

**ACTING DIRECTOR CORPORATE & REGULATORY SERVICES
REPORT NO. /2008**

DEVELOPMENT APPLICATION NO: 8/2007/781/1
APPLICANT: VINTAGE DEVELOPMENTS
OWNER: ERROL INVESTMENTS PTY. LTD. AND
D. TAGGART (NSW) PTY. LTD.
PROPERTY: LOT 1102 DP 1101455; LOTS 1501 AND 1502
DP 1110274 WINE COUNTRY DRIVE,
ROTHBURY
AREA: APPROXIMATELY 35.67 HECTARES
ZONING: 1(V) RURAL (VINEYARDS)
PROPOSAL: STAGED DEVELOPMENT APPLICATION:
BULK EARTHWORKS, DEMOLITION OF
EXISTING DWELLING-HOUSE AND
CONCEPT PLAN INCORPORATING RESORT
HOTEL AND ASSOCIATED RESORT VILLAS;
DESTINATION SPA AND ASSOCIATED SPA
VILLAS; AMPHITHEATRE AND EXTENSION
TO INTERNAL ROAD NETWORK

Major Projects Coordinator, Julie Wells, reports:-

SUMMARY

The application applies to land colloquially described as 'The Vintage'.

The staged development application seeks consent for Bulk Earthworks and the Demolition of an Existing Dwelling-House.

Conceptual approval is also sought for the following land uses:

- Resort Hotel and Associated Resort Villas
- Destination Spa and Associated Spa Villas
- Amphitheatre
- Car Parking
- Extension to internal road network to provide an additional point of intersection with Wine Country Drive

The application is determined to be an integrated development application pursuant to section 91 of the Environmental Planning and Assessment Act 1979.

The proposed development is permissible with consent pursuant to the provisions of the Cessnock Local Environmental Plan (CLEP) 1989.

Planning issues associated with the determination of the application include consideration of:

- Matters relating to staged development applications
- Reconfiguration of site landform including associated environmental and visual implications
- Clearing of native vegetation
- Indigenous and non-indigenous heritage
- Land salinity
- Potential for site contamination
- Traffic
- Bushfire

The application is recommended for conditional approval.

A short visual presentation will be made to Council at the Council Meeting to demonstrate the extent of the proposed earthworks. The proponent's current thinking on the scale of the proposed resort hotel, whilst subject to consideration in a further development application, will also be presented for Council's information. The presentation will be made by Stacey Brodbeck of Mansfield Brodbeck, in association with Council staff. Mansfield Brodbeck has been engaged by Council to assist in understanding the visual impact implications of proposed development at the site.

SITE DESCRIPTION:

The development is proposed on and to the immediate west of land known locally as 'Hawkins Hill'. The site is situated between the existing Vintage Development and Wine Country Drive as shown in Figure 1. The highest point of 'Hawkins Hill' is located at approximately 90 metres AHD towards the south western corner of the site. The land falls to the north and to the east, towards Wine Country Drive.

PROPOSAL:

Staged Development Application

The development application seeks consent for the staging of development as follows:

Stage 1: Bulk Earthworks and Demolition of an Existing Dwelling-House.

Stage 2: Destination Spa and Spa Villas

Stage 3: Extension of 'Road 11' and intersection with Wine Country Drive

Stage 4: Resort Hotel

Stage 5: Outdoor Amphitheatre (including fixed stage and seating)

Stage 6: Resort Hotel Villas

The applicant has provided detailed information relating to proposed Stage 1 of the development.

Additionally, the applicant has provided indicative, conceptual details of the siting and scale of the proposed land uses in Stages 2 to 6 (see Figure 2); however, the detail of the proposed built form, including specific building siting, densities, scale and design will need to be assessed in subsequent development applications for these land uses. This approach is consistent with the assessment of a staged development application pursuant to the provisions of Section 83B (1) of the *Environmental Planning and Assessment Act 1979*, viz:

“83B(1) For the purposes of this Act, a “staged development application” is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for separate parts of the site are to be the subject of subsequent applications. The application may set out detailed proposals for the first stage of development”.

As the matter is a staged development application, the report focuses on the detail contained in Stage 1 but also makes conceptual reference to the land uses proposed during Stages 2 to 6.

Stage 1: Bulk Earthworks and Demolition of Existing Dwelling-House

The approximate area proposed for regrading as illustrated by the proponent (in the Bulk Earthworks and Road 11 Cut and Fill Plan 22.10.07) is approximately 14.3 hectares. Cut depths are proposed up to 5 metres on the top of the existing hill with fill depths of 5 metres proposed for the existing dam located downhill towards Wine Country Drive.

The proposed earthworks, if undertaken, will significantly alter the natural topography of the site. The magnitude of earthworks proposed is not dissimilar in nature to the significant existing earthworks which have already occurred at the site (e.g. to form the existing golf course). A copy of the bulk earthworks plan illustrating the extent of proposed cut and fill will be on display at the meeting. The extensive change in landform proposed by the bulk earthworks will also be the subject of the presentation to Council at the meeting.

The proposed bulk earthworks are intended to involve extensive excavation and earth moving/manipulation, resulting in the clearing of all groundcover vegetation and up to nine (9) mature trees. Two (2) site trees are proposed to be retained; a mature spotted gum (*Corymbia maculata*) in the north of the site and a mature grey box (*Eucalyptus moluccana*) in the south of the site.

It is proposed to demolish the existing house on Lot 1501 DP 1110274. The house is known locally as ‘Hawkins House’ (Insite Planning and Hunter PCA, 2007). Ancillary structures associated with the dwelling-house are also proposed to be demolished.

It is important to recognise that the application for the bulk earthworks, if approved, will form the general foundation for the site layout of the proposed land uses in Stages 2 to 6. For example, the proposed earthworks seek to create the topographical foundation for the amphitheatre (land sloping down a hillside proposed for future seating, terminating in a ‘stage’) as well as platforms for the proposed resort hotel, destination spa and associated development. The spatial foundations created by the proposed earthworks for the proposed subsequent land uses should not in any way infer an ‘assumed approval’ for those future uses. For example, the ‘building platform’ which would be created by the proposed bulk earthworks for the resort hotel site could readily accommodate a resort hotel building in the order of approximately 150 metres in length by 50 metres in width (Mansfield Brodbeck, 2008). Consistent with the determination of staged development applications, it is reiterated that the siting, scale, bulk and design of the resort hotel, the destination spa, associated villas and the amphitheatre (Stages 2 to 6) will need to be considered separately in subsequent development applications. Any approval of the proposal for bulk earthworks should not be seen to pre-empt the outcome of the determination of those applications.

BACKGROUND:

'The Vintage' is an existing major tourist recreation facility integrated with permanent residential development.

The existing development ('The Vintage') is the subject of an operational development consent granted by Council on 13 December, 1996. Several amendments have been made to the original consent dating between May 2001 and August 2005.

The current amendment (August, 2005) provides, in part, for the following:

- Stage 1: 18 hole golf course including informal play areas 1 and 2; country club and associated parking; a maximum of 223 residential lots; a maximum of 21 rural-residential lots and associated residue lots.
- Stage 2: Tennis and fitness centre; a maximum of 147 residential lots and associated residue lots.
- Stage 3: Special residential precincts incorporating a resort hotel precinct to a maximum of 150 units and resort communities having a maximum of 335 resort accommodation units; a maximum of 112 residential lots; a maximum of 19 rural-residential lots; development of community facilities and development of tourist recreation (commercial) facilities.

This 'generic' staging and detail is duplicated in Council's current DCP (Cessnock DCP 2006) for the site.

Stages 1 and 2 referred to in this existing consent are generally representative of the extent of existing development at the site.

The current development application submitted by the proponent seeks approval for components of Stage 3 referred to above.

PUBLIC NOTIFICATION:

The development application was notified in accordance with Council's adopted policy. A response was received from the Hunter Valley Vineyard Association (HVVA), raising no objection to the proposed development. One (1) public submission was also received, generally supportive of the wider 'Vintage' development, whilst outlining the need to consider the following issues as part of this application:

- Noise associated with construction work: hours of operation
- Noise associated with use of the proposed amphitheatre
- Erosion and sediment controls
- Road intersection details with Wine Country Drive

These issues are addressed under relevant components of the report.

Copies of the submissions received are contained in the enclosure document.

SUBMISSIONS FROM STATUTORY AUTHORITIES

Submissions were sought and received from the following authorities. The issues raised by statutory authorities are addressed, where relevant, under subsequent sections of this report.

1. Department of Defence

The Department has requested that, should Council approve the application, that the proponent be made aware that the land may be subject to noise and vibration generated by operations at the Singleton Military Area.

2. Hunter-Central Rivers Catchment Management Authority

The Hunter-Central Rivers Catchment Management Authority (CMA) advised that the application is not explicit in its relationship with the proposed removal of native vegetation. The CMA has raised concern over the potential for the site to contain the Endangered Ecological Community (EEC), Lower Hunter Spotted Gum Ironbark Forest (LHSGIF). Clearing of an EEC can only be permitted and offset if it is classed as being in low condition through the Environmental Outcomes and Assessment Methodology prescribed under the *Native Vegetation Act 2003*.

Concerns have also been raised over the impact of vegetation removal on dryland and stream salinity. The site is situated within the Black Creek Catchment. According to the CMA, this particular part of the catchment exhibits median electrical conductivity of approximately 1500EC units, suggesting that there are salinity-based risks associated with longer term irrigation and land management.

The CMA has advised that site investigations and development design considerations should be undertaken prior to the commencement of any development at the site. The CMA has advised that such investigations should be consistent with:

- *Site Investigations for Urban Salinity* (Department of Land and Water Conservation, 2002);
- *Land Use Planning and Urban Salinity* (Department of Infrastructure, Planning and Natural Resources, 2005); and
- Other relevant guidelines under the Local Government Salinity Initiative in NSW.

The CMA has suggested that these investigations should inform a salinity management plan prepared for the area prior to any development occurring. This suggestion has been made to enable the identification of practices necessary to mitigate the salinity risks associated with development on the subject land. The CMA has requested that the Hunter-Central Rivers Catchment Action Plan (CAP) be taken into consideration in the investigation of salinity.

3. Roads and Traffic Authority

Consideration of additional access to Wine Country Drive and improvements to the intersection of McDonalds Road and Wine Country Drive will be relevant during assessment of subsequent development applications (proposed Stages 2 to 6).

In discussion of the concept plan for land uses illustrated in Figure 2, the Roads and Traffic Authority (RTA) was provided with conceptual road design plans of two proposed intersection options (roundabout and seagull intersection) for a proposed intersection with Wine Country Drive. The RTA has reviewed the concept plan options and considers a roundabout to be the preferred option to cater for the full extent of development proposed (Stages 2 to 6).

Improvements to the intersection of McDonalds Road and Wine Country Drive will also be required.

Subsequent verbal discussions with the RTA have indicated that an 'AUR' intersection at McDonalds Road/Wine Country Drive would also need to be constructed prior to any further 'traffic generating' development occurring on the site; i.e. prior to the occupation of any consent issued for the Destination Spa and Spa Villas. The proposed roundabout would be required to be constructed prior to any subsequent occupation certificate being granted for the resort hotel.

4. Rural Fire Service

The Rural Fire Service has provided a response to Council's correspondence pursuant to Section 91 of the *Environmental Planning and Assessment Act 1979*. The response is deemed to be a bush fire safety authority (section 100B of the *Rural Fires Act 1997*) and has been issued subject to the following:

- "1. At the commencement of building works and in perpetuity, the property around each building to a distance of 10 metres shall be managed as an Inner Protection Area as outlined within Planning for Bushfire Protection 2006 and the Service's document Standards for Asset Protection Zones; and*
- 2. An emergency/evacuation plan is to be prepared consistent with the NSW Rural Fire Service Guidelines for the preparation of Emergency/Evacuation Plan for implementation by the occupants in the event of a required evacuation".*

The bushfire safety authority has been provided for the conceptual land uses proposed during Stages 2 to 6.

5. Department of Environment and Climate Change

The DECC has advised that all known Aboriginal cultural heritage sites are outside of the area of the proposed development, and, therefore, no further Aboriginal Heritage Impact Permit (AHIP) is required.

The DECC has advised, however, that in relation to the wider Vintage Development:

- "That the current state of works relating to all existing Aboriginal Heritage Impact Permits (AHIPs) and uncompleted reports of works carried out under prior AHIPs be supplied to Council and to the DECC. This information can be in the form of a map of the areas and sites covered by existing and proposed AHIPs and a summary of the current status of works".*

6. Hunter Water

Personal communication with Hunter Water (*Parsons Brinckerhoff/Malcolm Withers pers comm. February 2008*) has indicated that Hunter Water has no concerns in relation to the proposed earthworks and demolition. Hunter Water has advised, however, that the existing reticulated water and sewer systems in the locality will require upgrading in order to accommodate the proposed development outlined in Stages 2 to 6.

7. Energy Australia

Personal communication with Energy Australia (*Parsons Brinckerhoff/Damien Schweinberger pers comm. February 2008*) has indicated that Energy Australia has no concerns in relation to the proposed earthworks and demolition. The capacity of electricity supply to service Stages 2 to 6 is also considered sufficient.

PLANNING ASSESSMENT:

All heads of consideration under section 79C of the Environmental Planning and Assessment Act 1979, as amended, have been taken into consideration in the assessment of this application with the following matters of particular relevance:

A. Cessnock Local Environmental Plan 1989

1. 1(v) Rural (Vineyards) Zone: Consideration of Land Zoning and Zone Objectives

The subject land is zoned 1(v) Rural (Vineyards).

Bulk earthworks and the demolition of the existing dwelling-house (and ancillary structures), being Stage 1 of the development application, are permissible with the consent of the Council.

Stages 2 to 6 land uses outlined in the proponent's concept plan (Figure 2) are most appropriately defined as an 'integrated tourist development'. An 'integrated tourist development' is permissible with consent in the 1(v) zone. In a conceptual sense, the proposed Stage 2 to 6 land uses are considered to have planning merit and are consistent with the intention of the 1(v) zone. However, it is reiterated that, consistent with the requirements for consideration of staged development applications pursuant to section 83B(1) of the *Environmental Planning and Assessment Act 1979*, the detail of the components proposed in Stages 2 to 6 will need to be assessed in future development applications. At this time, the consideration of Stages 2 to 6 can only be made at a conceptual level.

It is noted, however, that the development proposed during Stages 2 to 6 appears to be generally consistent with the terms of approval previously granted by Council on 13 December 1996 as amended.

The objectives of the 1(v) Rural (Vineyards) zone are:

- “(a) to maintain prime viticultural land and enhance the economic and ecological sustainability of the Vineyards District, and*
- (b) to encourage appropriate tourist development consistent with the rural and viticultural character of the Vineyards District, and*
- (c) to minimise conflict between viticultural and non-viticultural land uses by ensuring sympathetic location and design of those uses, and*
- (d) to enable continued rural use of land which is complementary to the viticultural character of land within this zone, and*
- (e) to protect the water quality of receiving streams and to reduce land degradation, and*
- (f) to actively promote the need to conserve and enhance the biodiversity of the Vineyards District, and*
- (g) to conserve the aboriginal archaeology and European heritage of the Vineyards District”.*

The relationship of the proposed development to relevant 1(v) zone objectives are discussed below:

(1) The application is deficient in its assessment of impacts on viticultural soils. No viticultural assessment was provided with the application. Notwithstanding this view, strategic information held by Council for the Vineyards District indicates that the soil, the subject of the Stage 1 development, is of limited viticultural value. Additionally, the Hunter Valley Vineyard Association has not raised any objection to the proposed development. The proximity of the site to the existing 'Vintage' development would, in real terms, also restrict the use of the land for viticultural purposes because of requirements for spray drift separation.

It is considered that the proposed bulk earthworks and the demolition of the existing dwelling-house will not adversely impact on prime viticultural land.

(2) The conceptual land uses proposed as part of the development application (Figure 2) are not located within close proximity to any existing viticultural land uses. The closest distance between any part of the development the subject of Stages 2 to 6 to existing off-site grape vines is in excess of 800 metres. Potential land use conflict between existing viticultural and proposed non-viticultural land uses is, therefore, not considered to be an issue. The situation will be required to be reassessed at the time of lodgement of subsequent development applications for Stages 2 to 6.

(3) The matter of the detail of proposed tourism land uses (Stages 2 to 6) at this site needs to be assessed in development applications for those uses.

(4) Should Council approve the proposal for bulk earthworks at this site, the proponent will be required to introduce considerable sedimentation and erosion control measures to protect the water quality of receiving streams and to reduce land degradation. Refer to the discussion later in this report.

(5) Whilst the proposal for bulk earthworks necessitates the removal of exotic and native vegetation (see report comment on clearing below), the proponent has prepared an indicative Landscape Masterplan associated with the proposed future development of the site. The landscaping proposed will significantly offset the loss of existing vegetation. Planting detail can be established with subsequent development applications for the site associated with Stages 2 to 6. Additionally, given the concerns raised by the Hunter-Central Rivers CMA about salinity at the site, and the requirement to prepare a salinity management plan for the site prior to any site development occurring, it is likely that additional amounts of native vegetation will also be required to be planted. This will enhance the biodiversity of the area.

(6) The proposed development of the site will not impact on the Aboriginal archaeology or significant European heritage values of the site. Refer to the discussion below.

2. Clause 17

Lots 1501 and 1502 and part (only) of Lot 1102 are affected by clause 17 of the Cessnock Local Environmental Plan (CLEP) 1989 (see **Figure 3**).

Clause 17 enables Council to grant consent to the subdivision of land and to the erection of dwelling-houses, villas, duplexes on any allotments created where the subdivision is, in Council's opinion, required as an integral part of a major tourist recreation facility.

The proponent may seek to apply the provisions of clause 17 to subsequent development applications for Stages 2 to 6. Should that occur, and at that time, Council may choose to enact the provisions of clause 17.

B. Cessnock Development Control Plan 2006

1. Overview

Chapter E2 of Cessnock Development Control Plan 2006 (DCP 2006) applies to the subject land.

The proposed development site is illustrated as one of six 'Special Residential Precincts' in the DCP Master Plan and as 'Stage 3 Development' in the DCP Staging Plan. The staging detail reflected for the site in the DCP is consistent with the detail of the development consent issued by Council on 13 December, 1996 (as amended), and as cited earlier in this report.

The DCP stipulates that a 'Special Residential Precinct' is permitted to contain a resort hotel, and a resort community including tourist accommodation units. The conceptual land uses proposed in Figure 2 are consistent with the aims of the DCP in this regard.

2. General Design Principles

Special Residential Precincts

The Special Residential Precinct makes provision for the development of a Resort Hotel Precinct.

The DCP stipulates density and design considerations for development proposals within the Special Residential Precincts. Siting, design and density considerations for built form will be the subject of development applications for proposed Stages 2 to 6.

Resort Hotel Precinct

The DCP states that the Resort Hotel Precinct can be used to provide varying types of accommodation related to the resort hotel including hotel rooms, suites and villas, providing short stay accommodation for a broad range of users. Additional permissible uses indicated by the DCP within the Resort Hotel Precinct include restaurants, conference facilities, tourist shops, recreation facilities, gymnasiums, swimming pools and spas. The proposed conceptual uses outlined in Figure 2, being a resort hotel, destination spa and associated villas are consistent with the land uses intended by the DCP for the site.

The amphitheatre is not a land use which has been specifically nominated by the DCP as part of a Special Residential Precinct, however, it could readily be accommodated as a permissible land use in the 1(v) zone, being part of an 'integrated tourist development'.

C. Impacts and Management of Bulk Earthworks

The proposed bulk earthworks, if undertaken, will significantly alter the natural topography of the site. A copy of the bulk earthworks plan illustrating the proposed cut and fill will be on display at the meeting. The extensive visual change in landform proposed by the bulk earthworks will also be the subject of a presentation to Council at the meeting. The proposed earthworks seek to provide the foundation for Stages 2 to 6 of the development, however, as previously indicated, any approval of bulk earthworks at the site should not be seen to pre-empt the approval of those uses which will be the subject of future development applications.

The proposed bulk earthworks design provides for a balance of cut and fill volumes of some 100,000 cubic metres. The existing surface levels within the area to be developed range from approximate RL 90m AHD to RL 65m AHD. The maximum depth of cut and fill is approximately – 5m cut to + 5m fill.

The Statement of Environmental Effects (SEE) accompanying the development application suggests that the bulk earthworks have been designed such that cut and fill materials will be balanced on site, i.e. no material will be imported or removed from the site.

All fill is to be proposed to be compacted to 95% standard maximum dry density compaction. Maximum particle size is to be 2/3 of the 300mm layer thickness.

Compaction testing of all fill is to be undertaken and tested in a NATA registered laboratory. Copies of all test results and a contour depth of the fill plan is to be submitted to Council on completion of the works.

The entire fill area will be required to be top dressed with topsoil, seeded and fertilised.

The bulk earthworks plan included in the SEE is satisfactory for the assessment of the development application. However, more detailed Bulk Earthworks plans are to be submitted for Council's assessment prior to the issue of a Construction Certificate. The plans are to be prepared to Construction Certificate issue standard and are to include construction details, the location of stockpiles, general notes, earthworks notes and geotechnical notes in accordance with Council's Engineering Requirements for Development.

An Earthworks Environmental Management Plan is to be submitted to Council prior to the issue of any Construction Certificate for the bulk earthworks. The plan is to outline details of any staging of the works to better manage environmental impacts; the type of material to be used; the compaction testing methods; the type of geotechnical supervision required; and an outline of the landfill and construction procedures to be adhered to to minimise any potential environmental impacts. The plan is to make provision for the following engineering work plans:

- Site management plan
- Construction management plan
- Traffic management plan
- Waste management plan, including the location of where the waste is to be stored, separated or treated on site and on going management of the plan.
- Water management plan, including water quality monitoring before, during and after construction.
- Noise and vibration management plan
- Soil related impacts
- Dust and odour management plan

Construction work associated with bulk earthworks and the demolition of the dwelling-house will be required to be limited by appropriate hours of operation.

Stormwater Management

The proposed development is located at a crest within the property. The majority of the developed area will drain to the north, into the existing drainage / dam network for the golf course. The remainder of the developed area will drain to the south, towards an existing dam. The proposed development will not impact on stormwater entering the site from other properties. Stormwater will exit the site via the existing discharge points to Wine Country Drive.

Soil and Water Management

The “Erosion and Sediment Control” Plan, Project No. 2122773C, No. 0014, Revision A” submitted with the SEE is satisfactory for the assessment of the development application.

A more detailed Erosion and Sediment Control Plan will need to be submitted for assessment prior to the issue of any Construction Certificate for the bulk earthworks. The plan is to provide the following additional information in accordance with the requirements of Council’s Engineering Requirements for Development and the Soils and Construction, Managing Urban Stormwater by Landcom

- Calculations associated with the sizing of the temporary sediment basins.
- Construction details of the temporary open drain lined with geofabric and the rock check dams, including a cross section of the drain and supporting drainage calculations.

Soil erosion and sedimentation control devices are to be placed to prevent sediment entering the existing drainage network on the site. Clean water will be required to be diverted around the disturbed area.

A shake down pad or similar device will need to be installed to prevent trucks tracking sediment and debris onto Council’s roads.

A water cart or an alternative watering system will also need to be made available during construction to enable dust disturbance to be minimized.

D. Clearing

As previously indicated, the Stage 1 development involves extensive excavation and earth moving/manipulation, resulting in the clearing of all groundcover vegetation and up to nine (9) mature native trees. Two (2) site trees are proposed to be retained; a mature spotted gum (*Corymbia maculata*) in the north of the site and a mature grey box (*Eucalyptus moluccana*) in the south of the site.

Consent for clearing of the nine (9) trees is required at this site under the provisions of the *Native Vegetation Act 2003*.

The application was referred to the CMA seeking their concurrence for site clearing associated with the bulk earthworks and dwelling-house demolition.

As previously indicated, the CMA raised concerns that the application was deficient in its assessment of clearing. The CMA also raised concerns about the potential impact of the proposed Stage 1 development on the LHSGIF EEC, believed to be present at the site.

The proponent was subsequently advised to prepare an ecological assessment outlining the impacts associated with the development of proposed Stage 1. A report was prepared by EcoLogical (February 2008) outlining the impacts.

The EcoLogical report indicates that the site is dominated by exotic and native grassland. Over 50 percent of the grassland is considered to comprise exotic species, largely as a result of past site history and disturbance. The eleven (11) mature trees on the site comprise *Eucalyptus moluccana* (Grey Box) (2); *Eucalyptus crebra* (Narrow-Leaved Ironbark) (7) and *Corymbia maculata* (Spotted Gum) (2).

The consultant's report indicates that there are few habitat features present on the site. Two small tree hollows were observed in the large, mature grey box in the south of the site. This tree is to be retained. Other habitat features on the site include a small dam (approximately 10m x 10m) and the winter flowering of the Ironbark and Spotted Gum trees. These habitat features are proposed to be removed by the bulk earthworks.

The report advises that the concerns raised by the CMA in relation to the LHSGIF EEC are unfounded. The consultant advises that the site does not support any LHSGIF, noting, however, that two of the canopy species characteristic of LHSGIF (Narrow-Leaved Ironbark and Spotted Gum) are present. According to the EcoLogical report, the clearance and history of disturbance on the site, the highly modified understorey and groundcover and lack of other characteristic species indicate that there is no LHSGIF remaining on the site.

Two threatened fauna species (Large-footed Myotis and the Yellow-bellied Sheathtail Bat) and two migratory bird species (Cattle Egret and the White-throated Needletail) are considered likely to be present in the general locality.

The assessments of significance indicated that the proposed Stage 1 development is unlikely to result in a significant impact on species listed under the *Threatened Species Conservation Act 1995* and the *Environmental Protection and Biodiversity Conservation Act 1999*.

The approval of the CMA will be required for clearing of the nine (9) trees. Such approval is to be required prior to Council issuing any construction certificate for the bulk earthworks.

E. Salinity

A Salinity Management Plan will be required to be prepared and approved by Council prior to Council issuing any construction certificate for the bulk earthworks. This is consistent with the advice given by the CMA, documented earlier in this report.

F. Aboriginal Cultural Heritage

In relation to Aboriginal cultural heritage, as previously indicated, the DECC has advised that all known Aboriginal cultural heritage sites are outside of the area of the proposed development, and, therefore, no further Aboriginal Heritage Impact Permit (AHIP) is required.

In the event that the development of the site provides evidence of Aboriginal cultural heritage, work will be required to immediately cease and the DECC will be required to be notified to determine an appropriate course of action.

G. Non-Indigenous Heritage

Three (3) items of non-indigenous heritage, being 'relics' as defined under the Heritage Act 1977 occur within the site (South East Archaeology, 2004). The 'relics' are located in the area where the existing dwelling-house and outbuildings are located and comprise stockyard fencing, a well and the footings of a previous residence (not the existing residence)..

The 'relics' were considered to have low significance having regard to criteria established by the NSW Heritage Office. Furthermore, the potential for the presence of non-indigenous 'artefacts' of local or state significance within the wider development area was considered to be low (South East Archaeology, 2004).

The South East Archaeology Report recommended that an exemption be sought from the excavation provisions of section 140 of the *Heritage Act 1977*. The proponent subsequently sought the exemption and it was granted by the NSW Heritage Office on 17 October 2004.

In the event that substantial intact archaeological deposits or State significant relics are discovered during any development of the site, the exemption also requires work to cease in the affected area and the Heritage Office notified in writing in accordance with section 146 of the *Heritage Act 1977*.

H. Preliminary Contamination Assessment

A Preliminary Contamination Assessment of the site and its relationship to the proposed Stage 1 development was prepared by Douglas Partners (February 2008).

The results of the preliminary assessment have indicated a number of potential contaminant sources across the site including the presence of uncontrolled fill materials containing fibro sheeting materials (possibly asbestos) and other potential contaminants associated with the former use of the site as a farm (i.e. sheds, above ground fuel tanks, stored equipment and former agricultural activities).

While the potential for gross contamination is considered to be low, additional subsurface investigation (including laboratory testing) will be required to assess the actual impact and extent of contamination associated with the potential contamination sources. Such assessment will be required to be completed in accordance with Council policy prior to Council issuing any construction certificate for the bulk earthworks. Should the assessment determine the presence of contamination at the site, the site will be required to be appropriately remediated to Council's satisfaction prior to Council issuing any construction certificate for the bulk earthworks.

I. Bushfire

The application was considered to be integrated development for the purposes of Section 91 of the *Environmental Planning and Assessment Act 1979*.

A bushfire safety authority (section 100B of the *Rural Fires Act 1997*) has been issued by the NSW Rural Fire Service subject to the following:

- “1. At the commencement of building works and in perpetuity, the property around each building to a distance of 10 metres shall be managed as an Inner Protection Area as outlined within Planning for Bushfire Protection 2006 and the Service’s document Standards for Asset Protection Zones; and*
- 2. An emergency/evacuation plan is to be prepared consistent with the NSW Rural Fire Service Guidelines for the preparation of Emergency/Evacuation Plan for implementation by the occupants in the event of a required evacuation”.*

The bushfire safety authority is relevant to the conceptual land uses proposed during Stages 2 to 6.

J. Traffic

Construction access to the site associated with the proposed bulk earthworks and dwelling-house demolition will be required via the existing road network within the 'Vintage' Development. No additional access will be permitted to Wine Country Drive at this time.

Future access to Wine Country Drive, along with requirements for internal traffic circulation and parking will be subject to separate assessment during subsequent applications for development of proposed Stages 2 to 6. Indicative advice provided by the RTA relating to proposed stages 2 to 6 was provided earlier in this report. In summary, the RTA has reviewed concept plan options for an additional point of access to Wine Country Drive. The RTA considers a roundabout as the preferred option to cater for the full extent of development proposed (Stages 2 to 6).

Improvements to the intersection of McDonalds Road and Wine Country Drive will also be required.

Subsequent verbal discussions with the RTA have indicated that an 'AUR' intersection at McDonalds Road/Wine Country Drive would also need to be constructed prior to any further 'traffic generating' development occurring on the site; i.e. prior to the occupation of any consent issued for the Destination Spa and Spa Villas. The proposed roundabout would be required to be constructed prior to any subsequent occupation certificate being granted for the resort hotel.

K. Waste Management: Demolition of the Existing Dwelling-House

Part C, Chapter 5 of the Cessnock Development Control Plan (2006) requires a Waste Management Plan to be submitted for all development applications involving demolition. A Waste Management Plan was included with the SEE accompanying the development application.

Additional details, including the location of where the waste is to be stored, separated or treated on site are to be provided and approved prior to the issue of any Construction Certificate for the bulk earthworks.

L. The Public Interest

Matters raised relating to the noise implications of construction activity and requirements for erosion and sedimentation control have been addressed in relevant sections of this report.

Consideration of issues associated with the potential noise impacts of use of the proposed amphitheatre will be addressed in a development application for the amphitheatre.

The detail of road intersection requirements with Wine Country Drive will also be assessed in future development applications for Stages 2 to 6. Indicatively, however, the RTA consider that a roundabout would be the preferred treatment for an additional access to Wine Country Drive. The provision of a roundabout in the location indicated on the concept plan for land uses associated with proposed Stages 2 to 6 is not considered to adversely impact on the land, the subject of the submission. Opportunity for future comment will be available at the time of the relevant development application.

CONCLUSION:

The proposed bulk earthworks and demolition of the existing dwelling-house, being Stage 1 of a staged development application, are permissible with the consent of Council.

The proposed earthworks, if approved, will result in a pronounced change to the topography of the site. The visual implications of that change are to be conveyed to the Council in a presentation at the meeting.

The proposed stage 1 development will not adversely impact on either indigenous or non-indigenous heritage values of the site. The stage 1 development will require the approval of the CMA for clearing of nine (9) native trees prior to Council granting consent for any earthworks construction certificate.

The potential for the earthworks to create environmental impacts, such as those based around erosion and sedimentation, can be lessened through the imposition of appropriate conditions of consent.

The proposed earthworks will provide a strong relationship with the physical foundation of proposed stages 2 to 6 of the development. Any approval granted for the proposed bulk earthworks should not be viewed as an 'assumed' approval for future conceptual land uses. Development applications for proposed stages 2 to 6 will be required to provide specific details relating to siting, density, bulk and design for Council's additional consideration consistent with the staged development application requirements of Section 83B(1) of the *Environmental Planning and Assessment Act 1979*. Notwithstanding the requirements for detailed consideration in subsequent development applications, given the general consistency of the conceptual land uses with the objectives of Council's land use planning framework, and in recognition of the existing, amended approval for the site, conceptual support for proposed stages 2 to 6 is considered appropriate.

RECOMMENDATION

- A. That Stage 1 of Development Application No. 8/2007/781/1 for bulk earthworks and demolition of an existing dwelling house and ancillary structures on Lot 1102 DP 1101455 and Lots 1501 and 1502 DP 1110274 Wine Country Drive, Rothbury be approved subject to the conditions in Schedule 1.**

SCHEDULE 1

TERMS OF CONSENT

General

1. The development being undertaken strictly in accordance with the details set out on the application form and within the accompanying Statement of Environmental Effects, or as modified by these further conditions.

Reason

To confirm and clarify the terms of Council's approval

2. In the event that the development of the site provides evidence of indigenous cultural heritage, work will be required to immediately cease and the land owner will be required to immediately contact the Department of Environment and Climate Change and the Council to determine an appropriate course of action.

Reason

To require the effective management of indigenous heritage issues at the site.

3. The current state of works relating to all existing Aboriginal heritage Impact permits (AHIPs) and uncompleted reports of works carried out under prior AHIPs are to be supplied to Department of Environment and Climate Change and the Council. This information can be in the form of a map of the areas and sites covered by existing and proposed AHIPs and a summary of the current status of works.

Reason

To require the effective management of indigenous heritage issues at the site.

4. In the event that the development of the site provides evidence of non-indigenous cultural heritage, work will be required to immediately cease and the land owner will be required to immediately contact the NSW Heritage Office and the Council to determine an appropriate course of action.

Reason

To require the effective management of non-indigenous heritage issues at the site.

Access

5. Construction access to the site associated with the bulk earthworks and dwelling-house demolition will be required via the existing road network within the Vintage Development. No additional access will be permitted to Wine Country Drive at this time.

Reason

To ensure that a safe, adequate access is available to the development

6. All access crossings shall be maintained in good order for the life of the development.

Reason

To ensure that a safe adequate all-weather access is available to the development

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BULK EARTHWORKS

General

7. The approval of the Hunter-Central Rivers Catchment Management Authority is required for the proposed clearing at the site. Approval for clearing will be required prior to issue of a construction certificate for the bulk earthworks.

Reason

To require approval for clearing under the Native Vegetation Act 1993.

8. A salinity management shall be prepared for the site and approved by Council prior to the issue of a construction certificate for the bulk earthworks. The salinity management plan shall be consistent with:
- * Site Investigations for Urban Salinity (Department of Land and Water Conservation, 2002);
 - * Land Use Planning and Urban Salinity (Department of Infrastructure, Planning and Natural Resources, 2005);
 - * The objectives of the Hunter-Central Rivers Catchment Action Plan; and
 - * Other relevant guidelines under the Local Government Salinity Initiative in NSW.

Reason

To enable the effective management of salinity issues at the site

9. Additional subsurface investigations (including laboratory testing) and assessment are required to assess the actual impact and extent of contamination associated with the potential contamination sources identified in the report entitled: "Report on Preliminary Contamination Assessment Proposed Hotel Development: Lot 1502 DP 1110274 Off Vintage Drive, Rothbury; Project 39390.01, February 2008", prepared by Douglas Partners. Such investigations and assessment will be required to be completed in accordance with Council policy prior to Council issuing a construction certificate for bulk earthworks. Should the assessment determine the presence of contamination at the site, the site will be required to be appropriately remediated to Council's satisfaction prior to Council issuing any construction certificate for the bulk earthworks.

Reason

To enable the effective management and remediation of potential contamination issues at the site

10. Detailed Bulk Earthworks Plans, showing the extent of excavation and/or filling together with details of the method of retaining, draining and stabilising the disturbed areas, construction details, the location of stockpiles, general notes, earthworks notes and geotechnical notes in accordance with the requirements of Council's Engineering Requirements for Development shall be submitted to and approved by Council prior to issue of a Construction Certificate for bulk earthworks.

Reason

To determine that satisfactory arrangements have been made to reduce environmental damage.

11. Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping. Details shall be submitted to and approved by Council prior to issue of a Construction Certificate for bulk earthworks.

Reason

To minimise erosion and silt discharge and ensure valuable topsoil resources are protected.

Stormwater drainage

12. The registered proprietor of the land shall collect all stormwater runoff from the site and discharge it in accordance with Council's 'Engineering Requirements for Development' (available at Council's Offices). Full details shall be submitted to and approved by Council prior to issue of a Construction Certificate for bulk earthworks.

Reason

To ensure that stormwater runoff is removed from the site in a manner that does not cause nuisance or hazard to occupiers of the site or adjoining areas.

13. Any alterations to existing surface levels on the site shall be undertaken in such a manner as to ensure that no additional surface water is drained onto or impounded on adjoining areas. Full details of existing and proposed surface levels shall be submitted to and approved by Council prior to issue of a Construction Certificate for bulk earthworks.

Reason

To ensure that such alterations to surface levels do not disrupt existing stormwater flows in the vicinity.

Site Works

14. An Earthworks Environmental Management Plan is to be submitted and approved by Council prior to the issue of a Construction Certificate for the bulk earthworks. The plan is to outline details of any staging of the works to better manage environmental impacts; the type of material to be used; the compaction testing methods; the type of geotechnical supervision required; and an outline of the landfill and construction procedures to be adhered to to minimise any potential environmental impacts. The plan is to make provision for the following engineering work plans:

- (a) Site management plan
- (b) Construction management plan
- (c) Traffic management plan
- (d) Waste management plan, including the location of where the waste is to be stored, separated or treated on site and on going management of the plan.
- (e) Water management plan, including water quality monitoring before, during and after construction.
- (f) Noise and vibration management plan
- (g) Soil related impacts
- (h) Dust and odour management plan

Reason

To reduce the environmental impact on the site during the construction period.

15. The construction management plan shall be submitted and approved by Council prior to the issue of a Construction Certificate for the bulk earthworks. The management plan shall include:
- (a) Details of sedimentation and erosion control
 - (b) Details of provision of truck and machinery wash down areas. **Note:** All trucks and machinery must be free from all foreign material where such material is likely to cause pollution. An area must be set aside for the cleaning of concrete agitator trucks.
 - (c) Location and phone number of the site office
 - (d) Details regarding provision of areas set aside for the storage/stockpiling of:
 - (i) Construction refuse
 - (ii) Construction materials
 - (iii) Raw materials such as sand, soil, mulch and the like
 - (iv) Details regarding the provision of facilities for workers associated with the development.

Note: All protection and control of earthworks shall be carried out in accordance with Council's "Engineering Requirements for Development", Department of Conservation and Land Management's 'Urban Erosion and Sediment Control' requirements and the Landcom's 'Soil and Water Management for Urban Developments'.

Reason

To reduce the environmental impact on the site during the construction period.

DURING CONSTRUCTION

General

16. All building materials, plant and equipment are to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves etc.

Reason

To ensure pedestrian and vehicular access is not restricted in public places.

17. The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.

Reason

To ensure that any required alterations to utility infrastructure are undertaken to acceptable standards at the developer's cost.

18. Construction, demolition and associated work shall be carried out only between the times stated as follows:

Mondays to Fridays	7.00 am to 6.00pm
Saturdays	8.00am to 1.00pm
Sundays & Public Holidays	No construction work to take place

Reason

To ensure that the environmental quality of adjoining land is not adversely affected, such as by the generation of excessive noise levels.

19. All filling and construction works are to be undertaken in accordance with the requirements outlined in the approved Earthworks Environmental Management Plan.

The Earthworks Environmental Management Plan outlines the site management plan, construction management plan, traffic management plan, waste management plan, water management plan, noise and vibration management plan, soil related impacts and dust and odour management plan that are to be implemented and adhered to during the works.

The principal contractor is to familiarise themselves with the approved Earthworks Environmental Management Plan and a copy of the document is to remain on site at all times.

Reason

To reduce the environmental impact on the site during the construction period.

20. All useable trees and shrubs shall be salvaged for re-use, either in log form, or as woodchip mulch for erosion control or site rehabilitation.

Reason

To protect the landscape and scenic quality of the locality, to maintain ground surface stability and to ensure sensitive management of vegetation and other natural resources.

21. The control of erosion and the prevention of silt discharge into drainage systems and waterways will be necessary in accordance with Council's "Engineering Requirements for Development", Department of Conservation and Land Management's 'Urban Erosion and Sediment Control' requirements and the Landcom's 'Soil and Water Management for Urban Developments'. Erosion control measures are to be implemented prior to the commencement of any earthworks and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas. The control of erosion and sedimentation on the site is to be consistent with the approved Earthworks Environmental Management Plan

Reason

To ensure protection of the environment by minimising erosion and sediment.

22. Filling shall not be placed in such a manner that natural drainage from adjoining land will be obstructed.

Reason

To ensure that filling placed on land does not affect natural drainage.

23. Filling shall not be placed on land in such a manner that surface water will be diverted to adjoining land.

Reason

To ensure that site works do not result in water being diverted onto adjoining land.

24. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring onto adjacent private or public property.

Reason

To reduce the risk of environmental and building damage.

25. The fill is to be controlled by compaction testing which is to be carried out in accordance with AS 1289 for controlled filling. Testing is to be carried out by a NATA registered laboratory and copies of the test certificate clearly indicating the location of each test and the laboratory's certificate, shall be forwarded for approval prior to issue of a Compliance Certificate.

Prior to the commencement of the bulk earthworks, the proposed development areas should be stripped to remove all vegetation, topsoil and root affected or other potentially deleterious material. Following stripping, the exposed subgrade soils should be proof rolled to highlight wet, cohesive or excessively deflecting material. All such areas should be over-excavated and backfilled with approved clean site fill.

Approved fill beneath roads should be placed in layers not exceeding 300mm loose thickness and compacted to a minimum density ratio of 95% Standard Compaction (AS1289-5.1.1 or equivalent), within a range of +2% of standard Optimum Moisture Content.

Any fill placed as part of the proposed development shall be supervised by a suitably qualified and experienced Geotechnical Engineer as being placed in accordance with Council's 'Engineering Requirements for Development' and AS 3798 'Guidelines on Earthworks for Commercial and Residential Developments'.

Reason

To ensure that fill is placed in accordance with relevant standards.

BUILDING DEMOLITION

26. A sign must be erected in a prominent position on the site on which work involved in the demolition of a building is being carried out:-

- (a) stating that unauthorised entry to the work site is prohibited, and
- (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

Reason

To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.

27. All excavations and backfilling associated with the demolition of a building must be executed safely and in accordance with the appropriate professional standards.

Reason

To ensure that all excavations on the site are maintained in a safe condition.

28. All excavations associated with the demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

Reason

To ensure that all excavations on the site are maintained in a safe condition.

29. All asbestos material shall be appropriately contained and disposed of at an approved Waste Management Centre in accordance with WorkCover Authority requirements. Evidence of certified disposal shall be provided to Council prior to the commencement of earthworks on the site.

Reason

To ensure that asbestos waste is disposed of in an appropriate manner.

30. Additional details relating to waste associated with proposed building demolition in the proposed Waste Management Plan (Appendix H in the Statement of Environmental Effects, prepared by Hunter PCA Pty. Ltd., October 2007) are required, including the location of where the waste is to be stored, separated or treated on site and on going management of the plan, are to be provided prior to the issue of a Construction Certificate for the bulk earthworks.

Reason

To ensure that asbestos waste is managed and disposed of in an appropriate manner.

PRIOR TO ISSUE OF A COMPLIANCE CERTIFICATE

31. Upon completion of the bulk earthworks, the applicant shall provide Council with a Compliance Certificate which confirms that the bulk earthworks and building demolition have been undertaken strictly in accordance with the provisions of the Development Consent and Construction Certificate.

Reason

To ensure that the bulk earthworks have been constructed in accordance with the Development Consent and Construction Certificate

ADVICE

1. The applicant is to advise the Subdivision and Engineering Co-ordinator at least 48 hours prior to commencement of any construction works on site or associated with the site, together with the approved contractor's name and address.

Reason

To enable orderly scheduling of inspections

2. Where Council is the Principal Certifying Authority, the applicant shall pay engineering site supervision fees in accordance with Council's current fees and charges with the application for a Construction Certificate for the bulk earthworks. Initially, three (3) site visits are expected for the proposal (prior to start of works; upon installation of sediment and erosion control; and upon completion of works) however should further inspections become necessary as a result of incomplete works, then those site supervision fees will be separately invoiced. Council's current engineering site supervision fee is \$187.00 per inspection.

Reason

To ensure that the developer meets all costs associated with the inspection of necessary works associated with the development.

3. The land may be subject to noise and vibration generated by operations at the Singleton Military Area.

Reason

To advise the applicant of the potential impacts of operations occurring within the Singleton Military Area.

4. The applicant is advised that responses have been received from various statutory authorities relating to issues associated with proposed stages 2 to 6 of the development. Those advices are detailed in the content of the report.

Reason

To inform the applicant of matters relating to subsequent stages of development.

- B. That Council give conceptual approval to land uses proposed in Stages 2 to 6 of Development Application No. 8/2007/781/1 on Lot 1102 DP 1101455 and Lots 1501 and 1502 DP 1110274 Wine Country Drive, Rothbury**
- C. Consistent with Section 83B(1) of the *Environmental Planning and Assessment Act, 1979*, subsequent development applications for Stages 2 to 6 of Development Application No. 8/2007/781/1 on Lot 1102 DP 1101455 and Lots 1501 and 1502 DP 1110274 Wine Country Drive, Rothbury, are required to be submitted for Council's consideration.**

To: **The General Manager**
Corporate & Regulatory Services
Committee - 2 April 2008

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
2 April 2008