



muswellbrook
shire council

Muswellbrook Shire Council

STATE SIGNIFICANT DEVELOPMENT COMMITTEE

BUSINESS PAPER

18 FEBRUARY 2025



State Significant Development Committee

Aim

The aim of the State Significant Development Committee is to:

- Provide advice to Council on state significant development, prepare submissions and responses relating to state significant development in the Muswellbrook Shire and such further functions as may be delegated to it from time to time.
1. The State Significant Development Committee be constituted as follows:
 - i. Mayor (Chair);
 - ii. 2 X Councillors;
 - iii. General Manager;
 - iv. Director – Planning & Environment;
 - v. Development Compliance Officer;
 - vi. Corporate Lawyer.

Committee functions:

1. to consider submissions and responses relating to state significant development in the Muswellbrook Shire
2. further functions as may be delegated to it from time to time

Staff Support:

General Manager

Director – Planning & Environment

Director – Community & Economy

Environmental Planning Officer

Corporate Lawyer



MUSWELLBROOK SHIRE COUNCIL

P.O Box 122

MUSWELLBROOK

13 February 2025

Cr J. Drayton (Chair)
Cr D. Hartley (Deputy Chair)
Cr C. Bailey
Cr D. Douglas
Cr L. Dunn
Cr G. McNeill
Cr D. Marshall
Cr R. Scholes
Cr S. Ward
Mr D. Finnigan (General Manager)
Ms S. Pope (Director – Planning & Environment)
Ms. S. Welchman (Director - Community & Economy)
Ms T. Folpp (Environmental Planning Officer)
Ms A. Hathway (Legal Counsel)

You are hereby requested to attend the State Significant Development Committee to be held in the Seminar Rooms, Muswellbrook Library, 126 Bridge St, Muswellbrook NSW 2333 on **18 February 2025** commencing at **4:00 pm**.

Sharon Pope
DIRECTOR – PLANNING & ENVIRONMENT



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1 Acknowledgement of Country

Acknowledgement of Country

Council would like to respectfully acknowledge the local Aboriginal people who are the Traditional Owners and custodians of the land on which this meeting takes place

2 Apologies

3 Confirmation of Minutes of Previous Meeting

RECOMMENDATION

The Minutes of the State Significant Development Committee Meeting held on **13 August 2024**, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

Moved: _____ **Seconded:** _____



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4 Disclosure of Any Pecuniary and Non-Pecuniary Interests

5 Business Arising

Nil



6 Business

6.1 SSD Committee Terms of Reference

Responsible Officer:	General Manager
Author:	Governance Officer
Community Strategic Plan:	6 - Community Leadership Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community
Delivery Program Goal:	6.2.1 - Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.
Operational Plan Action:	Not applicable
Attachments:	1. State Significant Development Committee - Draft Terms of Reference [6.1.1 - 5 pages]

PURPOSE

To consider the Terms of Reference for the State Significant Development Committee.

OFFICER'S RECOMMENDATION

The State Significant Development Committee endorses the Draft Terms of Reference for submission to Council.

Moved: _____ **Seconded:** _____

REPORT

A review of the Committee Structure was undertaken in conjunction with the Councillors induction program in 2024. Those changes included broadening the Committee membership and also requires the Terms of Reference to be reviewed. A revised Terms of Reference is attached for consideration by the Committee.

State Significant Development Committee

Terms of Reference

8 January 2025

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1. Objective

The objective of the State Significant Development Committee (the Committee) is to enable submissions and responses relating to state significant development in the Muswellbrook Shire to be considered in a timely manner to meet timeframes set by the NSW Government.

2. Scope

The scope of activities to be overseen by the Committee include:

- Assess State Significant Development and prepare submissions and responses relating to state significant development.
- Consider changes in Government legislation and guidelines on planning matters.
- Receive updates on proposed State Significant Development projects, and existing quarry operations.
- Authorise submissions and responses to the Independent Planning Commission (IPC) on state significant development.

3. Authority

Muswellbrook Shire Council authorises the Committee, within the scope of its role and responsibilities, to:

- Use delegated authority to authorise submissions and responses to the Department of Planning, Housing and Infrastructure and the Independent Planning Commission (IPC).
- Assess State Significant Development and prepare submissions and responses relating to state significant development in the Muswellbrook Shire.
- Request information required to inform decision making (subject to their legal obligations to protect information and with prior consultation with the General Manager).
- Request information from employees (with approval of the General Manager) or Councillors.
- The Committee may request these persons to present information at Committee meetings to assist in understanding any matter under consideration.
- Obtain external legal or other professional advice, as considered necessary, to meet its responsibilities (in accordance with Council Budget and procurement arrangements and subject to prior consultation with the General Manager).

4. Composition and Tenure

The members of the Committee shall be:

Name	Department	Role
Cr Jeff Drayton	Councillor	Chair
Cr David Hartley	Councillor	Deputy Chair
Cr Clare Bailey	Councillor	Voting Member
Cr De-anne Douglas	Councillor	Voting Member
Cr Louise Dunn	Councillor	Voting Member
Cr Graeme McNeill	Councillor	Voting Member

Name	Department	Role
Cr Darryl Marshall	Councillor	Voting Member
Cr Rod Scholes	Councillor	Voting Member
Cr Stephen Ward	Councillor	Voting Member

Members (voting)

All members of the Committee (Councillors) are entitled to one vote with the Chair having a casting vote in the event of a tied vote.

Attendees (non-voting)

The following Council officers will act as liaison officers to the Committee:

Name	Department	Role
Ms Sharon Pope	Director – Planning & Environment	Liaison Officer
Mr Derek Finnigan	General Manager	Attendee
Ms S. Welchman	Director – Community & Economy	Attendee
Ms Theresa Folpp	Environmental Planning Officer	Attendee
Ms Alexandra Hathway	Legal Counsel	Attendee

Invitees (non-voting) for specific Agenda items

Other officers may attend by invitation as requested by the Committee or the General Manager.

5. Responsibilities of Members

Members of the Committee are expected to:

- Agree that they are bound by Council's Code of Conduct.
- Understand the relevant legislative and regulatory requirements appropriate to Muswellbrook Shire Council.
- Contribute the time needed to study and understand the papers provided.
- Apply sound analytical skills, objectivity and judgement.
- Express opinions frankly, ask questions that go to the fundamental core of the issues, and pursue independent lines of enquiry.
- Act, and be seen to act, properly and in accordance with the requirements of the law and the terms of Council's Code of Conduct.
- Act in good faith and fidelity in the interests of Council and the community.

6. Reporting

Following each meeting, the minutes will be reported to the next Council Meeting and the Chair will be required to provide a brief summary.

7. Meetings

- The Committee will meet at 4pm on the second Tuesday of each month except for January.
- The need for any additional meetings will be decided by the Chair of the Committee, though other Committee members may make requests to the Chair for additional meetings.
- The Committee shall comply with Council's adopted Code of Meeting Practice and Code of Conduct.
- Councillors may attend and participate in meetings of the committee by audio-visual link with the approval of the committee.

8. Attendance at Meetings and Quorums

A quorum will consist of six (6) Committee members. Meetings can be held in person or by video conference.

Voting

The Committee is expected to make decisions by consensus, however if voting becomes necessary, then the details of the vote are to be recorded in the minutes. Each member of the Committee shall be entitled to one vote only. In the event of a tied vote, the Chair will have a casting vote.

9. Secretariat

The General Manager will ensure that appropriate secretariat support is provided to the Committee. The Secretariat will ensure the agenda for each meeting and supporting papers are circulated at least one week before the meeting and ensure minutes of the meeting are prepared and maintained.

Minutes shall be approved by the Chair and circulated to all Committee members within one week of the meeting and filed in accordance with Council's Records Management Policy.

10. Conflicts of Interest

Members of Council committees must comply with the applicable provisions of Council's Code of Conduct in carrying out their functions as Council officials. It is the personal responsibility of Council officials to comply with the standards in the Code of Conduct and regularly review their personal circumstances with this in mind.

Committee members must declare any conflict of interest at the start of each meeting or before discussion of a relevant agenda item or topic. Details of any conflict of interest should be appropriately minuted.

Where members or invitees at Committee meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Committee deliberations on the issue where the conflict of interest may exist. The final arbiter of such a decision is the Chair of the Committee.

11. Induction

New members will receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

12. Review of Committee Terms of Reference

At least once every two years the Committee will review this Committee's Terms of Reference and make recommendations on any changes to Council for its determination.

Any changes to the Committee Terms of Reference must be approved by Council.



6.2 Muswellbrook Solar Farm - Project Update

Responsible Officer: Director - Planning & Environment

Author: Environmental Planning Officer

Community Strategic Plan: 1 - *Economic Prosperity*
6 - *Community Leadership*

A dynamic local economy with full employment for current and future residents in a diverse range of high value industries.

Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community

Delivery Program: 1.1.1 - Facilitate the expansion of and establishment of new industries and business.

Operational Plan: 1.1.1.1 - Work with Muswellbrook Coal, State Government and other parties to maximise the economic opportunities on the Muswellbrook Coal site.

Attachments: Nil

PURPOSE

The purpose of this report is to provide a placeholder for OX2 (the Proponent) to provide an update on the Muswellbrook Solar Farm (Project).

A presentation will be provided by the Proponent for the Project.

OFFICER'S RECOMMENDATION

The information contained in this report be noted.

Moved: _____ **Seconded:** _____

REPORT

ESCO Solar Farm 9 PTY LTD proposes to develop a 135 megawatt (MW) solar farm (approximately 300,000 solar PV panels) and 135 MW / 270 MW-hour (MWh) battery, approximately 2.5 kilometres (km) east of Muswellbrook.

The Project is currently under consideration by the Independent Planning Commission (IPCn). A copy of Council's draft submission to the IPCn was reported to the January 2025 Ordinary Council meeting.

Representatives from the Project will provide an update, listen to feedback and respond to questions (where able).



6.3 Denman Road Renewable Energy Hub Planning Agreement & General Terms for Solar and Battery Developments

Responsible Officer:	Director - Planning & Environment
Author:	Environmental Planning Officer
Community Strategic Plan:	6 - Community Leadership Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community
Delivery Program Goal:	Not Applicable
Operational Plan Action:	Not applicable
Attachments:	Nil

PURPOSE

The purpose of this report is for the SSD Committee to confirm its approach to the General Terms of a Planning Agreement for solar farms and Battery Energy Storage System (BESS) projects, primarily in relation to the contribution amount, neighborhood benefit proportion and mechanism of delivery and social commitments to be included in a Planning Agreement.

This will assist Staff to respond to an Initial Letter of Offer for a Planning Agreement by the Proponent/s of the Denman Road Renewable Energy Hub and anticipated BESS projects on Sandy Creek Road, and the Edderton Road solar farm later this year.

The report also considers initial community benefit sharing offers from the Denman Road Renewal Energy Hub.

OFFICER'S RECOMMENDATION

- A. The SSD Committee resolves the following standard Planning Agreement general terms for State Significant solar farm and battery energy storage system (BESS) development:
1. Solar farm development - A monetary contribution of \$850/MWac as per the 'Benefit-Sharing Guideline' (November 2024) and the planning agreement with the proponent of the Muswellbrook Solar Farm (SSD-46543209). The monetary contribution will be based on installed capacity, provided every year of operation, and adjusted for Consumer Price Index (CPI).
 2. Battery Energy Storage System (BESS) development – A monetary contribution of \$200/MWh consistent with the planning agreement with the proponent of the Muswellbrook BESS (SSD-29704663). The monetary contribution will be based on installed capacity, provided every year of operation and indexed annually to CPI.
 3. Allocation of annual contribution payments to Council will be spent in the following ratios:
 - 10% Specialist staff contribution to respond on behalf of Council for the Project's assessment and implementation; and
 - 90% to community, environment and economic benefits managed as part of the Muswellbrook Shire Community Benefit Fund.
 4. Neighbourhood Benefits – The preferred mechanism to 'deliver neighbourhood



benefits' is as rate rebates to property owners in the direct vicinity of any development, capital projects on Council or Crown land require a business case that considers ongoing financial impact on Council.

5. Socio-Economic Commitments

- a. The Proponent is to employ a minimum of four (4) residents of Muswellbrook Shire, as apprentices/trainees on the site during the construction phase.
- b. The Construction Company and Proponent to a drop-in site with project information and ability to record complaints, in the Muswellbrook Central Business District (CBD), from commencement of the project and for the period of construction.
- c. The Proponent to provide a procurement plan to demonstrate how the project will benefit local business through local spend for Council's approval. The minimum target should be for 5% local procurement by project value. Any Procurement Plan should include details of any temporary construction workforce accommodation.

B. Neighbourhood Benefits for Denman Rd Renewable Energy Hub – Delegate to the General Manager to continue negotiations with the Proponent/s, in accordance with the Planning Agreement general terms in Point A, to ensure the Neighbourhood Benefit proportion is equitable and reasonable. Neighbourhood Benefits should extend to within approximately 4km of the Project Boundary (to capture residences on the western side of the Hunter River who will experience a visual impact).

Moved: _____ Seconded: _____

REPORT

In December 2024, the Proponent for the Upper Hunter South (UHS) Solar Farm (SSD 65996959) and Denman Road BESS (SSD 76189216) provided an initial letter of offer for a Planning Agreement for consideration by Council.

Both projects form what is referred to as the Denman Road Renewable Energy Hub (DRREH), located at 1711 Denman Road, Denman (see Figure 1). A public website for the DRREH is available here <https://denmanrenewableenergyhub.com.au/>

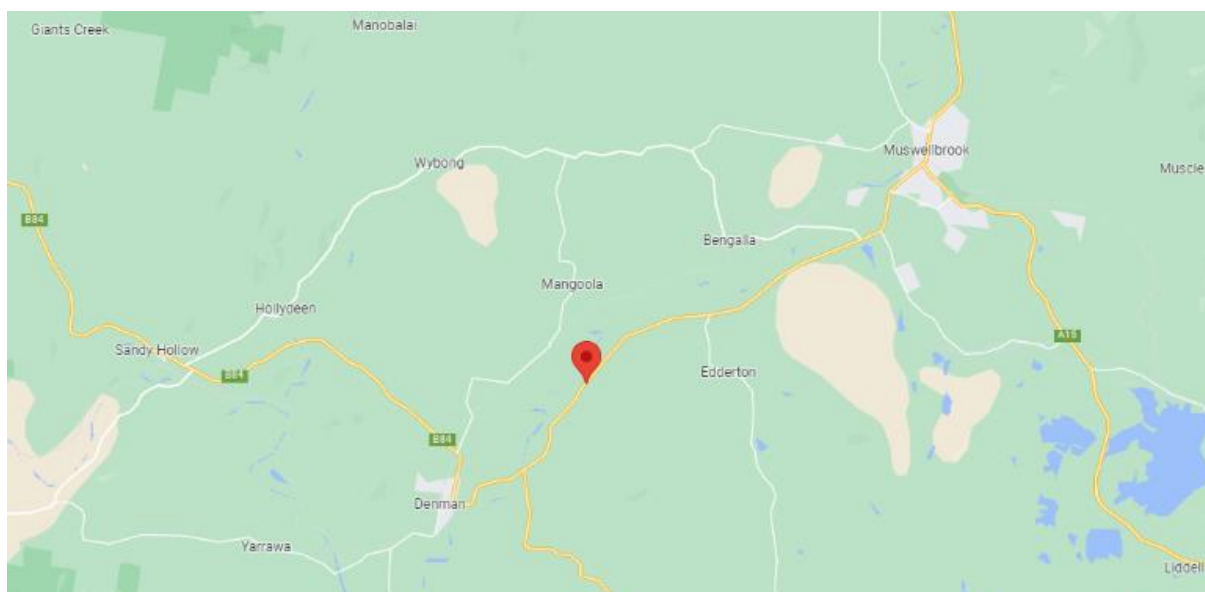


Figure 1 – Indicative Location of the Denman Renewable Energy Hub



There are currently two projects proposed at the DRREH, as follows:

- Upper Hunter South (UHS) Solar Farm (SSD 65996959)
 - Proponent: Upper Hunter SF Pty Ltd
 - 30 MW
 - Submitted a Scoping Report to the Department of Planning in November 2023. Staff provided comments on Scoping Report including a request to enter into a Planning Agreement
 - The Proponent is currently preparing an Environmental Impact Statement (EIS) and is intending to lodge with the Department of Planning in late February 2025.
- Denman Road BESS (SSD 76189216)
 - Proponent: Denman BESS Pty Ltd
 - 2.4 GW
 - Submitted Scoping Report to the Department of Planning in October 2024. Staff provided comments on Scoping Report including a request to enter into a Planning Agreement
 - The Proponent is currently preparing an Environmental Impact Statement (EIS) and is intending to lodge with DPHI in late February 2025.

Staff have prepared a response to each of the Initial Letters of Offer and would like to ensure that the SSD Committee agree with the contribution amount, neighbourhood benefit proportion and delivery mechanism, and social commitments to be included in the Planning Agreement.

If supported by the Committee, Council Staff intend to use the principles of these Planning Agreement general terms in discussions with other solar farms and BESS project proponents.

A. Contribution Amount

Solar Farm Development

In the Initial Letter of Offer, the Proponent has offered \$850 per MW (or \$76,500 per annum) for the UHS Solar Farm.

The NSW government's *Benefit Sharing Guideline* (November, 2024) recommends \$850 per MW per annum total funding for benefit-sharing.

In May 2024, Council resolved the following in relation to the General Terms of the Muswellbrook Solar Farm Planning Agreement:

1. *A monetary contribution of 'the greater of \$850/MWac or as per finalised 'Benefit Sharing Guideline' installed, paid annually, and adjusted for consumer price index'.*

Staff recommend a monetary contribution of \$850/MWac as per the 'Benefit-Sharing Guideline' (November, 2024) which is also consistent with the amount agreed for the Muswellbrook Solar Farm (SSD-46543209). The monetary contribution will be based on installed capacity, provided every year of operation, and adjusted for Consumer Price Index (CPI).

BESS Development

In its Initial Letter of Offer, the Proponent has offered \$150 per MW (or \$360,000 per annum) for the Denman Road BESS.



The *Benefit Sharing Guideline* recommends \$150/MWh hour per annum total funding for benefit-sharing.

At the May 2023 Ordinary Council Meeting, Council agreed on the General Terms of a Planning Agreement for the Muswellbrook BESS with a contribution amount of \$200/MWh of installed capacity, provided every year of operation and indexed annually to the Consumer Price Index (CPI).

It is noted that the Benefit Sharing Guideline serves as a framework rather than a binding regulation, which allows for adjustments to better reflect local context and precedence.

Staff recommend a monetary contribution of \$200/MWh consistent with the general terms of the planning agreement with the proponent of the Muswellbrook BESS (SSD-29704663), installed capacity, provided every year of operation and indexed annually to the Consumer Price Index (CPI).

B. Annual Instalment Distribution

In the Initial Letter of Offer, the Proponent has allocated 90% of the total annual contributions to Council.

Previously Council has resolved to spend the Council contribution in the following ratios: 15% Environmental Officer and 85% Community and Economic Development benefit (managed as part of the *Muswellbrook Shire Community Benefit Fund (May, 2023)*).

For Muswellbrook Solar Farm, Council accepted 10% Specialist Staff and 90% managed as part of the *Muswellbrook Shire Community Benefit Fund*.

Staff recommend that any contribution to Council should be spent in the following ratios:

- ***10% Specialist staff contribution to respond on behalf of Council for the Project's assessment and implementation; and***
- ***90% community, environment and economic benefits managed as part of the Muswellbrook Shire Community Benefit Fund.***

C. Neighbourhood Benefits – Proportion and delivery Mechanism

The *Benefit Sharing Guidelines* provide advice on how benefit-sharing arrangements can be used to distribute proceeds of renewable energy projects to neighbours. The Guidelines provide the following examples:

- Minor capital works and improvements such as providing rooftop solar to residences;
- Funding or constructing neighbourhood community facilities;
- Sponsorship of local community events, groups or clubs; and
- Offering neighbours subsidies (such as energy discounts or free connections) or investment/co-ownership opportunities.



Delivery Mechanism

In the Initial Letter of Offer, the Proponent has stated that Neighbourhood Benefits will be distributed via a community enhancement fund.

In May 2024, Council resolved the following in relation to the General Terms of the Muswellbrook Solar Farm Planning Agreement:

3. Council is supportive of assisting to 'deliver local benefits' as rate rebates to the properties nominated by the Proponent.

A rate rebate is the preferred mechanism for distributing Neighbourhood Benefits as it provides direct, equitable, and administratively efficient financial relief to nearby property owners. With so many SSD projects in the Shire, funding or constructing neighbourhood community facilities or sponsorship of local community events, groups or clubs is not practical.

Staff recommend the May 2024 Council resolution be carried forward to all solar and BESS development i.e ***assisting to 'deliver neighbourhood benefits' as rate rebates to property owners in the direct vicinity of any development, where appropriate, and provided these are not used to manage or mitigate the impacts of the development.***

Proportion

In its Initial Letter of Offer, the Proponent has allocated 10% of total Benefits to Neighbourhood Benefits, which totals approximately \$43,000 per year. Muswellbrook Solar Farm allocated 45% to Neighbourhood Benefits which totaled approximately \$51,000 per year.

The Muswellbrook Solar Farm has 128 non-associated residences located within 2 km which means that approximately 89 residences will receive a rate rebate of approx. \$550.00/year. Staff consider that 45% is a reasonable proportion to be allocated when there are so many neighbours in proximity to the project.

However, the UHS Farm and Denman Rd BESS has very few near neighbours and therefore an allocation of 10% is considered more reasonable. But even at 10%, there is potential for the rate rebate to be substantially higher (in this case approximately \$8,600/year).

The Proponent/s has indicated verbally that the Neighbourhood Benefit portion can be negotiated to ensure contribution is equitable and reasonable.

Staff recommend continuing negotiations with the Proponent/s to ensure the Neighbourhood Benefit proportion is equitable and reasonable. It should also include neighbours within approximately 4km of the Project Boundary (to capture residences on the western side of the Hunter River that will experience a visual impact).

**D. Socio-Economic Commitments**

In the Initial Letter of Offer, the Proponent did not offered any socio-economic commitments.

In May 2024, Council resolved the following in relation to the general terms for the Muswellbrook Solar Farm Planning Agreement:

- *The Proponent is to employ four (4) local, that is, residents of Muswellbrook Shire, apprentices/trainees on the site during the construction phase.*
- *The Construction Company and Proponent to have an office in the Muswellbrook Central Business District (CBD) from commencement of the project and for the period of construction.*
- *The Proponent to provide a procurement plan to demonstrate local spend for Council's approval.*

Staff recommend the May 2024 Council resolution be carried forward for all solar and BESS development, and that any Procurement Plan include details of any Temporary Construction Workforce Accommodation.

E. Land Rating

It should be noted that Staff are still in the process of seeking legal advice on a review of land rating subcategories (per the Council Resolution of April 2023).



8 Date of Next Meeting

11 March 2025

9 Closure