CLEARING AND SOIL DISTURBANCE FOR USE AS A SEDIMENT BASIN DURING CONSTRUCTION.
13. NO DISTURBED AREAS SHALL REMAIN DENUDE FOR A PERIOD LONGER THAN 20 DAYS.
14. AN AREA OF NO MORE THAN 2Ha IS TO BE DISTURBED AT ANY TIME
15. THE ESCP/SWMP AND IT ASSOCIATED EROSION AND SEDIMENT CONTROL MEASURES MUST BE CONSTANTLY MONITORED. REVIEWED AND MODIFIED AS REQUIRED TO CORRECT DEFICIENCIES. COUNCIL HAS THE RIGHT TO REQUEST CHANGES IF, IN ITS OPINION, THE MEASURES THAT ARE PROPOSED OR HAVE BEEN INSTALLED ARE INADEQUATE TO PREVENT POLLUTION.
16. ALL ESC MEASURES MUST BE APPROPRIATE FOR THE SEDIMENT TYPE(S) OF THE SOILS ON SITE. IN ACCORDANCE WITH THE BLUE BOOK (MANAGING URBAN STORMWATER - SOILS AND CONSTRUCTION LANDCOM, 2004), OR OTHER CURRENT RECOGNISED INDUSTRY STANDARD FOR EROSION AND SEDIMENT CONTROL FOR AUSTRALIAN CONDITIONS.
17. ALL REASONABLE AND PRACTICABLE MEASURES MUST BE TAKEN TO ENSURE STORMWATER RUNOFF FROM ACCESS ROADS AND STABILISED ENTRY/ EXIT SYSTEMS, DRAINS TO AN APPROPRIATE SEDIMENT CONTROL DEVICE.
18. SEDIMENT DEPOSITED OFF SITE AS A RESULT OF ONSITE ACTIVITIES MUST BE COLLECTED AND THE AREA CLEANED/ REHABILITATED AS SOON AS REASONABLE AND PRACTICABLE.
19. NEWLY SEALED HARD-STAND AREA (E.G. ROADS, DRIVEWAYS AND CAR PARKS) MUST BE SWEEP THOROUGHLY AS SOON AS PRACTICABLE AFTER SEALING/ SURFACING TO MINIMISE THE RISK OF COMPONENTS OF THE SURFACING COMPOUND ENTERING STORMWATER DRAINS.
20. STOCKPILES OF ERODIBLE MATERIAL MUST BE PROVEN WITH AN APPROPRIATE PROTECTIVE COVER (SYNTHETIC OR ORGANIC) IF THE MATERIALS ARE LIKELY TO BE STOCKPILED FOR MORE THAN 10 DAYS.
21. STOCKPILES, TEMPORARY OR PERMANENT, SHALL NOT BE LOCATED IN AREAS IDENTIFIED AS NO-GO ZONES ON THE ESCP/SWMP.

## EROSION AND SEDIMENT CONTROL NOTES

22. PRIOR TO THE CONTROLLED DISCHARGE (E.G. - WATERING ACTIVITIES FROM EXCAVATIONS AND SEDIMENT BASINS) OF ANY WATER FROM THE SITE DURING CONSTRUCTION, THE FOLLOWING WATER QUALITY OBJECTIVES MUST BE ACHIEVED:
  - TSS - MAXIMUM 50mg/L
  - TURBIDITY MAXIMUM 50NTU
  - pH BETWEEN 6 AND 8
  - < 80% AND > 20% SATURATED DISSOLVED OXYGEN
  - HAVE NO VISIBLE LITTLE OR WASTE MATTER
23. PRIOR TO ANY FORECAST WEATHER EVENT LIKELY TO RESULT IN SEDIMENT LADEN RUNOFF ON THE SITE, ANY EXISTING DETENTION BASINS/ TRAPS SHALL BE DE-WATERED TO PROVIDE SUFFICIENT CAPACITY TO CAPTURE SEDIMENT LADEN WATER FROM SITE PRIOR TO THE WEATHER EVENT.
24. ANY SEDIMENT LADEN WATER CAPTURED ONSITE MUST BE TREATED TO ENSURE IT WILL ACHIEVE COUNCIL'S WATER QUALITY OBJECTIVES SPECIFIED IN THESE CONDITIONS. PRIOR TO ITS RELEASE FROM SITE, A SAMPLE OF THE RELEASED TREATED WATER MUST BE KEPT ONSITE IN A CLEAR CONTAINER WITH SAMPLE DATE RECORDED ON IT.
25. NO ALUMINUM BASED FLOCCULATING/COAGULANTS MAY BE USED ONSITE WITH THE PRIOR WRITTEN PERMISSION FROM AN APPROPRIATE COUNCIL OFFICER. THE APPLICANT MUST HAVE A DEMONSTRATED ABILITY TO USE SUCH PRODUCTS CORRECTLY AND WITHOUT ENVIRONMENTAL HARM PRIOR TO ANY APPROVAL.
26. THE CHEMICAL/ AGENT (FLOCCULATING/ COAGULANTS) USED IN TYPE D AND TYPE F BASINS TO TREAT TURBID WATER CAPTURED IN THE BASIN MUST BE APPLIED IN CONCENTRATIONS SUFFICIENT TO ACHIEVE COUNCIL'S WATER QUALITY OBJECTIVES. SPECIFIED IN THESE CONDITIONS WITHIN THE 5-DAY RAINFALL DEPTH USED TO CALCULATE THE CAPACITY OF THE BASIN, AFTER A RAINFALL EVENT.
27. ALL MANUFACTURES INSTRUCTIONS MUST BE FOLLOWED FOR THE USE OF ANY CHEMICALS/ AGENTS ONSITE, EXCEPT WHERE APPROVED BY THE RESPONSIBLE PERSON OR AN APPROPRIATE COUNCIL OFFICER.
28. SUFFICIENT QUANTITIES OF CHEMICALS/ AGENTS TO TREAT TURBID WATER (FLOCCULATING/ COAGULANTS) MUST BE PLACED SUCH THAT WATER ENTERING THE BASIN/ SEDIMENT TRAP MIXES THE CHEMICAL/ AGENTS AND IS CARRIED INTO THE BASIN/ TRAP.
29. ANY BASIN MUST BE DE-WATERED AS SOON AS PRACTICAL. ONCE WATER CAPTURED IN THE BASIN ACHIEVES COUNCIL'S WATER QUALITY OBJECTIVES, SPECIFIED IN THESE CONDITIONS.
30. SUFFICIENT QUANTITIES OF CHEMICALS/ AGENTS TO TREAT TURBID WATER (FLOCCULATING/ COAGULANTS) MUST BE SECURELY STORED ON-SITE TO PROVIDE FOR AT LEAST THREE COMPLETE TREATMENTS OF ALL BASINS REQUIRING CHEMICALLY TREATMENT ONSITE.
31. THE APPLICANT MUST ENSURE THAT ON EACH OCCASION A TYPE F OR TYPE D BASIN WAS NOT DE-WATERED PRIOR TO BEING SURCHARGED BY A FOLLOWING RAINFALL EVENT. A REPORT IS PRESENTED TO AN APPROPRIATE COUNCIL OFFICER WITHIN 5 DAYS IDENTIFYING THE CIRCUMSTANCES AND PROPOSED AMENDMENTS, IF ANY, TO THE BASIN'S OPERATING PROCEDURES.
32. ALL SEDIMENT BASINS MUST REMAIN FULLY OPERATIONAL AT ALL TIMES UNTIL THE BASINS DESIGN CATCHMENTS ACHIEVES 70% GROUND COVERAGE, OR SURFACE STABILISATION ACCEPTABLE TO COUNCIL.
33. SETTLED SEDIMENT MUST BE REMOVED AS SOON AS REASONABLE AND PRACTICABLE FROM ANY SEDIMENT BASIN
  - IT IS ANTICIPATED THAT THE NEXT STORM EVENT IS LIKELY TO CAUSE SEDIMENT TO SETTLE ABOVE THE BASIN'S SEDIMENT STORAGE ZONE; OR
  - THE ELEVATION OF SETTLED SEDIMENT IS ABOVE THE TOP OF THE BASIN'S SEDIMENT STORAGE ZONE; OR
  - THE ELEVATION OF SETTLED SEDIMENT IS ABOVE THE BASIN'S SEDIMENT MARKER LINE.
34. SCOUR PROTECTION MEASURES PLACES ON SEDIMENT BASIN EMERGENCY SPILLWAYS MUST APPROPRIATELY PROJECT THE SPILLWAY CHUTE AND ITS SIDE BATTERS FROM SCOUR, AND MUST EXTEND A MINIMUM OF 3m BEYOND THE DOWNSTREAM TOE OF THE BASIN'S EMBANKMENT.
35. ALL ESC MEASURES MUST BE INSPECTED:
  - AT LEAST DAILY (WHEN WORK IS OCCURRING ON-SITE); AND
  - AT LEAST WEEKLY (WHEN WORK IS NOT OCCURRING ON-SITE); AND
  - WITHIN 24HRS OF EXPECTED RAINFALL; AND
  - WITHIN 18HRS OF A RAINFALL EVENT THAT CAUSES RUNOFF ON THE SITE)

EROSION AND SEDIMENT CONTROL NOTES	
36.	WRITTEN RECORDS MUST BE KEPT ONSITE OF ESC MONITORING AND MAINTENANCE ACTIVITIES CONDUCTED DURING THE CONSTRUCTION AND MAINTENANCE PERIODS, AND BE AVAILABLE TO THE PCA ON REQUEST.
37.	ALL SITE MONITORING DATA INCLUDING RAINFALL RECORDS, DATES OF WATER QUALITY TESTING, TESTING RESULTS AND RECORDS OF CONTROLLED WATER RELEASES FROM THE SITE, MUST BE KEPT IN AN ON-SITE REGISTER. THE REGISTER IS TO BE MAINTAINED UP TO DATE FOR THE DURATION OF THE APPROVED WORKS AND BE AVAILABLE ON-SITE FOR INSPECTION BY COUNCIL OFFICERS ON REQUEST.

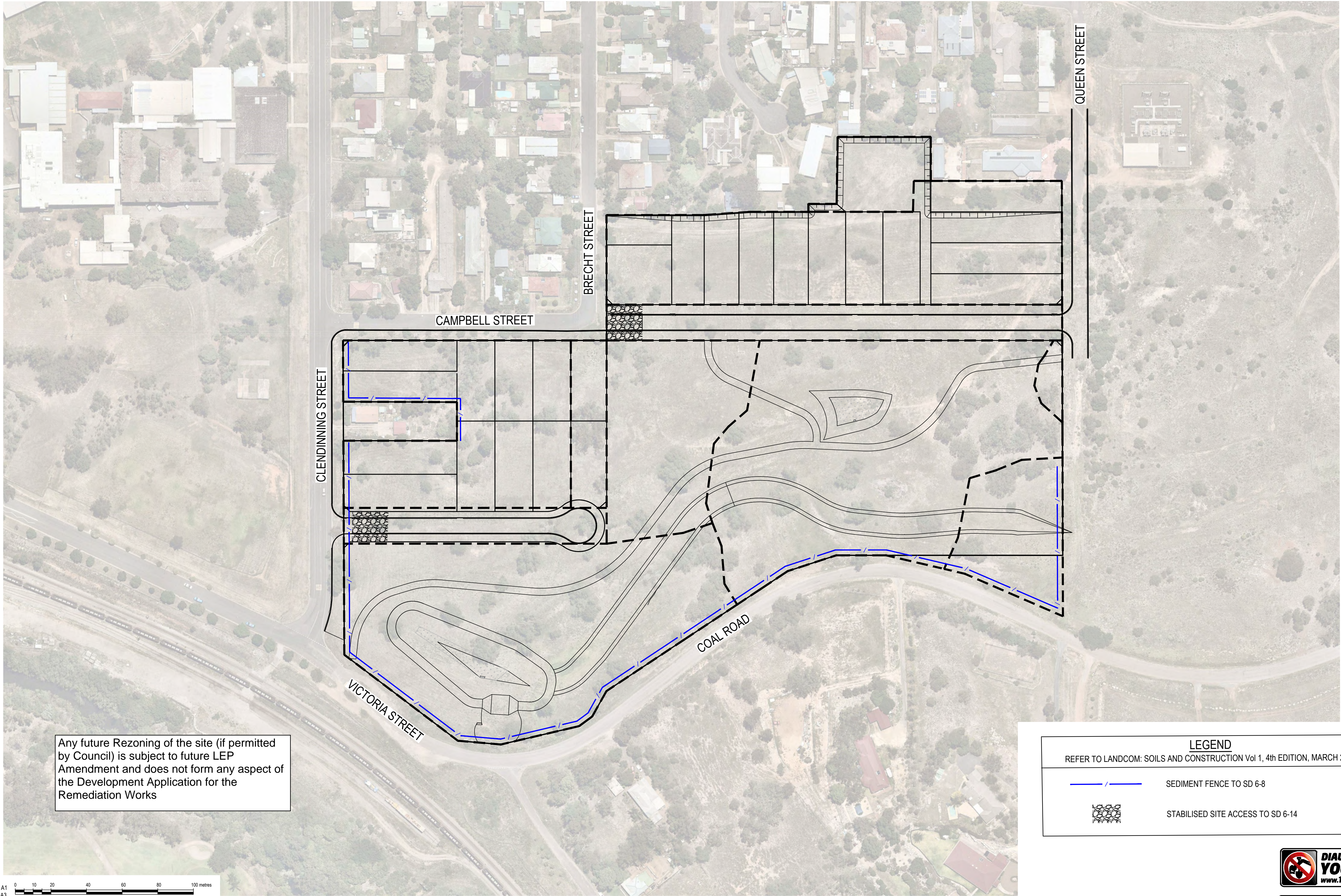
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North

Drawn JER	Date NOV 2019	Scale N.T.S	A1	Q.A. Check TB	Date 26.11.19
Designed SJO	Project No. 20193469			Dwg. No. C10.01	Issue A







Any future Rezoning of the site (if permitted by Council) is subject to future LEP Amendment and does not form any aspect of the Development Application for the Remediation Works

LEGEND

REFER TO LANDCOM: SOILS AND CONSTRUCTION Vol 1, 4th EDITION, MARCH 2004

SEDIMENT FENCE TO SD 6-8

STABILISED SITE ACCESS TO SD 6-14



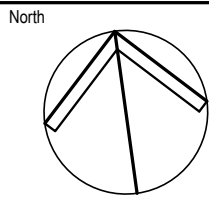
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A		24.01.20	AS	TB
ISSUED FOR DETAIL DESIGN				



Client  
KLEINFELDER

MUSWELLBROOK COAL



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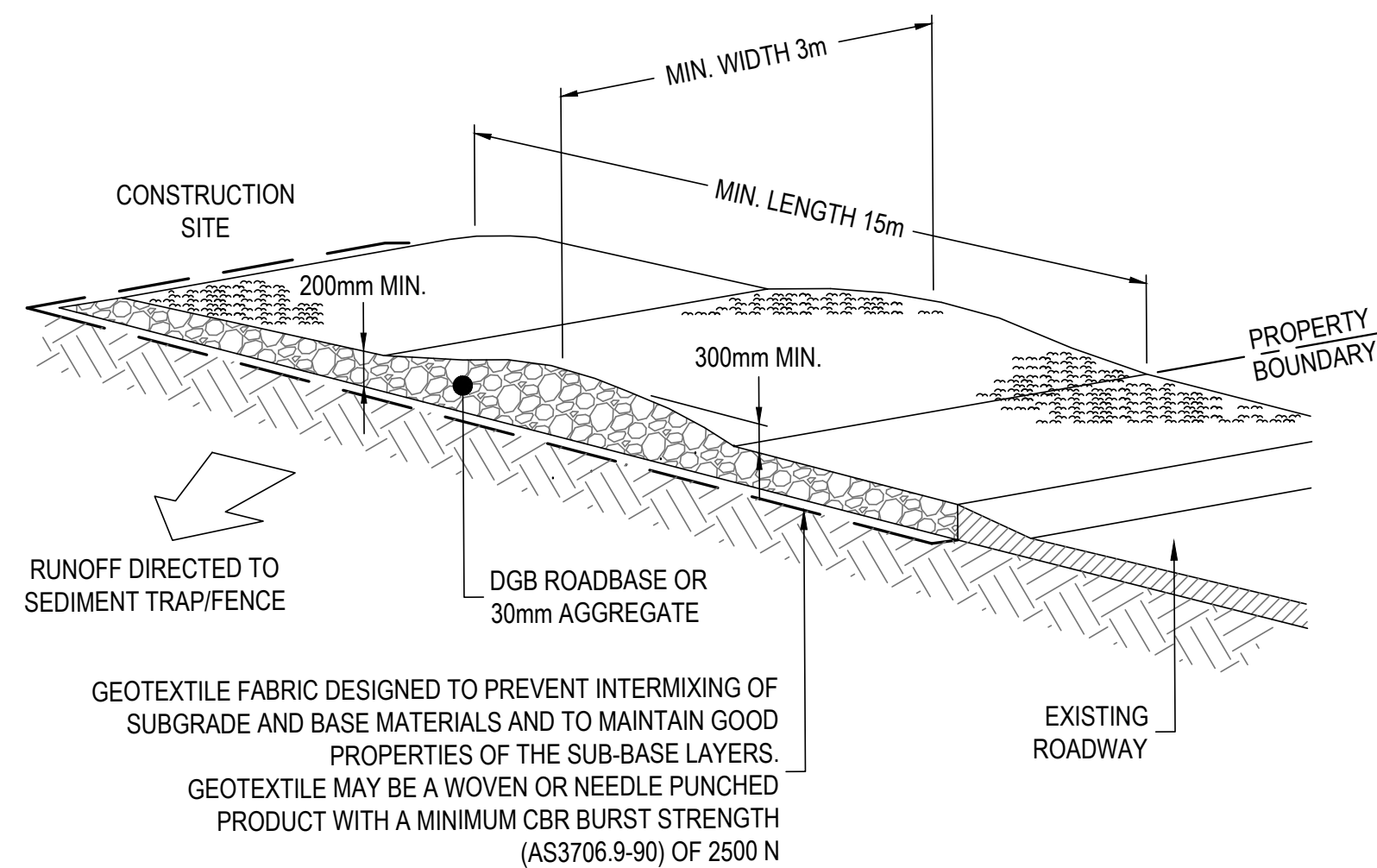
Project  
MUSWELLBROOK COAL  
OLD PIT TOP REMEDIATION

VICTORIA STREET  
MUSWELLBROOK, NSW, 2333

Drawing Title  
EROSION AND SEDIMENT CONTROL  
PLAN

Drawn	Date	Scale	A1	Q.A. Check	Date
JER	NOV 2019	1:1000	TB		26.11.19
Designed	Project No.	Dwg. No.	Issue		
SJO	20193469	C10.02	A		

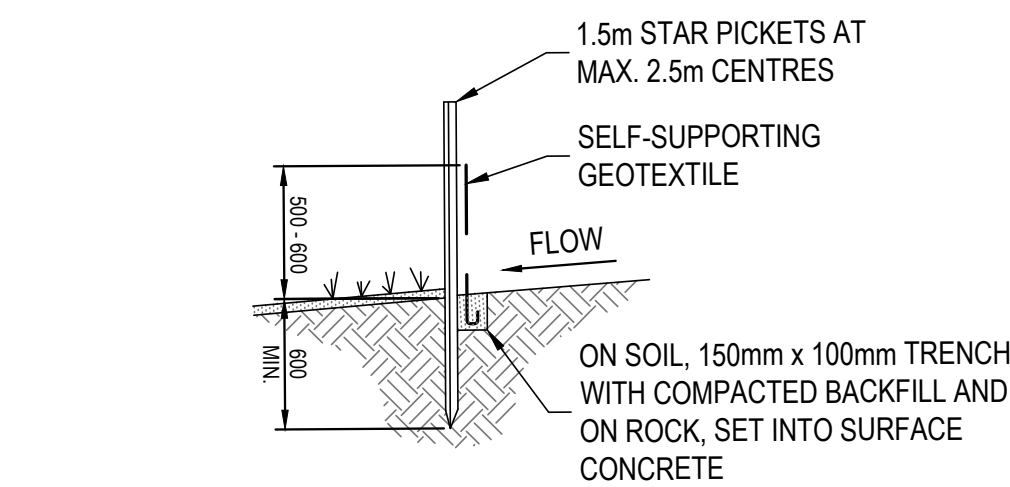




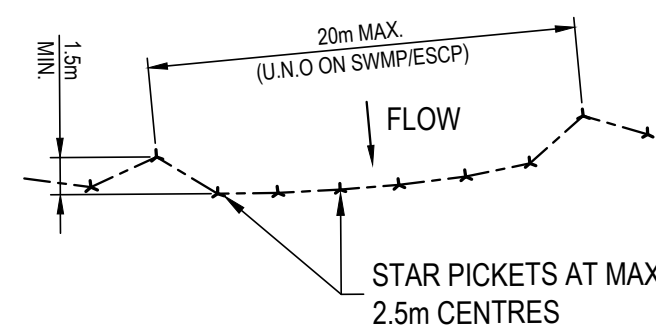
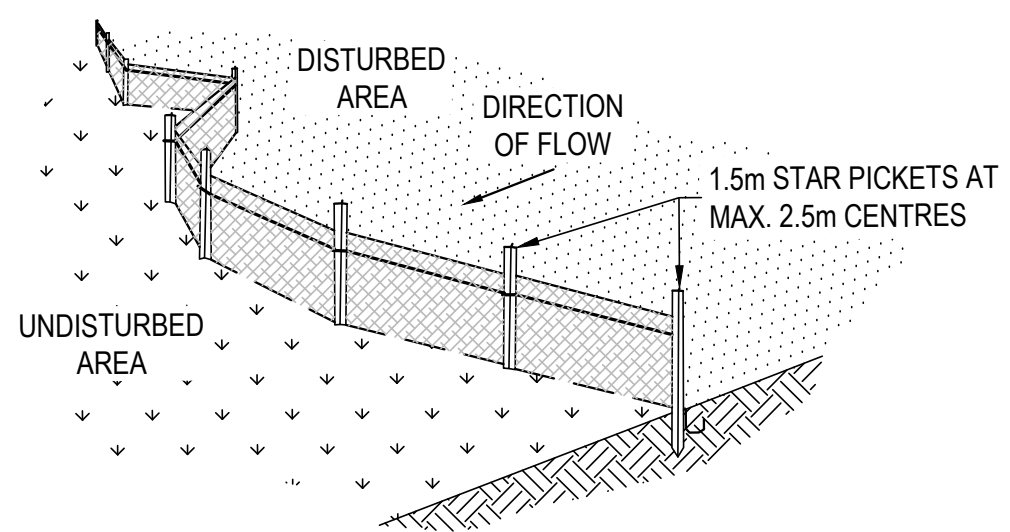
#### STABILISED SITE ACCESS CONSTRUCTION NOTES:

1. STRIP THE TOPSOIL, LEVEL THE SITE AND COMPACT THE SUBGRADE.
2. COVER AREA WITH NEEDLE-PUNCHED GEOTEXTILE.
3. CONSTRUCT 200mm THICK PAD OVER GEOTEXTILE USING ROAD BASE OR 30mm AGGREGATE.
4. ENSURE THE STRUCTURE IS AT LEAST 15m LONG OR TO BUILDING ALIGNMENT AND AT LEAST 3m WIDE.
5. WHERE A SEDIMENT FENCE JOINS ONTO THE STABILISED ACCESS, CONSTRUCT A HUMP IN THE STABILISED ACCESS TO DIVERT WATER TO THE SEDIMENT FENCE.

**STABILISED SITE ACCESS DETAIL (TO SD6-14)**  
NOT TO SCALE



#### SECTION DETAIL



#### PLAN

**SEDIMENT CONTROL FENCE DETAIL (TO SD6-8)**  
NOT TO SCALE

#### SEDIMENT FENCE CONSTRUCTION NOTES:

1. CONSTRUCT SEDIMENT FENCES AS CLOSE AS POSSIBLE TO PARALLEL TO THE CONTOURS OF THE SITE, BUT WITH SMALL RETURNS AS SHOWN IN THE DRAWING TO LIMIT THE CATCHMENT AREA OF ANY ONE SECTION. THE CATCHMENT AREA SHOULD BE SMALL ENOUGH TO LIMIT WATER FLOW IF CONCENTRATED AT ONE POINT TO 50L PER SECOND IN THE DESIGN STORM EVENT, USUALLY THE 10 YR EVENT.
2. CUT A 150mm DEEP TRENCH ALONG THE UPSLOPE LINE OF THE FENCE FOR THE BOTTOM OF THE FABRIC TO BE ENTRENCHED.
3. DRIVE 1.5m LONG STAR PICKETS INTO GROUND AT 2.5m INTERVALS (MAX) AT THE DOWN SLOPE EDGE OF THE TRENCH. ENSURE ANY STAR PICKETS ARE FITTED WITH SAFETY CAPS.
4. FIX SELF SUPPORTING GEOTEXTILE TO THE UPSLOPE SIDE OF THE POSTS ENSURING IT GOES TO THE BASE OF THE TRENCH. FIX THE GEOTEXTILE WITH WIRE TIES OR AS RECOMMENDED BY THE MANUFACTURER. ONLY USE GEOTEXTILE SPECIFICALLY PRODUCED FOR SEDIMENT FENCING. THE USE OF SHADE CLOTH FOR THIS PURPOSE IS NOT SATISFACTORY.
5. JOIN SECTIONS OF FABRIC AT A SUPPORT POST WITH A 150mm OVERLAP.
6. BACKFILL THE TRENCH OVER THE BASE OF THE FABRIC AND COMPACT IT THOROUGHLY OVER THE GEOTEXTILE.



NOT FOR CONSTRUCTION

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This drawing has been assigned an electronic code that signifies the drawing has been checked and approved by:			
A	ISSUED FOR DETAIL DESIGN	24.01.20	AS TB
Issue	Description	Date	Drawn Approved

North

Client
KLEINFELDER

MUSWELLBROOK COAL

ACOR Consultants (NNSW) Pty Ltd
Level 1, 54 Union Street
Cooks Hill, Newcastle NSW 2300
T +61 2 4926 4811

Project
MUSWELLBROOK COAL
OLD PIT TOP REMEDIATION
VICTORIA STREET
MUSWELLBROOK, NSW, 2333

Drawing Title					
EROSION AND SEDIMENT CONTROL DETAILS					
Drawn	Date	Scale	A1	Q.A. Check	Date
JER	NOV 2019	N.T.S		TB	26.11.19
Designed	Project No.	Dwg. No.		Issue	
SJO	20193469	C10.03		A	

**Extended**  
**DEVELOPMENT ASSESSMENT REPORT**

**REPORT TO: COUNCIL**

<b>ADDRESS:</b>	LOT: 129 DP: 752484, LOT: 1 DP: 1134222, LOT: 1 DP: 1134225, LOT: 6 DP: 16270, LOT: 5 DP: 130843, LOT: 11 DP: 130832, PRT: 110 DP: 752484, LOT: 111 DP: 752484, LOT: 1 DP: 1133886, LOT: 10 DP: 16270, LOT: 9 DP: 16270, LOT: 7 DP: 16270, Lot: 142 DP: 862505, LOT: 12 DP: 15707, LOT: 11 DP: 15707, LOT: 13 DP: 15707, LOT: 9 DP: 130832, LOT: 10 DP: 130832, LOT: 128 DP: 752484, LOT: 305 DP: 634192, LOT: 1 DP: 1134219, LOT: 5 DP: 16270, LOT: 2 DP: 16270, LOT: 3 DP: 16270, LOT: 1 DP: 16270, LOT: 4 DP: 16270, LOT: 17 DP: 15707, LOT: 20 DP: 15707, LOT: 16 DP: 15707, LOT: 23 DP: 15707, LOT: 18 DP: 15707, LOT: 21 DP: 15707, LOT: 15 DP: 15707, LOT: 19 DP: 15707, LOT: 22 DP: 15707 Coal Road MUSWELLBROOK, Clendinning Street MUSWELLBROOK, Campbell Street MUSWELLBROOK, Rowan Parish COUNTY DURHAM, Victoria Street MUSWELLBROOK, Brecht Street MUSWELLBROOK, Queen Street MUSWELLBROOK
<b>APPLICATION No:</b>	2022/80
<b>PROPOSAL:</b>	Remediation and Earthworks
<b>OWNER:</b>	Muswellbrook Coal Company Pty Ltd
<b>APPLICANT:</b>	Muswellbrook Coal Company Pty Ltd GPO Box 301 BRISBANE QLD 4001
<b>AUTHOR:</b>	Tanya Alsleben
<b>DATE LODGED:</b>	01/07/2022
<b>DATE OF REPORT:</b>	06/10/2023

---

**1. RECOMMENDATION**

It is recommended that development consent be granted to DA 2022/80 for Remediation and Earthworks, subject to the recommended conditions of consent.

---

## 2. SITE LOCALITY AND DESCRIPTION

This development application relates to the former Muswellbrook Coal Company colliery No.1 Pit Top on the corner of Victoria Street and Coal Road Muswellbrook. The subject site is locally referred to as 'the old pit top'. The total area of the site is approximately 8.63ha and is comprised of 35 lots where mining, coal handling, worker accommodation and related activities were previously carried out.

The lots which comprise the subject site are referenced below:

- Lot 1-7, 9-10 DP 16270.
- Lot 9-11 DP 130832.
- Lot 110-111, 128-129 DP 752484.
- Lot 1 DP 1133886.
- Lot 1 DP 1134219.
- Lot 1 DP 1134222.
- Lot 1 DP 1134225.
- Lot 5 DP 130843.
- Lot 11-13, Lot 15-23 DP 15707.
- Lot 142 DP 862505.
- Lot 305 DP 634192.

The entirety of the subject site is identified in the image below.

**Figure 11.** – Site Aerial Image (Source: Spectrum)



The site has an area of approximately 8.6ha.

The site was historically used for mining, power generating, and industrial uses between 1907 and 1982. The site was associated with underground mining carried out from the site. Some



workers accommodation was also provided on the site.

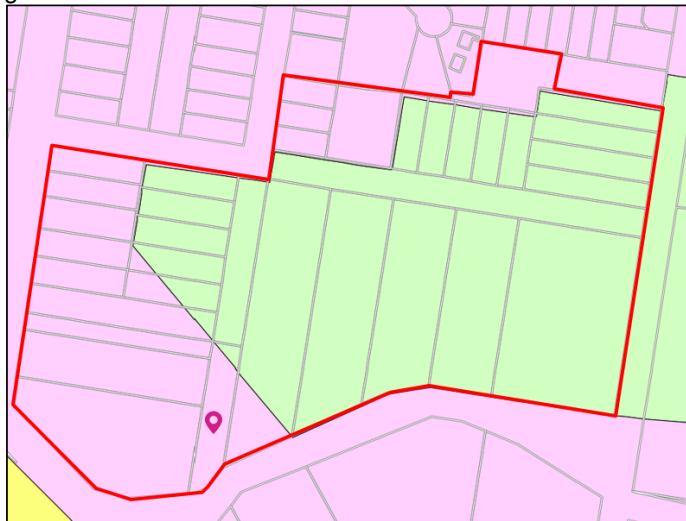
The site has frontage to and can be accessed via Vicotria Street, Clendenning Street, Breech Street, Queen Street and Coal Road. The site is opposite Muswellbrook High School and adjoins an established residential area to the north.

The site is located on a steep south-north incline. The low part of the site being its southern and high point at the north. The land is identified as bushfire prone. A watercourse intersects the southern portion of the site. The site is identified as being affected by mine subsidence.

The site was notified to the NSW Environmental Protection Authority as a contaminated site under Section 60 of the Contaminated Land Management Act 1997 due to the former mining and power generating activities that occurred on the site.

The land is zoned partly R1 General Residential and partly RE2 Private Recreation under Muswellbrook LEP 2009. The image below identifies the parts of the site subject to either land use zone.

**Figure 22.** – Land Use Zone. The pink area denotes the R1 General Residential zone and the green area the RE2 Private Recreation.



Flood Prone Land	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Bushfire Prone Land	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Terrestrial Vegetation	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Heritage Conservation Item	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Heritage Conservation Zone	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Contaminated Land	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Mine Subsidence	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> Former Pit Top No. 1 Colliery Muswellbrook Coal
Classified Road Frontage	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Council Infrastructure within Site	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Other	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

### 3. DESCRIPTION OF PROPOSAL

This development application seeks consent to carry out the decontamination and remediation of the site.



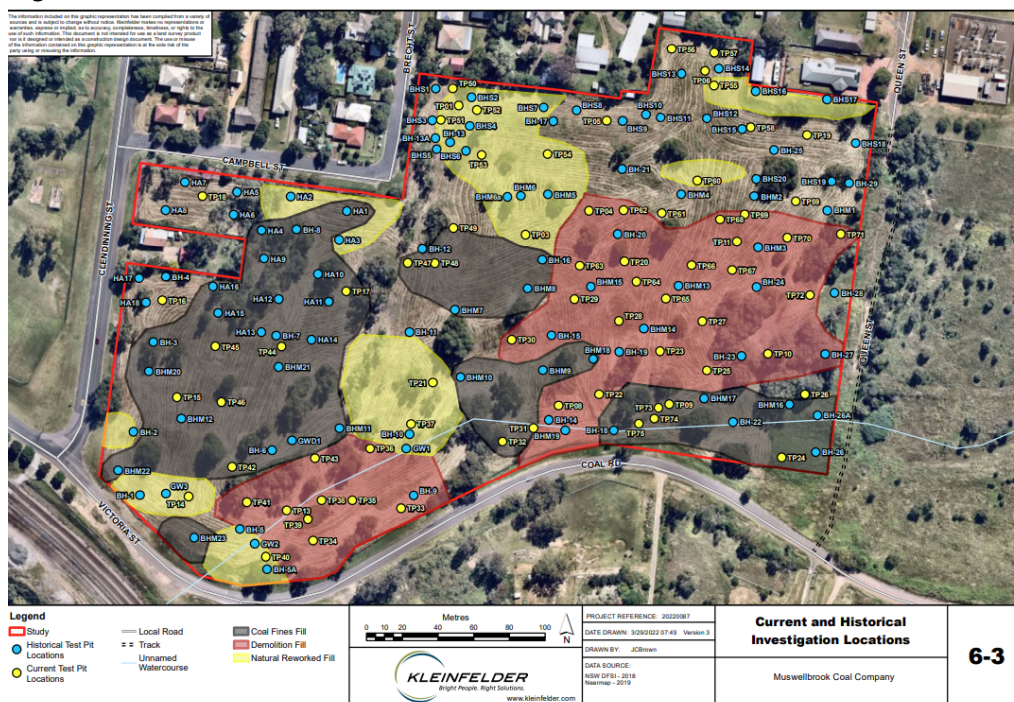
### 3.1 Description of Site Contamination

The site is recognised as a potentially contaminated site due to historical mining, energy generation and related land uses.

Technical investigations have informed the development application and Remediation Action Plan prepared in relation to the site. A summary of site investigations is included under the heading 2.2 'summary of previous investigations' in the Remediation Action Plan submitted with this development application.

The Remediation Action Plan provides details on the extent of contamination identified through this and previous studies related to the site. The figure below is an excerpt from the Remediation Action Plan and identifies the soil sampling bore holes that informed the site investigation.

**Figure 3 – Test boreholes**



Key observations/findings from the Remediation Action Plan related to aspects of the contamination investigation have been included below:

#### Asbestos Containing Material

- The distribution of Asbestos Containing Material (ACM) found on the surface of the site was predominantly within the central eastern portion of the site in demolition fill material, and in the northern part of the site. Small clusters of ACM were identified on the ground surface in other isolated areas of the site as shown in Figure 6-3.
- ACM located below the ground surface was predominantly found in the central eastern part of the site within demolition fill material ranging in depth from the surface down to 1.4m below ground level (BGL), and in the southern part of the site in the vicinity of the old dams ranging in depth from 0.3m to 1.8m BGL.
- Asbestos Fines (AF) and Fibrous Asbestos (FA) was identified in the central eastern part of the site within demolition fill material generally within the top 0.5m of soil.

- Free fibres were identified at three locations within the central eastern part of the site within the demolition fill material, ranging in depth from 0.5m to 0.8m BGL.

#### Chemical contamination

- Concentrations of chemicals detected in soil and groundwater were limited in nature and extent, and typically related to exceedances of hydrocarbon for urban residential and public open space land use. Exceedances were typically associated with fill comprising coal fines.
- Test pit BH19 had significant hydrocarbon contamination. Related investigation attributed this to diesel spill. It is noted that the land use is zoned RE2 Private Recreation and is proposed for capping to reduce exposure risk to potential contamination.
- Test pit BH2 exceeded hydrocarbon criteria (attributed to former coal storage adjacent Clendenning Street). However, given the age of the sample and the conservative derivation of soil HSLs for vapour intrusion, the Report identified that it is unlikely that a significant source of soil vapour exists within the locality of BH-2.

#### Shaft and Void Assessment

- An historical mine shaft may be present close to the central eastern site boundary and some ground subsidence has been observed in this area.
- A Ground Penetrating Radar survey was undertaken across this area. The survey did not identify any voids at shallow depths; however, it could not be ruled out that a void may exist. Therefore, the remediation approach may need to consider this potential subsurface stability issue. Related recommendations for managing this are suggested in the Remediation Action Plan.
- Notwithstanding, the risk related to the carrying out of works and the risk of further subsidence as low. The current zoning of the land concerned is RE2 Private Recreation.

### 3.2 Description of Remediation Work Proposed

The remediation strategy seeks to remediate the site to meet the criteria for residential and recreation uses (i.e., current land use zoning). The remediation strategy targets remediating parts of the RE2 Private Recreation zoned land to a standard that may support a more wide-ranging array of potential land uses than those permitted by the current RE2 Private Recreation zoning.

A detailed description of the remediation work is provided in the Remediation Action Plan. A summary of the work involved is:

- Construction of two bio-retention basins to manage stormwater during remediation works. The bio-retention basins are proposed to be retained on-site at the completion of work.
- Removal of coal fines fill from the existing residential zoned areas (and any adjoining lots).
- Removal of topsoil identified to be contaminated with asbestos from both residential and recreation zoned land. Topsoil will be placed on-site within the RE2 Private Recreation land use zone (see zone 6 in Figure 4).
- Install a geotextile membrane and 0.5m of clean capping over the central eastern portion of the site where on-site material capping is to occur (the area is identified as zone 6 in Figure 4).

- Re-establish vegetation across the site – a minimum 50mm pre-seeded compost blanket to be applied across the site.

Significant earthworks are required as part of its remediation. The EIS has provided a conceptual estimate of the volumes of cut and fill within the total site to achieve the remediation objectives.

Estimated total cut of 42,442m<sup>3</sup> comprising:

- 19,588m<sup>3</sup> Excavated material.
- 22,854m<sup>3</sup> Inter-area cut material.
- 

Estimated total fill (including capping material) = 42,442m<sup>3</sup> comprising:

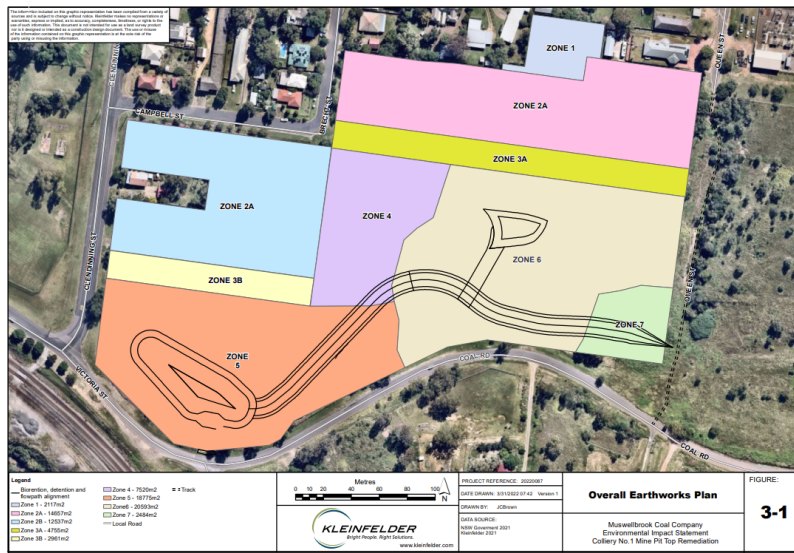
- 22,854m<sup>3</sup> inter area fill material.
- 19,588m<sup>3</sup> capping and additional fill material.

The following provides an estimated sum of areas that require compost blanketing or hydroseeding and geofabric layer:

- Composting blanket/hydroseeding = 86,265m<sup>2</sup>
- Geofabric layer up to 22,500m<sup>2</sup>.

Figure 4 identifies the various zones in the construction work program (including zone 6 where capped material is proposed to be deposited) and the location of the waterway and bio-retention basins.

**Figure 4 – Proposed earthworks**



Notification Required	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Notification Dates	27 July 2022 – 7 September 2022 (42-day notification period) Notification Letters Sent, Advertised on Council's Website with a corresponding Facebook post.
Number of Submissions	4
Standard Local Development	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

Regionally Significant Development	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Designated Development	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Integrated Development	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

#### 4. RELEVANT HISTORY

Council's records do not show any recent development applications in relation to the site.

Council Officers are aware that the site has a long history of mining, energy generating and industrial type use. Mining commenced in 1907. Given the longstanding nature of these historical uses it is difficult to precisely determine previous uses. However, Council and the local community have anecdotal information that confirms elements of the site use as follows:

*The site was historically occupied by the Muswellbrook No.1 underground Coal mine from 1907, until closure in 1982. A power station was also present on the site and operated from the late 1940's or early 1950's until it was decommissioned in the early 1970s.*

*A mining lease was first granted in 1907 and extraction of the coal measures by underground mining commenced the following year in 1908 by Muswellbrook Coal Company. There were many entrances to the mine utilised for both men and materials over the 70 years of operation, however their exact locations have not been mapped or recorded.*

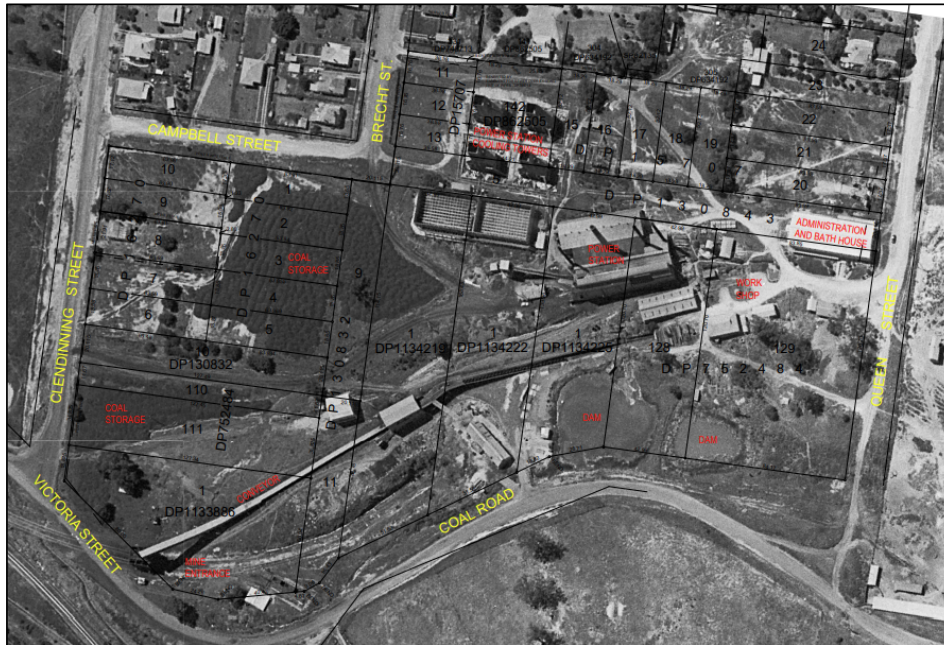
*An administration/bathhouse building was present towards the northern boundary of the site. To the south and west of this building was a workshop followed by six (6) buildings and other infrastructure which appeared to have been associated with access to the mine and the extraction of coal measures.*

*A rail loading facility and coal stockpile area were also present towards the southern boundary of the site along Victoria Street. The rail line exited to the south west where it joined the main rail line.*

Figure 5 is an aerial image of the site and related infrastructure taken in 1953. A range of the infrastructure referenced above can be seen in the image.

**Figure 3. 5 – 1953 Site Aerial Image (Source: Muswellbrook Coal Company)**





## 5. REFERRAL COMMENTS

A summary of referrals comments are included below.

### External Integrated Development Referrals

#### NSW Environment Protection Authority

The remediation work involved in the proposal requires an Environmental Protection License from the NSW Environmental Protection Authority (EPA) under the *Protection of the Environment Operations Act 1997*. Consequently the proposed development is integrated development under the *Environmental Planning and Assessment Act 1979* and requiring referral to the EPA to consider and issue General Terms of Approval.

The NSW EPA will assume the role of regulating the activity under this legislation and ensuring its requirements related to pollution control and management are adhered to through carrying out the works.

The NSW EPA provided their General Terms of Approval to the proposed development on the 9 January 2023. Council is required to impose conditions to ensure the development is carried out in accordance with the General Terms of Approval.

#### Department of Planning and Environment-Water

The proposed development involves work on 'waterfront land' (within 40m of a watercourse) and thereby requires a Controlled Activity Permit from the Department of Planning and Environment Office Water. Accordingly, the proposed development is integrated development under the *Environmental Planning and Assessment Act 1979* and requiring referral to the Department of Planning and Environment – Water to consider and issue General Terms of Approval.

Department of Planning and Environment – Water issued General Terms of approval to the proposed development on the 11 January 2023. Council is required to impose conditions to ensure the development is carried out in accordance with the General Terms of Approval.

#### Subsidence Advisory

The subject site is located within a 'subsidence district' identified as being potentially impacted by mine subsidence under the Coal Mine Subsidence Compensation Act 2017. Accordingly, the proposed development is integrated development under the *Environmental Planning and Assessment Act 1979* and requiring referral to NSW Subsidence Advisory.

NSW Subsidence Advisory provided a response to Council confirming their concurrence to the development and indicating that they had issued an approval under the Coal Mine Subsidence Compensation Act 2017 for the carrying out of the work concerned on the 1 March 2023.

#### **Other External Referrals**

The proposed development is 'designated development' under Environmental Planning and Assessment Act 1979 this legislation requires a consent authority to refer a 'designated development' application to any Government Agency it considers may have an interest in the determination of the development application.

All Government Agencies consulted by the Department of Planning and Environment in determining the SEAR's in relation to the project were provided a referral for the project.

#### DPE - Biodiversity, Conservation and Science

DPE - Biodiversity, Conservation and Science indicated that they were not required to provide any comment in relation to the development application.

#### NSW Heritage

NSW Heritage indicated that they were not required to provide any comment in relation to the development application.

#### TfNSW

Transport for NSW indicated that they were not required to provide any comment in relation to the development application.

#### Department of Regional NSW - Mining, Exploration & Geoscience

The Department of Regional NSW provided referral advice advising that they had no comment related to the development application and would regulate the works as they occur under the Rehabilitation Management Plan process related to its function for overseeing the rehabilitation of mine sites to achieve the closure of any mining license under the Mining Act 1992.

#### DPIE- Environment, Energy and Science

DPIE – EES identified they had not comment as *"the identified hazards and risks are bushfire and hazardous materials. EES does not have a role in regulating these. These matters should be referred to the Rural Fires Service and EPA."*

#### **Internal Referrals**

#### CI – Roads and Drainage

The proposed development was referred to Council's Roads and Drainage Engineers who requested:

- The Humegard GPT pollution management system proposed be installed in the stormwater detention basin within the site.
- Referenced the importance of appropriate lining below the detention basin to prevent any water seepage into capped material within the site. Ensuring the adequacy of

material capping and remediation will be overseen by the EPA through their General Terms of Approval.

- A requirement for suitable erosion and sediment control plan to be fully detailed prior to the commencement of work.
- Requested a dilapidation survey in relation to Council infrastructure that may be affected by the development be carried out prior to the commencement of works.

These comments have informed the recommended conditions of consent.

#### CI – Water and Waste

Council's Water and waste engineers have reviewed the application and did not have any objections to the application but noted that there are Council water and sewer mains going through the site and that these services are not to be disturbed.

#### Environmental Health Officer

Council's Senior Environmental Health Officer provided verbal advice confirming that they were satisfied for the proposal to proceed without formal comment noting that the NSW Environmental Protection Authority were the authorised regulatory authority for administering the works compliance with the Protection of the Environment Operations Act 1997.

### **6. ASSESSMENT - Section 4.15 Matters for Consideration**

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

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

<b>SEPP (Biodiversity and Conservation) 2021</b>
Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
<p>Chapter 2 Vegetation in non-rural areas</p> <p>This chapter aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation by outlining the types of clearing permitted with or without consent and relevant provisions for the same.</p> <p>The proposal involves the clearing of vegetation on the land. The impacts of the removal of vegetation are considered satisfactory.</p> <p>Chapter 3 Koala habitat protection 2020</p> <p>Encourages the conservation and management of natural vegetation areas that provide habitat for koalas.</p> <p>Under Schedule 2 of this SEPP, the Central Coast Koala Management Plan is applicable within the Muswellbrook Shire Council. This Chapter applies to land in the following land use zones:</p> <ul style="list-style-type: none"><li>(a) Zone RU1 Primary Production,</li><li>(b) Zone RU2 Rural Landscape,</li><li>(c) Zone RU3 Forestry.</li></ul> <p>The proposed development is located on land zoned R1 General Residential and RE2 Private Recreation. As the proposed development is not located within the above zones, this chapter does not apply.</p> <p>Notwithstanding, that the SEPP does not apply to the land use zone concerned an ecological report provided with the application confirmed the subject site does not comprise a 'core koala habitat' .</p>
<b>SEPP (Resilience and Hazards (2021)</b>
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
<p>Chapter 3 Hazardous and offensive development</p> <p>This chapter contains planning provisions for hazardous and offensive development and aims to ensure that adequate consideration is given to the likely impacts of such development. This Policy also aims to identify industries or activities which may be potentially hazardous or offensive via the production of a Preliminary Hazard Analysis (PHA).</p> <p>The subject site was previously used for mining operations, which is a hazardous development. The infrastructure relating to this use has been removed from the site. The proposal involves remediation and does not involve any new hazardous or offensive development and will not be impacted by any such nearby development and therefore this section of the SEPP does not need to be considered further.</p> <p>Chapter 4 Remediation of Land</p> <p>The subject site is subject to contamination that requires remediation under the SEPP. A Remediation Action Plan has been prepared in relation to the proposed development.</p>



The scope of the remediation work proposed is such that the works require development consent as Category 1 Remediation Work identified by S4.8 of the SEPP.

In completing this assessment, Council Officers have had regard to limitations set-out in S4.10 of the SEPP, which restrict the ability of a Consent Authority to refuse category 1 remediation work – this assessment report does not recommend the refusal of the work concerned. The requirements for a Notice of Completion of Remediation work set-out in S4.15 have been included as a recommended condition of consent.

Council Officers are satisfied that the proposed remediation work is consistent with the SEPP provisions and have recommended that the work be approved subject to recommended conditions.

## Muswellbrook Local Environmental Plan 2009

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

### Part 2 Permitted or prohibited development

Land use Zone	R1 General residential and RE2 Private Recreation
Proposed Use	No change of use – Only remediation works proposed
Permissibility	<p>'Environmental protection works' is identified as the development type most relevant to the remediation and earthworks described within the application.</p> <p>The relevant land use definition for the works is as follows</p> <p><b><u>environmental protection works</u></b> means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.</p> <p>The land use table for both the RE2 Private Recreation and R1 General Residential zones identify development for the purpose of 'environmental protection works' as development permitted with consent.</p> <p>Accordingly, Council Officers are satisfied that the proposed development is permissible with consent within the R1 General Residential and RE2 Private Recreation land use zones.</p> <p><b>Complies</b></p>

### Clause 2.3 Zone objectives and Land Use Table

The subject site is zoned partly R1 General Residential and partly RE2 Private Recreation. The relevant land use objectives for each zone are set out below.

The objectives of the R1 General Residential Zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To enable sensitive infill development of other housing types.*
- *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.*
- *To promote the principles of ecological sustainable development including energy and water efficient subdivision and housing design.*
- *To minimise the impact of non-residential uses and ensure these are in character and compatible with surrounding development.*
- *To ensure that development is carried out in a way that is compatible with the flood risk of the area.*

The objectives under the RE2 Private Recreation Zone are:

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*

- *To protect and enhance the natural environment for recreational purposes.*
- *To encourage the development of public open spaces in a way that addresses the community's diverse recreation needs.*

The proposed development is consistent with the requirements under these zones as the proposal only involves remediation works and stormwater drainage works to improve the current unusable state of the site to a safe and useable condition for future uses.

#### **Part 4 Local Provisions**

The provisions set out in this Part of Muswellbrook LEP 2009 do not include any controls which affect the carrying out of the proposed development.

#### **Part 5 Miscellaneous Provisions**

The provisions set out in this Part of Muswellbrook LEP 2009 do not include any controls which affect the carrying out of the proposed development.

#### **Part 6 Urban Release Area**

The provisions set out in this Part of Muswellbrook LEP 2009 do not include any controls which affect the carrying out of the proposed development.

#### **Part 7 Additional Local Provisions**

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

##### **7.6 Earthworks**

The objectives of this clause are as follows—

- to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- to allow earthworks of a minor nature without requiring separate development consent.*

Before granting development consent for earthworks, the consent authority must consider the following matters—

(a) <i>the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</i>	<p>The proposal involves extensive earthworks that are likely to have an impact on the existing drainage patterns on the site (although the site is highly modified due to past uses as well).</p> <p>The applicant has proposed stormwater drainage works to manage the site during works and into the future. These have been reviewed by Council's engineers and accepted.</p>
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<i>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</i>	The proposed development involves the remediation of contaminated land and will improve the site from a public safety perspective.
<i>(c) the quality of the fill or of the soil to be excavated, or both,</i>	Material transported to the site will need to be consistent with virgin excavated material and safe for on-site use. Any contaminated fill transported away from the site must be disposed of at an appropriately licensed facility.
<i>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</i>	The potential amenity impacts on neighbouring properties would occur during the carrying out of works. Recommended conditions of consent require management of any adverse impacts related to the large-scale earthworks, such as construction management planning, erosion and sediment control and noise management provisions.
<i>(e) the source of any fill material or the destination of any excavated material,</i>	The proposal does not require any fill to be imported to or removed from the site. In the event that fill is imported it will need to appropriately sourced virgin excavated material.
<i>(f) the likelihood of disturbing relics,</i>	The subject site has been identified to be highly disturbed and has been used for a variety of mining activities since 1907 and is therefore unlikely to have any undisturbed relics on the site. An archaeological due diligence assessment has been carried out in relation to the proposed development. The likelihood of relics is considered to be low.
<i>(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</i>	The subject site has an existing watercourse going through the site that runs into Muscle Creek. The proposed development was referred to DPIE – Water who granted their General Terms of Approval to the carrying out of development after having regard to its proximity and impact to this waterway.

Council Officers are satisfied that the proposed development would be compatible with the relevant matters for consideration under this clause.

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

There are no draft EPIs relevant to the subject Application.

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

##### Section 6 – Residential Development

Section 6 of the Muswellbrook DCP applies to residential development in the R1 General residential zone. The subject site is partially zoned R1 General Residential; however, the proposal does not involve any residential development and therefore has not been considered further.

#### **Complies**

##### Section 15 – Heritage Conservation

The subject site has not been identified as containing an Item of Heritage Significance and is not within a Heritage Conservation Zone.



The site adjoins Midanga House an item of heritage significance under the Muswellbrook LEP 2009. The proposed development does not involve the erection of any new buildings or subdivision that would impact on the heritage item or its curtilage. After having regard to the relationship of the proposed development with this heritage item Council's Assessing Officer is satisfied that the proposed development would be in accordance with this Section of the DCP.

#### **Complies**

##### Section 20 – Erosion and Sediment Control

The relevant objective of this section states:

‘to demonstrate through the preparation of an Erosion and Sediment Control Plan or Strategy for developments over 250m<sup>2</sup> of disturbance that appropriate controls are planned to be installed’.

The proposed development involves extensive earthworks and therefore requires a Sediment Control plan under the DCP. The Remediation Action Plan submitted with the development application provides an outline of site management controls for impacts associated with the array of earthworks proposed. Recommended conditions of consent have been put forward to ensure the proposed development is carried out in a manner consistent with these and other controls required by Council to mitigate any erosion, sedimentation and related environmental impacts on the locality.

#### **Complies**

##### Section 21 – Contaminated Land

This section of the Muswellbrook DCP applies to all land that has been identified as being potentially contaminated. The proposed development for the remediation of land that has been contaminated due to extractive industries. The applicant has provided a comprehensive Remediation Action Plan has been prepared and submitted to Council Officers in accordance with the requirements of this Section.

The Remediation Action Plan and development application has been referred to the NSW EPA who will be the relevant regulatory authority for the carrying out of the works concerned and administering compliance with the Protection of Environment Operations Act 1997. After reviewing the proposal, the NSW EPA issued their General Terms of Approval for the development as an indication that they were satisfied with the proposal and remediation strategy proposed, subject to its compliance with their requirements including the proponent obtaining an Environmental Protection License from them for the carrying out of the works.

#### **Complies**

##### Section 24 – Waste Minimisation and Management Systems

The proposed remediation works are not likely to result in any material being taken off site. The main wastes on the site will be those associated with the small number of works on site and waste associated with site facilities (e.g., site shed, port-o-loos), typically on construction sites.

The applicant has noted that any waste on site will need to be managed in accordance with the Waste Avoidance and Resource Recovery Act 2001 (WARR Act) and the associated Waste Avoidance and Resource Strategy 2014-21 (WARS). Any contaminated material will be remediated on site.

The applicant has noted that a Waste Management Plan (WMP) would be prepared and implemented as part of the construction environmental management plan (CEMP). The

Assessing Officer has included this as a condition of consent.

#### Section 25 – Stormwater Management

- The proposed development involves extensive earthworks that are likely to have an impact on the natural stormwater flow on the site.
- The proposal does not involve the construction of any impervious structures.

Taking this into account, the relevant sections under the Muswellbrook DCP Section 25 have been discussed below:

##### **25.2.2 Existing Drainage Systems and Easements**

The subject site has an existing drainage channel connecting to Muscle Creek. The proposed development involves significant earthworks and changes to the existing levels on the site. New drainage structures will remain in the ownership and responsibility of the land owner.

##### **25.2.4 Overflow disposal**

###### **Controls**

- i. Development is to be designed so that overflows do not adversely affect neighbouring properties by way of intensification, concentration or inappropriate disposal across property boundaries. This can be achieved by securing appropriate easements over downstream properties or discharging overflows directly to the street system where feasible.
- ii. Overflows from paved areas adjacent to the property boundary are to be directed by a kerb or formed gutter to drain away from neighbouring properties.

A stormwater detention basin is proposed to manage stormwater discharge from the site.

###### **Complies**

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

There are no planning agreements relevant to the subject Application.

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

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

##### **Development Contributions**

The cost of works for the development is \$2,516,829.00. A developer contribution of \$25,168.29 will apply to the proposed development should the Application be approved.

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

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

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

###### **Context and Setting**

The site is currently vacant land that has been fenced off due to the contamination. Members of the public do access the property for recreational purposes.



The proposed development is expected to have a positive impact on the locality as the contamination will be moved to one location and capped, therefore reducing the danger to the public.

#### **Potential Impact on Adjacent Properties**

Council Officers are satisfied that the proposed development is unlikely to have any long term negative environmental impacts where carried out as proposed and in accordance with recommended conditions.

However, construction related environmental impacts to adjoining residents are possible. These potential impacts relate to erosion and soil control, dust management and noise pollution and are discussed in more detail under related headings in this Section of the assessment.

A Noise Impact Assessment and Air Quality Assessment have been submitted in relation to the proposed development. Each put forward management strategies which have been incorporated into recommended conditions of consent and the preparation of a Construction Environmental Management Plan in relation to the carrying out of the works.

The works involved require licensing through the NSW EPA under the PoEO Act 1997. In licensing the development, the NSW EPA will become the relevant authority for the control and management of environmental pollution under this related legislation. The NSW EPA have issued General Terms of Approval to the proposal an indication that any construction related impacts should not be so severe to inhibit the licensing of the work.

Noting the mitigation controls put forward and the EPL licensing requirements for the works, Council Officers are satisfied that sufficient controls will be implemented to ensure they are carried out without risk and with minimum disturbance to adjoining residents.

#### **Access, Transport and Traffic**

A traffic Impact Assessment has been prepared in relation to the proposed development. The Traffic Impact Assessment concludes that the proposed development is unlikely to have any substantive impact on Council's local road network with traffic during the construction predominately related to staff movements to and from the site.

Council Roads and Drainage Engineers have recommended conditions related to access construction and management.

### **Utilities**

The proposed development would not require connection to utility services. Recommended conditions have been put forward requiring the proponent to rectify any damage to Council infrastructure that may occur during the carrying out of work.

### **Air/Microclimate**

An Air Quality Impact Assessment has been prepared to consider the potential for dust and air pollution related to the proposed development and the carrying out of remediation work. This assessment concluded:

*A dispersion modelling assessment has been performed to determine the likely air quality impacts upon surrounding receptor locations. Pollutants assessed included particulate matter, and a range of contaminants identified in soil at the Proposal site, which included asbestos.*

*Activity rates associated with average operational conditions have been used to determine potential air quality impacts which have been compared against appropriate criteria. The modelling assessment determined that the operation of the Proposal is not anticipated to result in any additional exceedances of the relevant air quality criteria. The management measures proposed are shown to act to minimise impacts on surrounding receptor locations.*

*An Air Quality Risk Assessment was also performed to assess whether activities proposed as part of the Proposal can be performed without risk of giving rise to potential asbestos impacts at surrounding land uses. It was found that a 'medium' risk of asbestos impacts may be experienced at nearby sensitive receptors, however, this level of risk is predominantly driven by the very high sensitivity of proximate residences. It is not expected that asbestos concentrations would exceed the relevant NSW EPA criterion at any receptor locations and additional mitigation methods have been recommended to ensure that the potential risk of impacts are further minimised.*

*A program of air monitoring would allow any risks to be further managed, and would allow the determination of the effectiveness of control measures*

The NSW EPA issued their General Terms of Approval, indicating that they were satisfied that the activity described could be licensed under PoEO Act 1997, subject to compliance with their requirements.

General Terms of Approval issued by the NSW EPA included requirements for:

- Asbestos air monitoring to be performed at the site boundaries adjacent residential properties and close to Muswellbrook High school.
- Reporting of any exceedances of asbestos air quality criteria.
- Requirement for efforts to control and manage any air pollution.
- Preparation of an asbestos removal control plan.



- Erosion and sediment control measures.
- Measures related to the control and management of dust including the use of water carts on daily basis, restrictions to work on days with poor weather conditions and load/vehicle management.

Council Officers are satisfied that potential environmental impacts related to air quality and dust management can be managed.

### **Noise & Vibration**

A Noise Impact Assessment has been prepared in relation to the proposed development.

This report concludes that anticipated noise impacts from the 12-week construction program would be within acceptable limits. The related conclusions have been referenced below:

#### *Construction Road Noise*

*The amount of additional traffic on the road network is negligible and will not increase overall traffic noise levels on the surrounding road network. Therefore, compliance is expected.*

#### *Construction*

*The assessment outlined in this report indicates that construction noise management levels may be exceeded for some receivers assessed. However, the highly noise affected level of 75dB(A) LAeq(15min) is expected to be complied with. A set of standard mitigation measures for construction noise and vibration have been provided based on anticipated requirements of the proposal. It is believed construction noise can be minimised and managed acceptable to the local community through the implementation of a CNMP similar to what has been recommended in this report.*

Given that General Terms of Approval have been issued by the EPA, this is an indication that the proposed development may be supported from a noise impact perspective subject to compliance with related requirements included within their General Terms of Approval.

### **Flora and Fauna**

The proposed development involves the disturbance of an area of approximately 6.8ha and the clearing/removal of vegetation within that area.

A Biodiversity Development Assessment Report (BDAR) was submitted with the application. This report identified that:

- there will be no serious irreversible impacts
- that no endangered species of fauna would be impacted by the proposed development.
- That that the proposal would require the clearing of an area of 0.83 of native vegetation that meets the criteria of an endangered ecological community requiring off-setting through the Biodiversity Off-set scheme to the value of 11 credits.

The findings of the report have informed Council Officers recommendation in relation to the proposed development. Recommended conditions of consent have been put forward related to the retiring of the 11 credits identified through the report under the Biodiversity Offset Scheme to comply with the Biodiversity Conservation Act 2017.

**Waste**

The applicant has noted that the proposed works will have minimal impact from a waste perspective. Any contaminated material will be remediated on site. The potential waste impacts are from workers on the site and appropriate waste receptacles can be provided on site. The Assessing Officer has requested that a Waste Management Plan be provided as part of the CEMP for the development.

**Natural and Technological Hazards**

Natural and technological hazards have been considered through the assessment of this development application. Technological hazards related to the remediation of the site have been considered through the RAP, related technical reports and studies and recommended conditions of consent seek to ensure their management by Council and NSW EPA through the carrying out of work.

Natural site hazards have similarly been considered and managed. The site is largely free of natural constraints. Key site attributes relevant to the determination include the presence of a waterway within the site and the land subsidence affection. Each constraint has been considered and closed out through the development assessment with advice received from DPE – Water related to a Controlled Activity Permit for the carrying out of work on waterfront land and NSW Subsidence Advisory related to the carrying out of work in a Subsidence Area.

**Social and economic impact on the Locality**

The remediation of the subject site is expected to have a positive impact on the locality. The subject site is currently fenced off and difficult to develop due to the contamination on the site. The restoration of the contaminated site can allow for productive and beneficial use of the site.

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

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

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

The Application was notified to adjoining owners from 27 July 2022 – 7 September 2022. A notice was also placed on Council's website and Facebook page at the commencement of the notification period.

A total of five (5) submissions were received in relation to the proposed development. The table below reviews matters raised by submissions received in relation to the development application.

Objector Concern	Planning Comment
Concern related to additional traffic	<p>A traffic impact assessment has been prepared in relation to the proposed works.</p> <p>This assessment indicates that traffic during construction will be limited in volume and duration and largely associated with vehicles of staff. Council Engineers have reviewed the traffic assessment and development scope and raised no objection to traffic related impacts noting the limited duration of construction works and related traffic.</p>



Concern related to asbestos management and air pollution	<p>An Air Quality Impact Assessment has been prepared in relation to the proposed development and considered through the assessment. This report puts forward recommended air quality management and monitoring measures to control air pollution and identify and rectify any related exceedences.</p> <p>The proposed works will be licensed and overseen by the NSW EPA to ensure any air pollution is controlled and managed in accordance with the Protection of the Environment Operations Act 1997.</p>
Site stability and mine subsidence risks	<p>NSW Subsidence Advisory issued General Terms of Approval in relation to the works and were satisfied that subsidence related risks are satisfactory.</p> <p>Council Officers have recommended conditions requiring an engineer to carry out assessment of works adjoining neighbouring properties to ensure any structural underpinning to maintain their structure adequacy is performed alongside the completion of dilapidation surveys to identify and correct any damage to adjoining properties should any arise because of the works.</p>
Application incorrectly identifies potential residential areas within RE2 Private Recreation	<p>This proposed development would not result in any land use zone adjustments. Should the proponent seek to amend the site land use zoning at a future stage, a Planning Proposal would need to be lodged with Council. The determination of this development application will not fetter Council's independent consideration of a Planning Proposal.</p>
Objection to any site regrading that may support future residential development	<p>This development application involves the remediation of the site and related site stabilising earthworks only. Cut and fill across the site is predominantly intended to achieve a cut/fill balance. The current landform is not natural.</p> <p>Any site rezoning or the construction of residential infrastructure will remain subject to a future applications.</p> <p>This has been re-inforced by related recommended conditions of consent.</p>
Request for Muswellbrook coal to consider the sale of Lot 23 DP 15707 to an adjoining property where it is used for access	<p>The potential for this land to be sold to the adjoining property once remediated is not part of the relevant assessment considerations and is a private matter for the two landowners to explore following the remediation of the site.</p>

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

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

#### **7. CONCLUSION**

The proposed development has been assessed against the relevant heads of consideration of Section 4.15 of the Environmental Planning and Assessment Act 1979. As outlined above



it is considered that the proposed development would be in accordance with the relevant planning provisions.

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

Signed by:

A handwritten signature in black ink, appearing to read 'Tanya', with a stylized flourish extending from the end.

Tanya Alsleben

Date: 06/10/2023







## DA 2022/80 Recommended Conditions of Consent

### IDENTIFICATION OF APPROVED PLANS

#### (1) Approved Plans and Supporting Documents

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

Document Title.	Ver. No.	Prepared By.	Dated.
Environmental Impact Statement	-	Kleinfelder Australia Pty Ltd	03/05/2022
Remediation Action Plan	5	Kleinfelder Australia Pty Ltd	02/03/2023
Stormwater Management Plan	6	ACOR Consultants Pty Ltd	06/04/2022
Air Quality Impact Assessment	V5	Northstar Air Quality Pty Ltd	31/03/2022
Biodiversity Development Assessment Report	3.0	Kleinfelder Australia Pty Ltd	07/03/2022
Site Audit Report	0	AECOM Australia Pty Ltd	25/02/2022
Auditor Review of RAP Amendments		AECOM Australia Pty Ltd	14/03/2023
Acoustic Assessment	2	RAPT Consulting	29/03/2022
Assessment of traffic impacts	-	Seca Solution	22/03/2022
Aboriginal Due Diligence	1	Kleinfelder Australia Pty Ltd	18/01/2022

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

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

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

#### (2) Clarification on Scope of Works

This consent approves remediation (Contaminated Soil Treatment) and earthworks at the subject lots in accordance with the approved documents.

Any references to rezoning, subdivision or road works do not apply to this application and will be assessed in a separate application based on merit.

*Reason: To ensure all parties are aware of the scope of works for the development.*

**Muswellbrook Shire Council** ABN 86 864 180 944

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Email [council@muswellbrook.nsw.gov.au](mailto:council@muswellbrook.nsw.gov.au) Web [www.muswellbrook.nsw.gov.au](http://www.muswellbrook.nsw.gov.au)



**(3) General Terms of Approval**

The development is to be carried out in accordance with the General Terms of Approval issued by the following approval bodies and referenced below:

- a) NSW Environmental Protection Authority, General Terms of Approval Notice No 162558 dated 9 January 2023
- b) Department of Planning and Environment – Water, General Terms of Approval Reference No IDAS-2022-10520, dated 11 January 2023.
- c) NSW Subsidence Advisory General Terms of Approval Reference TBA22-04777 dated 23 December 2022.

These General Terms of Approval have been stamped with Council's Approval Stamp and form part of this Notice of Determination.

*Reason:*        *prescribed, legislated.*

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT****(4) Construction Environmental Management Plan (CEMP)**

Prior to the commencement of works, a construction environmental management plan (CEMP) must be submitted to and approved by Council. The plan must include the following matters:

- a) Erosion and Sediment control plan to include dust suppression techniques to be prepared generally in accordance with the management objectives outlined in the Environmental Impact Statement.
- b) Weed management plan
- c) Have regard to the implementation of preventive measures referenced in the Environmental Impact Statement related to minimising disturbance on established vegetation (see S 6.2.5 of this document).
- d) A Noise Management Plan – prepared generally in accordance with the related mitigation and management measures outlined in S6.7.3 of the Environmental Impact Statement.
- e) A waste minimisation management plan – prepared generally in accordance with S6.11 of the Environmental Impact Statement and related provisions of Council's Development Control Plan.
- f) Air quality management plan – prepared generally in accordance with the recommendations of the Air Quality Impact Assessment and requirements of the NSW Environmental Protection Authority.
- g) Include protocols to be put in place where ground water is unexpectedly uncovered through the carrying out of work.
- h) A Communication Plan is to be prepared generally in accordance with the related recommendations of the Environmental Impact Assessment.



- i) Hazard and Risk Management Plan (HRMP) is to be prepared generally in accordance with the recommendations of the Environmental Impact Statement
- j) Spontaneous combustion management plan to consider the risk and related management practices for any coal material which heats or combusts when uncovered and encounters oxygen. It is understood by Council that the coal seam mined by Muswellbrook Coal Company is of a combustible nature.
- k) Details the revegetation, site seeding/compost blanket and stabilisation works set-out within the Environmental Impact Statement and Remediation Action Plan

A copy of the Construction Environmental Management Plan (CEMP) must always be kept on-site while work is being carried out.

*Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.*

**(5) Section 7.12 Contributions**

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 \$25,168.29 shall be paid to Muswellbrook Shire Council.

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

*Reason: Prescribed by legislation through Section 7.11 of the Environmental Planning and Assessment Act 1979 and Council's Section 94A Contribution Plan*

**(6) Section 138 Permit**

Prior to the commencement of works the person acting with this consent is to obtain a Section 138 Permit from Council under its function as the Roads Authority for the establishment of the site vehicle access.

Primary vehicle access to the site should be provided via Victoria Street/Coal Road boundary.

It is recommended that any person preparing a Section 138 permit in relation to the works contact Council's Roads and Drainage Section on 6549 3700 to obtain their requirements for the access design and preparation of a related application. It will be necessary for any site access design to be constructed to facilitate the movement of all vehicle types entering the site including heavy vehicles and prevent erosion, scouring or the transport of site materials onto the public road. As a minimum cattle or shaker grids should be installed as part of the access to

prevent material leaving the site.

*Reason: prescribed legislation.*

**(7) Stabilised Access**

Prior to the commencement of works the primary site access is to be constructed in accordance with the related Section 138 Permit.

*Reason: To ensure that damage to Council infrastructure due to development is minimised.*

**(8) Consolidation of Land Requirement**

The Lots where contaminated material is to be placed and capped, as identified by the Remediation Action Plan, are to be consolidated into a single parcel.

Prior to the commencement of works the person acting with this consent is to engage a Surveyor to prepare a Plan of Consolidation and documentary evidence confirming their engagement for this purpose is to be provided to Council.

*Reason: ensure improved land management and remediation outcomes are achieved.*

**(9) Suring up of adjoining properties**

Prior to the commencement of work the person acting with this consent shall engage a suitably qualified engineer to review earthworks to be carried out in the vicinity of adjoining properties and prepare a related report. The engineer will consider the scope of that work and its potential to impact on the adjoining property including existing structures on that land. Where the consultant Engineer considers that the works have the potential to impact the structural stability of a building or structure on adjoining land the report should propose appropriate structural support or soil control measures to sure up the stability of the adjoining land or structure.

A copy of this report is to be provided to Council for approval. The approved report recommendations are to be implemented through the carrying out of the development.

*Reason: ensure the works do not result in damage to adjoining structures and comply with related Environmental Planning and Assessment Regulation 2021 requirements.*

**(10) Photographic Survey**

A photographic survey report which includes accompanying observations should be prepared in relation to the footings of buildings, fences, retaining walls or other structures situated at or in a proximity to the boundaries of the subject site and adjoining residential properties.



Where in the opinion of the person preparing the report access is required to an adjoining property to assist in its preparation a reasonable attempt should be made to obtain permission from the property owner concerned to visit their premises to inform its preparation.

*Reason: to ensure identification and rectification of any damage to adjoining properties related to the approved development*

#### (11) Ecosystem Credit Retirement Conditions

- a) Prior to the commencement of works the class and number of ecosystem credits in Table [1] must be retired to offset the residual biodiversity impacts of the development.
- b) The requirement to retire credits in (a) may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.
- c) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition 11(a) must be provided to the consent authority prior to the commencement of work.

**Table [1]** Ecosystem credits required to be retired – like for like

Impacted plant community type	Number of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
Narrow-leaved Ironbark - Grey Box - Spotted Gum shrub - grass woodland of the central and lower Hunter (Low-Moderate Condition) (PCT 1604)	11	Hunter, Ellerston, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, Upper Hunter, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	PCT's: 1600, 1601 & 1604,

*Reason: comply with the Biodiversity Conservation Act 2017 and the outcomes of the Biodiversity Development Assessment Report.*

#### (12) Environmental Protection License Requirement

Prior to the commencement of work the person acting with this consent is to ensure an Environmental Protection License has been obtained from the NSW Environmental Protection Authority in accordance with the requirements of their General Terms of Approval and the provisions of the Protection of the Environment

Operations Act 1997.

The Environmental Protection License is to be complied with at all times during the carrying out of the development.

*Reason: prescribed legislation.*

**(13) Controlled Activity Permit**

Prior to the commencement of works the person acting with this consent is to obtain a Controlled Activity Permit from NSW Department of Planning and Environment – Water pursuant to the requirements of their General Terms of Approval and the provisions of the Water Management Act 2000.

*Reason: prescribed legislation.*

**(14) Site Fencing**

Prior to the commencement of works cyclone or equivalent fencing is to be erected at the site boundaries to secure the site and restrict unauthorised site access.

This security fencing is to be maintained for the duration of the site works.

*Reason: site safety management*

**(15) Dilapidation Survey Council Infrastructure**

Prior to the commencement of works the person acting with this consent is to undertake a dilapidation survey of the Council Roads and related road and drainage infrastructure in the vicinity of the development site. The dilapidation survey should detail any existing pavement damage.

A copy of the survey is to be submitted to Council and will inform Council in reviewing any damage to its road network requiring repair prior to the completion of work.

*Reason: management of impacts to existing infrastructure*

**(16) Notice of Commencement**

A minimum of fourteen (14) days prior to the commencement of work the person acting with this consent shall provide a written notice to Council advising of:

- a) The date which works will commence on-site
- b) The details and contact information for the Site Manager overseeing the carrying out of work.
- c) Confirmation of the toll-free contact number to be made available for taking complaints or enquiries from the public related to the works.
- d) Referencing/demonstrating compliance has been achieved with all pre-commencement of works conditions prescribed by this Notice of Determination.



*Reason: ensure notice of works commencement and demonstrate compliance with this consent.*

**(17) Neighbour notification**

A minimum of seven (7) days prior to the commencement of works the person acting with this consent shall provide written notice to residents in the local area of their intention to commence the works by way of a letter box drop. Notices shall be provided residents at:

- Victoria Street
- Coal Road
- Clendening Street
- King Street (between Queen Street and Muswellbrook High School)
- Brecht Street
- Campbell Street
- Midanga Avenue
- Queen Street (between its site frontage and Brentwood Street)

These written Notices must contain:

- a) A description of the work involved in the project along with an image identifying the location of the site.
- b) The date which works will commence
- c) Contact information for the toll-free number to be made available for the making of complaints
- d) A copy of the Communication Plan prepared in relation to the work or information to a website link from where the Communication Plan may be accessed

A copy of the written Notice is to be provided to Council for its information.

*Reason: ensure notice of works provided to neighbours along with process for making complaints.*

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

**(18) Contaminated Land Management Act 1997**

The person acting with this consent shall ensure that all remediation work is carried out in accordance with the relevant provisions of the Contaminated Land Management Act 1997.

*Reason: prescribed legislation.*

**(19) Air Quality Mitigation Measures**

Throughout the carrying out of the development the person shall ensure that all air quality impact mitigation measures are fully implemented and maintained in accordance with the Environmental Protection License issued by the NSW Environmental Protection Authority.

*Reason: prescribed legislation.*

**(20) Additional Site Accesses**

Prior to the establishment of any additional site accesses that may be required during construction works the person acting with this consent must obtain approval in writing from Council under its function as the Road Authority.

*Reason: comply with S 138 of the Roads Act 1993.*

**(21) Erosion and Sediment Controls**

At all times erosion and sediment controls are to be maintained across the site in accordance with the Construction Environmental Management Plan and the requirements of this approval.

*Reason: manage soil erosion impacts.*

**(22) Archaeological deposits or Relics**

The applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Environmental Protection and Regulation Group of the OEH must be contacted.

Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

*Reason: Ensure protection of items of cultural heritage in accordance with relevant legislation.*

**(23) Importation of fill**

If fill is required to be imported to the site as part of the carrying out of the development the person acting with this consent must ensure that any fill material received at the site for use is:

- a) Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act (POEO Act 1997)*; or
- b) Excavated natural material (ENM) within the meaning of the *POEO Act 1997*; or
- c) Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

Any waste-derived fill material, the subject of a resource recovery exemption, received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.

*Reason: ensure any fill used through the site is appropriately sourced clean*



*fill.*

**(24) Construction Hours**

Subject to this clause and unless otherwise directed by the NSW Environmental Protection Authority, site works are 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
- iii. Sundays and Public Holidays – no work permitted unless authorised in writing by Council or the NSW Environmental Protection Authority.

*Reason: To ensure that development works do not negatively impact neighbouring amenity after hours.*

**(25) Site Facilities**

- (a) If the development involves building work or demolition work, the work site must be fully enclosed by a temporary security fence (or hoarding) before work commences.
- (b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway to facilitate the safe movement of pedestrians.
- (c) Any such hoarding or fence is to be removed when the work has been completed.
- (d) A garbage receptacle fitted with a tight-fitting lid is to be provided for disposal of all food scraps and papers from the work site prior to building work commencing and must be maintained and serviced for the duration of the work.
- (e) 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.
- (f) 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.

*Reason: To ensure compliance with the relevant legislation and to ensure*

*public and work safety*

**(26) Damage to Adjoining Properties**

All precautions must be taken to prevent damage to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

*Reason: To ensure that the development does not have any lasting negative impact on adjoining properties*

**(27) Damage to Public Infrastructure**

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

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

*Reason: Protection of Council infrastructure*

**(28) Site Sign**

A sign must be erected in a prominent position at any entry point to the work site:

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

Any such sign must be maintained while building work or demolition work is being carried out but must be removed when the work has been completed. This condition does not apply to building works being carried out inside an existing building.

*Reason: Prescribed Condition under Clause 70 of EP&A Regulation*

**(29) Soil management**

All soils and materials exposed on the site must be reused onsite, or if contaminated above relevant criteria must be deposited within Zone 6 of the site and covered by a at least 0.5 metres of suitable capping material or taken to a



waste facility that can lawfully receive such wastes. There must be no removal of soils from the site by the public.

*Reason: ensure compliance with approved plans and remediation method.*

**(30) Earthworks batters**

All areas where cut and fill are carried out during the works are to be appropriately stabilised.

Maximum slope batters of 1:3 are to be applied to any cut and fill that immediately adjoins a neighbouring property or public road reserve. Should investigation of the site slope in such an area identify that it is not possible for a batter consistent with this requirement to be achieved soil retention should be achieved through the installation of retaining walls or an alternate method approved by Council in writing.

*Reason: ensure appropriate site stabilisation.*

**(31) Boundary Fences**

Any boundary fence requiring removal, or which is subject to damage or subsidence because of the carrying out of works, is to be fully repaired or replaced with comparable new fencing at full cost to the person acting with this development consent.

*Reason: ensure fencing is not impacted by the development.*

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO FINAL COMPLETION**

**(32) Notice of Completion of Remediation Work**

A Notice of completion of remediation work is to be provided to Council within 30 days of the completion of the work in accordance with Section 4.14 and 4.15 of the State Environmental Planning Policy (Resilience and Hazards) 2021. The Notice of completion must:

- (a) be in writing prepared and signed by the person who carried out the work, and
- (b) provide the person's name, address and business telephone number, and
- (c) provide details of the person's qualifications to carry out the work, and
- (d) specify, by reference to its property description and street address (if any), the land on which the work was carried out, and
- (e) provide a map of the location of the land, and
- (f) state when the work was completed, and
- (g) specify the uses of the land, and the substances, that contaminated it in such a way as to present a risk of harm to human health or some other aspect of the environment, and
- (h) specify the uses of the land immediately before the work started, and
- (i) briefly describe the method of remediation used in the work, and
- (j) specify the guidelines that were complied with in the work, and

- (k) specify the standard of remediation achieved (in the light of the use proposed for the land), and
- (l) show in what manner the work (if a category 1 remediation work) complied with the conditions of the relevant development consent, and
- (m) state what action must be maintained in relation to the land after the completion of the remediation work if the standard of remediation achieved is to be maintained.
- (n) provide details demonstrating compliance with all conditions within this part of the Notice of Determination required to be completed before the final completion of work and/or commentary outlining how they are being addressed.

*Reason:*        *prescribed legislation.*

### **(33) Validation Requirement**

A Validation Sampling and Analysis Quality Plan (VSAQP) must be prepared in accordance with Australian Standards (AS 4482.1:2005 and AS 4482.2:1999); the NEPM 2013; and relevant NSW EPA Sample Design Guidelines. The VSAQP must be approved by an appropriately credentialed Contaminated Site Auditor certified by an EPA recognised scheme.

More information, including a list of contaminated land consultant certification schemes recognised by the EPA, is available on the EPA's website at [http://www.epa.nsw.gov.au/your-environment/contaminated-land/managing-contaminated\[1\]land/engaging-consultant](http://www.epa.nsw.gov.au/your-environment/contaminated-land/managing-contaminated[1]land/engaging-consultant)

All investigations and reporting carried out under this condition must be consistent with all relevant guidelines made or approved under s 105 of the Contaminated Land Management Act. Additional guidance is provided on the EPA's website at: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/statutory-guidelines>

*Reason:*        *comply with relevant legislation and NSW Environmental Protection Authority Requirements*

### **(34) Preparation of Validation Report**

At the completion of remediation and validation works on the site, a Validation Report must be completed by a suitably qualified person. The Validation Report must be written in compliance with all relevant guidelines endorsed by NSW EPA and include conclusions as to land use suitability. The Validation Report must include plans prepared by a registered surveyor showing the location of contamination remaining on the premises that should not be disturbed in the future. The Validation Report must be reviewed and endorsed by an appropriately credentialed Contaminated Site Auditor. The Validation Report and/or the Site Auditors Report must consider and detail actions such as a Long-Term Site Management Plan and how it will be enforced in perpetuity, and detail actions such as appropriate notations on a planning certificate issued under the Environmental Planning and Assessment Act and/or a covenant registered on the title to land under the Conveyancing Act, to ensure future owners are aware of the



contamination and the need for it not to be disturbed. The Validation Report and the Site Auditors Report must be provided to Council and the EPA upon completion of activities on the premises.

*Reason: comply with relevant legislation and NSW Environmental Protection Authority Requirements*

**(35) Submission of Validation Report**

A copy of the validation report is to be submitted to Council at the completion of work.

*Reason: ensure the provision information related to the completion of work and standing of the site to consent authority*

**(36) Consolidation of Lots**

At or prior to the completion of works, a Plan of Consolidation is to be prepared to consolidate all Lots which contain contaminated material that has been placed and capped in accordance Remediation Plan, and lodged with NSW Land Registry Services.

The person acting with this consent is to ensure any further necessary steps are taken to complete the consolidation of the relevant lots in accordance with the requirements of this consent.

*Reason: ensure improved land management and remediation outcomes are achieved.*

**(37) Registration of 88E Covenant**

Prior to the final completion of works and subject to any additional/related requirements specified within the Validation Report, the person acting with consent shall prepare and register a public positive covenant on the title of the land concerned in accordance with the provisions of the Conveyancing Act 1919 .

Muswellbrook Shire Council is to be registered as the benefited authority and the authority empowered to release vary or modify the instrument.

The terms of the public positive covenant should:

- Identify the location of the capped material.
- Reference the location of the capped material in this area.
- Restrict the location of any permanent structures in the area identified without the written permission of Council.
- Restrict the carrying out of earthworks within the area identified without the written permission of Council.
- Incorporate any further related recommendations included within the Validation Report.
- Reference and require adherence to any long-term site management plan in place for the site.

*Reason: ensure improved land management and remediation outcomes are achieved.*

**(38) Planting of Replacement Trees**

Prior to the completion of works, the proponent shall plant a minimum of twenty (20) locally indigenous trees on the site, taking into consideration the local climate, ecosystem, and site conditions. The proponent shall ensure that the following requirements are met:

- a) Trees shall be planted in suitable locations on the property to maximise survivability and shade on the site.
- b) Adequate soil preparation, including grading and amendment, shall be undertaken to promote healthy tree growth and establishment.
- c) Trees shall be protected from any potential damage or harm during construction activities, site maintenance and early growth period, including but not limited to fencing, signage, and appropriate barriers.
- d) Necessary irrigation systems shall be implemented to provide sufficient water for tree establishment and growth.

The property owner shall be responsible for the ongoing care and protection of the planted trees until they are established. This includes regular watering, pruning, and protection from pests, diseases, and adverse weather conditions.

The proponent shall provide evidence of compliance with the tree planting and protection requirement to the satisfaction of Council.

*Reason: To achieve acceptable rehabilitation outcomes.*

**(39) Vegetation and Stabilisation**

At the completion of earth works, the pre-seeded compost seed blanket is to be applied to the disturbed and excavated areas of the site to support vegetation regrowth in accordance with the Environmental Impact Statement, Remediation Action Plan and Construction Environmental Management Plan.

*Reason: To achieve acceptable site rehabilitation outcomes.*

**(40) Long Term Site Management Plan**

Following the completion of works a Long-Term Site Management Plan (where required by the Remediation Action Plan and Validation Report) is to be submitted to Council.

Details related to the timing of the Long-Term Site Management Plan should be provided with the Notice of Completion submitted to Council in line with the requirements of the related condition of consent.

*Reason: To achieve acceptable site rehabilitation outcomes.*



**(41) Site Survey Report Final**

Prior to the completion of works, a final Site Survey Report shall be prepared including a photographic survey in relation to the location of buildings, fences retaining walls or other structures situated at or in close proximity to the boundaries. Where damage requiring rectification to comply with this development consent is identified details of the works proposed or undertaken should be referenced in this report.

A copy of this Site Survey Report is to be provided to Council.

Reason: to demonstrate compliance with this consent and ensure any damage to neighbouring properties or infrastructure is rectified.

**CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES****(42) Ongoing Management**

At all times the owner of the site is to ensure it is maintained in accordance with any Long-Term Site Management Plan.

Reason: *To ensure ongoing management of remediated sites.*

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

Attn: Derek Finnigan Acting General Manager

1<sup>st</sup> September 2022

Submission to DA: 2022/80 Muswellbrook Coal Old Pit Top

Dear Mr. Finnigan

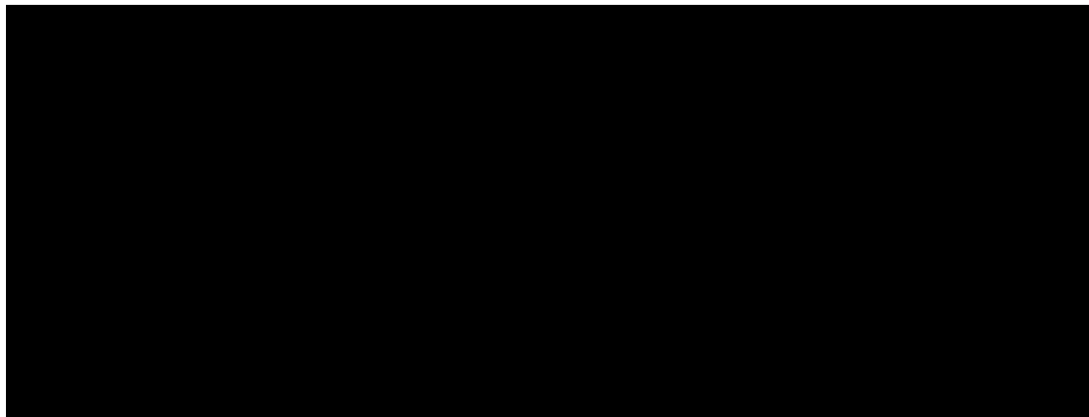
We refer to Development Application 2022/80 which proposes the following works:

*"Remediation and Earthworks"*

We write to formally submit an objection to the proposed development. Specifically, objection is made to the proposed development on the following grounds:

1. *The application inappropriately states areas as zoned residential, specifically but not limited to zone 2A. This is currently zoned "Private Recreation".*
2. *"Where possible regrade to suit potential future development as residential" in zones 2A/2B/3A/3B. We feel this is DA creep to regrade land in the hope of a future rezoning.*
3. *Zone 5 as a future residential area will meet with objections from local residents*
4. *We would like Muswellbrook Coal to limit their activities purely to site Remediation with Zero earthworks to regrade in preparation for rezoning.*

We trust that Council will consider our concerns with the proposed development and refuse or amend the application in its current form.







Development Application No: 2022/80

To the General Manager

Muswellbrook Shire Council.

We would like to submit an objection regarding this Development Application along with our observations over the 43 years we have lived here. In the DA it states a letter box drop in September 2021 was carried out to 220 residences in the vicinity. We did not receive this information and weren't aware of what was going on until we received the DA from Council three weeks ago.

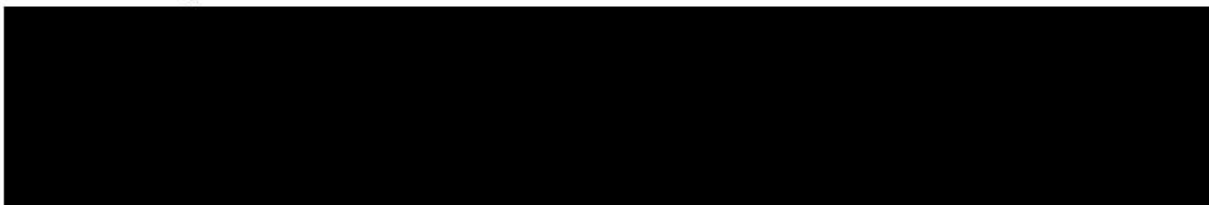
The new development would create a very dangerous situation in Brecht Street & Campbell Street with all the extra traffic flow. The corner of Brecht St & Campbell St has seen many accidents & near misses over the 42 years we have lived here on the corner. The proposed housing blocks in Campbell Street, the first & second one mostly is in that accident zone with many cars and motor bikes overshooting the corner and ending up on those blocks. The High School traffic go around the block several times picking up children from the school. Work traffic also use this street to avoid the school Zone & with the extension of Queen Street & Campbell St would add more traffic. It is very difficult getting in & out of driveways at most times of the day. Along with the homes in both streets there are two blocks of flats in Campbell St with vehicles exiting & entering at various times of the day as well. The extra traffic created by the proposal would make this a nightmare to being able to drive safely in these streets.

We have concern's the land surface on the East side of Brecht Street may contain high volumes of Asbestos as that is where the old power House was situated. This may cause a very real health problem with the disturbance of the ground. There have been several cave-ins over the years making this area dangerous for housing. Old mine tunnels are under this area & with the proposed drainage system could become water retainers & possibly attribute to large sink holes.

We feel a more appropriate use for all the land not just what has been allocated, would be parkland with walking /cycling pathways throughout.

This would provide a haven for native birds & wildlife already habituating this area. King Parrots, Rosella parrots, Doves, Willy Wag Tails Honey eater's, Corella's, Magpies, Galahs, Finches and Kookaburras are just a few of the birds.

Grey Kangaroos, Euros, Wallabies, Possums, Echidnas, Blue tongue lizards Leg less Lizards & King Brown Snakes along with Native Bees', Solitary Bees, Blue banded Bees & Insects [ these are all very necessary to our environment with the varroa threat being such a huge threat to the honeybees.] All helping to maintain the existing eco System which is in grave danger.







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

Attn: Derek Finnigan - Acting General Manager

**Submission to DA: 2022/80 - Muswellbrook Coal Old Pit Top**

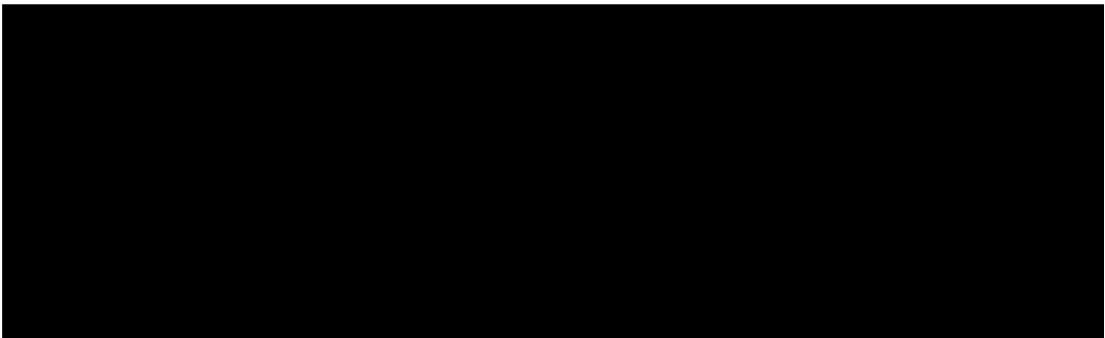
Mr. Finnigan

We refer to Development Application 2022/80 which proposes the following works:  
"Remediation and Earthworks".

We write to formally submit an objection to the proposed development.  
Specifically, objection is made to the proposed development on the following grounds:

1. The application inappropriately states areas as zoned residential, specifically but not limited to zone 2A. This is currently zoned "Private Recreation".
2. "Where possible regrade to suit potential future development as residential" in zones 2A/2B/3A/3B. We feel this is Development Application creep to regrade land in the hope of a future rezoning.
3. Zone 5 as a future residential area will meet with objections from local residents.
4. We would like Muswellbrook Coal to limit their activities purely to site Remediation with there being no additional earthworks to regrade in preparation for rezoning.

We trust that Council will consider our concerns with the proposed development and refuse or amend the application in its current form.



To whom this may concern.

I am writing this objection to the proposed DA for the old Muswellbrook Coal rehab area as a long term local resident and land owner adjacent to the land the DA is for. While I do not object to the proposed DA as a whole, as I do support the plan to clean up the land and make it safe I do have some concerns about safety and personal impacts that I would like to object to. My reasons for objection is as follows.

- I am concerned that extending Campbell street to join up with Queen st will lead to a significant increase in traffic along this road for people heading further North in Muswellbrook. While this traffic already flows in this area it is mostly traffic along Clendinning st, a wide, well flowing street which is suitable for this traffic. Campbell street is a narrow street with a blind crest right where an intersection is proposed to be placed (replacing a corner in the road). The increase in traffic along this narrow street will add risk to the cars parked on the street and for those entering and leaving their Campbell street driveways. The blind crest along Campbell street right at Brecht street where the proposed intersection is would be at a high risk of incidents due to lack of visibility, additionally enough people already fly down Campbell street locking up their wheels due to the steep grade at the bottom of the Campbell street hill, extra run up from Queen street will only add to this already existing hazard. I also feel that this change in traffic will lead to more cars slowing down and accelerating at the corner of Campbell and Clendinning streets, increasing traffic noise at my residence on the corner.

- Zone 2A+2B are ear marked for residential zoning which I believe will be problematic for my property. As previously mentioned, Campbell street is a narrow street which will become busier with the queen street access, adding more driveways and properties along this street will make on street parking and access to my Campbell street driveway dangerous and problematic (even without the Queen street extension this would still be a problem). The street is far too narrow to have more residential access and on street parking due to housing across the road and the increased traffic. I also feel that houses built in this area will reduce the value of my property as it takes away from the view and isolation my property provides, currently not directly looking into other peoples backyards and having limited numbers of neighbours is part of what makes my property an excellent location. When I purchased this property 15 years ago it was obvious to me that the old mine works would never be developed and my views over town would never end up with me staring into a neighbours window instead of over an empty paddock. The extra noise of added housing would also be a problem, this is a nice quiet area with only a few houses along the street.

While I can see the need to have the land rehabilitated so that it is a safe area clear of dangerous industrial materials and no longer a risk to the environment and the neighbourhood, I really cannot see why our safety then needs to be put further at risk by the proposed changes to roads and housing. I am more than happy to discuss my concerns further if required.

Regards

