



Vincent Street
CESSNOCK 2325

12 May 2008

To All Councillors

You are hereby notified that the next Meeting of the Corporate and Regulatory Services Committee will be held in the Council Chambers, on Wednesday, 21 May 2008 immediately following the conclusion of the Strategic and Community Services Committee Meeting, for the purpose of transacting the undermentioned business.

**B R MORTOMORE
GENERAL MANAGER**

AGENDA:

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(1) APOLOGIES.

(2) CONFIRMATION OF MINUTES.

Minutes of the Corporate and Regulatory Services Committee
Meeting held on 7 May 2008

(3) DEFERRED BUSINESS

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(5) QUESTIONS WITHOUT NOTICE.

DEFERRED BUSINESS

ACTING DIRECTOR CORPORATE & REGULATORY SERVICES REPORT NO. 31/2008

DEVELOPMENT APPLICATION NO:	8/2006/299/1
APPLICANT:	HARPER SOMERS O'SULLIVAN PTY LTD
OWNER:	HEZ PTY LTD
PROPERTY:	PART LOT 7 DP 1037092
AREA:	8 HECTARES
ZONING:	5(A) SPECIAL USES (COMMUNITY)
PROPOSAL:	PROPOSED EDUCATIONAL ESTABLISHMENT (SCHOOL) AND EARLY LEARNING CENTRE (CHILD CARE CENTRE)

HEZ Planning Unit, reports:-

SUMMARY:

This report relates to Development Application No. 8/2006/299/1 being for Stage 1 of an educational establishment and early learning centre (ELC) upon part Lot 7 DP 1037092 off Hospital Road and Parker Street Weston.

Rezoning of the land to permit an educational establishment including an early learning centre by insertion of an enabling clause within Cessnock Local Environmental Plan (CLEP) 1989 was gazetted on 11 April 2008.

Stage 1 comprises an early learning centre (ELC) (i.e. child care centre for 50 children), administration building, junior learning area building, junior sports oval and car parking facilities and will cater for students from kindergarten to Year 7 being for a total of 88 children. Vehicular access to this stage will be provided off Parker Street with a turning circle being constructed at the western end of Parker Street for bus turning and an exit via Hospital Road.

An independent engineering and traffic assessment of this development application have been undertaken. The HEZ Project Team have reviewed the development application plans, accompanying Statement of Environmental Effects report, traffic report and supplementary information received by Council particularly in respect to traffic matters. These documents have been utilised for assessment purposes and to formulate relevant recommendations, and proposed conditions of consent.

Consultation has been held with officers of the Roads and Traffic Authority (RTA) and Mine Subsidence Board (MSB) in respect to traffic and mine subsidence issues relating to this development proposal.

All submissions received by Council relating to this proposed educational establishment and the early learning centre (ELC) have been reviewed and considered as part of the assessment of this application.

PROPOSAL:

This development proposal is for Stage 1 being for the construction of an ELC and educational establishment comprising a separate ELC, classrooms and associated facilities for children from kindergarten to Year 7. The ELC will cater for 50 children whilst the educational establishment for 88 children from kindergarten to Year 7. It is envisaged that there will be 12 staff and 5 ancillary administration persons employed to meet the demands of Stage 1.

Specific details of Stage 1 of the development proposal are as follows:

- Erection of an ELC being a single storey building which addresses Parker Street. This building comprises five (5) activity areas to cater for children of varying ages, being a sleeping area, reception area, change area, kitchen, laundry, staff room, interview room, amenities, storage rooms, etc. Verandahs are attached to the southern and western elevations of the building. An outdoor play area including sand pit with shaded areas are positioned at the rear of this building;
- A two storey administration building is positioned to the south of the ELC which comprises offices, principal office, interview room, library, after school care area, staff room, canteen, training, sick room ,etc at ground floor level. At first floor level there will be 4 large classrooms with a small room attached at the northern end with storage and wet area, toilets and outdoor decks. Lift and stairs will provide access to the upper floor;
- A two storey building will be constructed to accommodate the junior school. This building at ground floor comprises two (2) large classrooms with amenities with a large open area provided within the centre of the building. The first floor comprises four (4) classrooms with small rooms at one end with decks and amenities. This building is linked to the first floor level of the administration building. Two covered areas will be provided at ground level to the south of this building;
- A junior sports oval will be established to the west of these buildings;
- Vehicular access to the site will be provided off Parker Street opposite Appleton Avenue with an internal circulation road allowing vehicles to exit the school either via Appleton Avenue or Hospital Road. Thirty seven parking spaces will be provided including three (3) disabled spaces. A further 20 spaces have been provided along the egress road for staff car parking and a student pick up/ drop off zone;
- A bus drop off bay is provided along the southern side of Parker Street in front of the ELC between Appleton and Elford Avenues with a bus turn back available at the western end of Parker Street;
- A service /delivery bay for Stage 1 is to be provided off the internal circulation road. A bin would be placed adjacent to this service bay and it is envisaged that service /delivery vehicles would access this facility outside school hours;
- A bike storage area would also be provided on site adjacent to this service area;
- A 9 metre landscape buffer area is to be implemented surrounding the adjoining property to the north east known as Lot 21 DP 588129; and
- Other landscaped areas will be established along parts of the Parker Street frontage, surrounding the ELC and within the car park. Some existing mature trees will be retained on site, wherever possible.

BACKGROUND:

A development application for Stage 1 of the educational establishment and ELC was submitted in conjunction with a rezoning application to Council. The amending LEP has been previously considered by Council and was forwarded to the Department of Planning for further consideration. This plan has now been gazetted and both the ELC and educational establishment are permissible uses upon the subject land with the consent of Council.

A master plan depicting the entire development of the site for an educational establishment and ELC has been prepared and included with the development application to demonstrate the scale and type of development being proposed for the site. The proposed facility will be developed over 5 stages with the total number of students anticipated to be approximately 1350 with 125 staff. If fully developed the facility will comprise an ELC, two administration buildings, junior school building, 2 middle school buildings, senior school building, preparatory buildings, specialist building, sports facility including swimming pool, auditorium, junior sports oval, sports oval, netball and tennis courts and two on-site car parks. Vehicular access to the school will be available off Parker Street, Hospital Road and Lang Street. Bus drop off bays will be available off both Parker and Lang Streets. A total of 155 car spaces will be provided on site to service the entire development.

Given that Stages 2 to 5 will necessitate further development applications to Council, changes to this master plan are likely to occur over time as the school develops and this may provide an opportunity to reconsider traffic distribution throughout the area from the future school stages.

SITE DESCRIPTION:

The subject site is known as part of Lot 7 DP 1037092 off Hospital Road, Parker and Lang Streets Kurri Kurri. The site is L shaped with a frontage of 290 metres to Parker Street and 128 metres to Hospital Road being an area of 8 hectares. Lang Street abuts the southern boundary of the site and is described as being unformed. The western end of Parker Street to the west of Elford Avenue being the northern boundary of the site is also unformed at the present time.

The subject site is currently vacant and covered with native vegetation being predominantly Lower Hunter Spotted Gum Ironbark Forest, however some lands adjacent to Lot 21 have been cleared of natural vegetation. The site slopes diagonally from the south east corner (54 m AHD) to the north east corner (33 m AHD) being a cross fall of 5.7%.

An existing bed and breakfast establishment is positioned at the north eastern corner of this site which is known as Lot 21 in DP 588129. Residential development in the form of detached dwellings is located along the northern side of Parker Street from Hospital Road to Elford Avenue and along Hospital Road, Appleton Avenue and Elford Avenue to the north of the site. Kurri Kurri Hospital is located to the south east of the site at the corner of Hospital Road and Lang Street. Lands to the south and west are described as being vacant bushland.

PUBLIC EXHIBITION:

The development application was placed on public exhibition for a period of 64 days from 13 December 2006 to 24 January 2007 in accordance with provisions of Cessnock DCP 2006 and then further extended to 14 February 2007. It should be noted that the development application was placed on public exhibition concurrently with the draft Local Environmental Plan as required by the provisions of the Environmental Planning and Assessment Act and to allow the public a fuller appreciation of the proposed development for the site. Five (5) submissions were received from members of the public which generally related to issues associated with the development application during the formal exhibition period.

A late submission was received from the Friends of Tumblebee after close of the exhibition period. Council has also received a large number of submissions (i.e. 50) from residents of the South Weston area which were largely associated with the rezoning of the site but also requested the reopening of the exhibition period or related to development application matters such as traffic, mine subsidence, etc. All submissions have been reviewed during the assessment of this development application and were forwarded to the Department of Planning per Council's resolution of 15 August 2007.

The main issues of concern raised by residents are summarised and addressed below:

1. The building of this new school will cause closure of existing facilities in the Kurri/Weston area.

Comment:

There is no evidence to suggest that the opening of this proposed educational establishment and ELC will impact on existing schools within the Kurri/ Weston area.

2. Pay per use is completely at odds with the term community uses.

Comment:

An educational establishment and ELC are often described as community uses and will provide a service to the community as well as the developing HEZ industrial area. These uses are typically permitted within or close to residential precincts by planning instruments to enable ready access and to enable a relationship to be established between these educational facilities and local communities. Seeking payment for these services is determined by the operator of these facilities rather than Council.

3. Redefine the northern boundary of the rezoned area to ensure that the current usage of the western end of Parker Street is maintained. Residents along Parker Street will lose existing access to their properties.

Comment:

The school development proposal will allow for Parker Street to be extended to the west of Elford Avenue therefore allowing access to be retained and improved to existing residential properties along the northern side of Parker Street.

4. No need for another preschool to operate in this area

Comment:

The opening of a ELC will allow a full range of educational facilities to operate from the site. The commercial operation or economic viability of the ELC is not considered to be a planning issue.

5. Extra traffic generated would be more than surrounding streets could cope with.

Comment

A detailed traffic study accompanying the development application indicates that the surrounding road network can adequately cater for Stage 1 of this proposed development. This will be achieved by the provision of new road construction and traffic management works. Development applications will need to be lodged for any further stages of this school development allowing Council to fully monitor any potential traffic impacts which may arise onto the surrounding road network and consider in subsequent development applications.

- 6. The parking spaces allocated on site are no where near enough to cater for the needs of this school development.**

Comment:

The provision of on site car parking for Stage 1 of this proposed educational establishment and ELC satisfies Cessnock DCP 2006 – Chapter C1 Parking and Access Requirements.

- 7. All access to the school grounds should be via an extension of Lang Street taking traffic away from Elford and Appleton Avenues**

Comment:

A combined entry/exit vehicular access point to Stage 1 of this educational establishment and ELC is proposed via Parker Street. It is estimated that there will be approximately 86 vehicle trips generated to the school during the morning peak for Stage 1. The existing road network surrounding the site will be able to cope with this level of traffic. Alternative access options that divert vehicles away from the South Weston residential precinct are discussed in detail in a further section of this report.

- 8. Unregistered motor bikes charging around the streets**

Comment:

The use of local streets by unregistered motor bikes is an issue for local police and cannot be regulated under this development application.

- 9. Increase in noise generated from a school development particularly if before and after school care is included from ringing of class bells, public address systems, students and staff/goods traffic. Also noise generated from the construction period.**

Comment:

After school care facilities can be limited to certain buildings and open space areas and should be designated away from nearby residential properties and Lot 21. The number of children using these facilities is expected to be relatively low during Stage 1 of this proposed development. The potential impacts from this proposed educational establishment would be typical to any other school facility establishing within a residential area.

- 10. There are grass, trees on site and native orchids that should be left for the community.**

Comment:

Existing vegetation particularly mature trees will be retained on site where practical. Clearing plans associated with this development will need to be lodged with Council and a condition will be attached to any development approval to ensure adequacy of this plan.

- 11. The proposal will direct traffic flow onto streets that have no kerb and guttering and that were not designed or constructed to service more than the existing residential community.**

Comment:

Road infrastructure works such as kerb and guttering, drainage, etc will need to be installed by the applicant prior to the school commencing operations from the site. Appropriate conditions will be attached to any development approval to ensure these works are carried out.

- 12. The neighbourhood already has significant water drainage issues which will not be alleviated by the development.**

Comment:

The stormwater and drainage report has been reviewed and adequate drainage measures are to be implemented to ensure surrounding properties and the locality are not adversely affected. Existing uncontrolled runoff from the site as well as from the road and future works on site would be controlled and directed to improve the existing situation.

- 13. Loss of privacy as new buildings will overlook adjoining property including tennis court which is used as a bed and breakfast establishment.**

Comment:

A nine metre wide vegetated buffer is to be created adjacent to the boundaries of Lot 21. Further planting including semi advanced species is necessary, as the area adjacent to this Lot 21 has been cleared of natural vegetation. The proposed two storey buildings are positioned approx. 50 metres from this common boundary allowing for a large separation with minimal, if any overlooking and privacy impacts likely to occur. It is noted that the existing track to the south of Lot 21 is substantially higher than the subject site. Therefore opportunity exists to substantially lower the finished ground level in this location including works associated with the access road. Erection of appropriate acoustic fencing and landscaping adjacent to the boundaries of Lot 21 will be required to minimise any potential amenity impacts. This can be conditioned accordingly.

- 14. Proposed car park 2 metres above ground level of tennis court upon Lot 21.**

Comment:

The site slopes in a north west direction. Final design levels of the car park have not been determined, however as outlined above, the level of this part of the subject site is higher than adjoining Lot 21 and has resulted due to tracks being built up. A condition will be attached requiring finished ground levels of the proposed car park and access road to be lower than the adjoining Lot 21 and these levels are to be provided with the Construction Certificate.

- 15. Construction of a wire mesh tennis court type fence to a height of 3 metres above the existing fence height.**

Comment:

A condition will be attached to any development approval requiring suitable fencing with noise alleviating properties to be erected along this adjoining Lot 21 as well as screen landscaping to minimise any potential overlooking and privacy concerns.

- 16. Without proper kerb and guttering significant siltation and erosion will result along adjoining properties.**

Comment:

Kerb and guttering, road construction and drainage will be required as a condition of consent along all frontages of the subject and adjoining site thereby minimising any siltation and erosion impacts onto surrounding properties.

- 17. Location of the garbage facilities will create potential noise, smell and vermin problems for the adjoining property. Waste bins should be located further away from this property.**

Comment:

Picking up of waste from the school is likely to occur outside school hours to avoid any traffic conflicts on site. A condition will be attached requiring a more suitable location to be selected for provision of waste facilities on site which is positioned sufficiently away from Lot 21 and other residential properties so as to prevent any odours, noise, etc impacts. Details will need to be provided with the Construction Certificate and be satisfactory to the Development Services Manager.

- 18. No provision for acoustic treatment to the buffer zone apart from vegetation**

Comment:

Given the proposed significant setback of buildings and the number of students within Stage 1 the proposed landscape buffer to Lot 21 is considered to be substantial. However the erection of a 3m high fence with acoustical properties has been conditioned to provide more privacy to Lot 21.

- 19. Driveway used as a short cut at night from Parker Street to Hospital Road**

Comment:

Gates can be provided at any vehicular entry and exit points to the school to prevent vehicles using the school as a short cut outside school hours.

- 20. How will the applicant secure the site from access by unauthorised persons?**

Comment:

The applicant has not provided specific details. Gates and fencing can be provided at the perimeter of the school site with any lighting directed onto the school site rather than adjoining properties. Security patrols of the grounds may also be implemented. Appropriate conditions can be attached to the Development Application approval to ensure implementation of suitable security measures discussed above.

- 21. A nine 9 metre vegetated buffer will provide cover for individuals to access the adjoining home and business premises.**

Comment

The landscape buffer area can be treated so as not to harbour individuals to hide or climb onto Lot 21. An amended landscape plan showing suitable species and erection of acoustic fencing will be required to be submitted to Council with the Construction Certificate and this can be conditioned.

- 22. Lifestyle will be detrimentally impacted by this development on the border of an existing residential area.**

Comment:

Good planning practice allows for educational establishments and ELC's to be located adjacent and/ or within existing residential areas to cater for the educational needs of the community. In this case the proposed school has been positioned near existing residential and employment areas of the LGA for convenience and located on a relatively large allotment of vacant land.

- 23. All the streets in Weston are not of a sufficient standard to safely take this additional traffic.**

Comment:

A detailed traffic study has been undertaken for this school development which allows for improvements to the local road system as the school develops. All road frontages and intersections will require to be upgraded and these works will be conditioned.

- 24. The land proposed for the school is zoned community uses. Use of the land by a private high fee charging school catering for mainly out of the area students is not a valid use of community land.**

Comment:

Whether the proposed educational establishment and ELC is either public or private is not a planning consideration. The subject site is zoned Special Uses (Community) and permits educational establishments (i.e. schools) and ELC'S (child care centres).

- 25. The issue of the rezoning application concurrently by Council with the Development Application created confusion for residents.**

Comment:

The exhibition of the rezoning and development applications concurrently was intended to better inform the community of the development proposed upon the subject site and is consistent with provisions of the Environmental Planning and Assessment Act and Regulations.

GOVERNMENT AGENCIES

Mine Subsidence Board (MSB)

An inspection of the school site was undertaken with representatives of the Mine Subsidence Board, Council officers and nearby residents. A number of existing holes were sighted which are typically found within Mine Subsidence areas. Some of these larger holes have now been filled by contractors for the Mine Subsidence Board.

The site is within the proclaimed Tomalpin Mine Subsidence District and accordingly is designated as integrated development under the provisions of Section 91 of the Environmental Planning and Assessment Act. Clause 47 of Cessnock Local Environmental Plan 1989 also requires the concurrence of the MSB prior to granting of consent. Hence the development application and accompanying information were referred to the MSB for comment. Subsequently the MSB has advised conditional approval is granted provided that prior to construction the following matters are submitted to the MSB:

1. Final drawings are certified by a qualified structural engineer to the effect that buildings will be safe, serviceable and repairable taking into account the geotechnical conditions on the site;
2. Removal of any risk of mine subsidence by a suitable means, such as grouting. Alternatively satisfy the Board by confirming through geotechnical investigations that the workings are long term stable and there is no risk on mine subsidence affecting the site;

3. The geotechnical investigation must include a sufficient number of boreholes to the floor of the seam and numerical modelling/sensitivity analysis to demonstrate the appropriateness of the strata to support development given the mine workings. The investigation is to contain confirmation of the depth of coal seam. Height of workings, floor conditions and thickness of competent rock, as well as providing details of the pillar dimensions used in any analysis. ISG co-ordinates and measured deviation from vertical are required for any boreholes. The report must be to the satisfaction of the MSB.

These requirements will form part of the conditions of consent if approved.

The accompanying mine subsidence report discloses that there are existing shallow mine workings below the site from the Holmesville top and Holmesville bottom seams. The Holmesville top seam deepens to the south from 15m to 65m below the site. Underground mining within this area (the north of the site) have been developed as full extraction and therefore full subsidence is expected to have occurred. Working in the southern part of the site has not undergone full extraction. Some secondary extraction or 'pillar splitting' has occurred. Consequently future subsidence may occur. Depth to working in this area is 45m to 55m. Potholing is generally expected in areas where depth of cover is less than 25m. The Holmesville top seam is overlain by a band of weakly cemented low strength conglomerate and this may exacerbate potholing at a greater depth.

In order to accurately ascertain the actual extent of non full extraction and remedial works to be undertaken to address any public risk, detailed geotechnical assessment and a remediation plan over the site will be necessary. This is consistent with the above advice and requirements of the Mine Subsidence Board. The proposal has been conditioned accordingly.

Rural Fire Services (RFS)

The subject site is designated within a bushfire prone area and the application was referred to the NSW Rural Fire Services being integrated development in this case.

The application has been accompanied by a bushfire report which concludes that the first stage asset protection zones (APZ's) can be provided within the site and equivalent APZ's are provided by Parker Street, Hospital Road and surrounding urban development to the north. The required APZ's internally will require additional modification of vegetation on the site in the short term.

The NSW Rural Fire Services is prepared to grant a Bush Fire Safety Authority subject to the following conditions:

1. Both buildings proposed for Stage 1 Childcare Centre & Admin/Junior School are to fully comply with the requirements of Level 1 construction as required by Australian Standard AS 3959 – 1999 Construction of Buildings in Bushfire Prone Areas;
2. Roofing shall be gutter less or have leafless guttering and valleys which are screened with non corrosive mesh to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
3. The property around the buildings to the west, north west and extending to the northern boundary, to the distance of 35 metres, shall be maintained as an Inner Protection Area (IPA) and then an additional 15 metres shall be maintained as an Outer Protection Area (OPA) as outlined within Section 4.2.2 in Planning for Bushfire Protection 2001.
4. The property around the buildings to the southwest, south to a distance of 65 metres, shall be maintained as an Inner Protection Area (IPA) and then an additional 15 metres shall be maintained as an Outer Protection Area (OPA) as outlined within Section 4.2.2 in Planning for Bushfire Protection 2001.

5. The property around the buildings to the east, northeast and extending to the northern boundary to a distance of 35 metres shall be maintained as an Inner Protection Area (IPA) and then an additional 15 metres shall be maintained as an Outer Protection Area (OPA) as outlined within Section 4.2.2 Planning for Bushfire 2001.
6. Access is to comply with section 4.3.2 Planning for Bushfire Protection 2001.
7. A Bush Fire Evacuation Plan is to be submitted to the NSW Rural Fire Service-Development Control Services for approval. The evacuation plan is to detail the following:
 - a) Under what circumstances will the complex be evacuated;
 - b) Where will all persons be evacuated to;
 - c) Roles and responsibilities of persons co-ordinating the evacuation;
 - d) Roles and responsibilities of persons remaining with the complex after evacuation;
 - e) A procedure to contact the NSW Rural Fire Service District Office/NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.
8. A Bush Fire Management Plan is to be prepared that addresses the following requirements:
 - a) Contact person/department and details;
 - b) Schedule & description of works for the construction of asset protection zones and their continued maintenance;
 - c) Management strategies, proposed schedule and description of works of any remnant bushland within the property boundary;
 - d) Details of access through any gate/fire trail system for remnant bushland areas.

These requirements will be attached to any development approval issued for the proposed development and given the size of the site, appropriate asset protection zones, etc can be readily implemented in accordance with the submitted Bushfire Report recommendations.

Former Department of Natural Resources

Correspondence has been received from the Director General of this Department advising that the community uses part of the Special Uses 5(a) Zone has a similar character to that of an urban zone. Such land is therefore excluded from the Native Vegetation Act 2003. Therefore the provisions of the Native Vegetation Act 2003 are no longer applicable to the subject land.

Department of Environment and Climate Change (DECC)

As no aboriginal artefacts have been found on site during any inspections or as a result of the archaeology investigations, the application was not required to be referred to this Department.

Hunter Regional Development Committee (HRDC)

This development application was referred to the Hunter Regional Development Committee in accordance with RTA Guidelines. The committee initially reviewed the application and provided comments on certain aspects of the development. The applicant and then Council have responded to these issues that are further discussed within a later section of this report. HRDC have now formally provided conditions that can be attached to any development approval if considered appropriate by Council.

Roads and Traffic Authority (RTA)

The RTA on behalf of HRDC has advised that this matter does not need to be referred back to the Hunter Regional Development Committee as the RTA acts as the chairperson and delegate of the HRDC. The RTA has concurrently advised that the Committee has no objection to the subject development application, provided that the RTA requirements in relation to the Northcote Street/ Appleton Avenue intersection should be addressed and included as conditions of any development consent as follows:

- Right turn movements from Appleton Avenue onto Northcote Street shall be prohibited due to the limited sight distance to eastbound traffic in Northcote Street for road safety reasons, given the additional traffic generated by the proposed development;
- A raised central concrete median island shall be constructed in Northcote Street to prohibit this right hand turn movement out of Northcote Street and is to be designed and constructed in accordance with the RTA's Road Design Guide to RTA requirements;
- Street lighting will be required at this intersection and shall be designed in accordance with Australian Standard 1158;
- All work associated with the proposed development shall be at no cost to the RTA or Council and at full cost to the developer;
- The applicant will be required to enter into a Works Authorisation Deed with the RTA. The applicant is required to submit detailed design plans and all relevant additional information as may be required in the RTA's Works Authorisation Deed documentation for each change to state road network for the RTA's assessment and final decision concerning the work.

These above requirements have been reviewed by Council and the impact of the no right turn from Appleton Avenue onto Northcote Street and construction of a raised median along Northcote Street on local traffic movements has been considered in further detail in a later section of the report.

INTERNAL REFERRALS

Council's Building Section

The application was referred to Council's Building section for comment. This section advised that the proposal was acceptable with attachment of appropriate conditions including compliance with the Building Code of Australia.

PLANNING ASSESSMENT:

All heads of consideration detailed 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:

Cessnock Local Environmental Plan 1989 (LEP 1989)

The subject land is zoned 5(a) – Special Uses (Community) pursuant to Cessnock LEP 1989. Uses permissible within the zone include: particular purpose indicated on the map, any public purpose and utility installation. Cessnock Local Environmental Plan Amendment 130 has been gazetted to allow an educational establishment and ELC (i.e. school and child care centre) to operate from the site.

Other clauses of relevance within Cessnock Local Environmental Plan 1989 that have been considered in assessment of this development application include:

- a) Clause 20A – Clearing of land within Zone 4(h), 5(a) or 7(b);
- b) Clause 47 – Development within Mine Subsidence District; and
- c) Clause 57 – Hunter Employment Zone – General development of land within Zone 4(h), 5(a) or 7(b).

It is noted that Clause 57(5) (c) of Cessnock LEP 1989 requires a walkover by a local aboriginal group. An archaeological survey including a walkover of the land has now been undertaken with the assistance of Mindaribba Local Aboriginal Land Council (LALC) and no sites or artefacts were found. Mindaribba LALC have advised in writing that the group participated in the walkover and that they have no objections to the proposed development provided a representative of the Mindaribba LALC is present on site during all earthworks associated with the school development and all statutory requirements are met.

Hunter Regional Environmental Plan

The objective of the Hunter Regional Environmental Plan 1989 in relation to planning strategies concerning health, education and community services is: *to encourage the co-ordinated provision of facilities and services designed to meet the needs of user groups and accessible to those groups.*

The proposal is not inconsistent with this objective as the proposed educational establishment and ELC have been designed to satisfy the user groups that will utilise these facilities.

Cessnock Development Control Plan 2006

This proposed school and child care centre has been assessed in respect of the Cessnock DCP 2006 – Chapter E.6 - HEZ and the following comments are made in respect to relevant guidelines:

Flora and Fauna

The subject site is covered predominantly by Lower Hunter Spotted Gum Ironbark Forest but within this community there appears that some areas display community characteristics commensurate with Kurri Sand Swamp Woodland (KSSW). Two threatened flora species occur within the subject site being *Grevillea parviflora* and *Rutidosis heterogama*. There are 274 keystone mature trees and six hollow bearing trees scattered throughout the entire site. The applicant has indicated that some mature trees will be retained wherever possible to provide shade and landscaping within the school grounds. An examination of the concept plans indicates that numerous mature trees can be retained provided that selective clearing is implemented prior to construction and these trees are protected during construction works.

Overall vegetation clearing associated with this proposed development is considered to be acceptable provided that an appropriate vegetation clearing plan is followed, hollows are surveyed and restored prior to and after construction and an ecologist is on site during clearing works. Opportunities will be available along the boundaries of the site to allow revegetation/landscaping and any mature trees on site should be retained wherever possible. Some undergrowth clearing will be necessary to establish appropriate asset protection zones particularly along the southern and western sections of the site.

Clearing of the site will be restricted to Stage 1 only and will be conditioned so that adequate vegetation clearing plans including asset protection zones are submitted to Council with the Construction Certificate and prior to works commencing on site.

Heritage

A heritage report accompanies the development application. Both a desktop review of previous studies of the HEZ estate and a survey of the site was undertaken. Previous studies or DEC AHIMS reveal that no aboriginal archaeological sites have been recorded upon the subject site. No artefacts were located during the survey. As previously advised a walkover of the site has been undertaken by a local aboriginal group (i.e. Mindarribba LALC) and written advice of this has been provided to Council.

In terms of historical heritage the subject site is excluded from any identified heritage precinct and the site is not listed as an item of environmental heritage within Cessnock LEP 1989, Hunter REP or the State Register.

Should any artefacts be uncovered during the construction phase then the relevant local Aboriginal Land group, Council and DECC should be contacted and works stopped immediately. This is a standard procedure and a condition will be attached accordingly

Building Height, Scale and Design

The proposed Early Learning Centre (ELC) is single storey with an overall height of 4.99 metres. The roof form of this building comprises two rooflines with pitches of 7.5 degrees. This assists to create a visually interesting building and assists to reduce the overall bulk and scale of the building.

The administration and junior school building is two storeys with this building having an overall height of 10 metres with a skillion roof form. This building is nestled behind the ELC, being positioned within the northern part of the site and 115 metres from the Hospital Road frontage of the site. Hence this building is not likely to adversely impact onto the existing streetscapes of Hospital Road, Parker and Lang Streets in terms of bulk and scale.

The proposed buildings given the sitting, style of architecture and form that includes usage of a variety of materials is of an acceptable architectural form, scale and character for this proposed educational establishment and the locality. All buildings satisfy the 12 m height limit control within Chapter E6 – HEZ of Cessnock DCP 2006.

Boundary Setbacks

The proposed ELC addresses Parker Street and has been positioned on an angle to this street frontage with setbacks of between 10 -20 metres being achieved. The administration building is nestled behind this building and is well in excess of the 10 metre requirement within Cessnock DCP. This proposed building is setback 50 metres from the eastern boundary adjacent to Lot 21 with a 9 metre landscape buffer provided immediately adjacent to these common boundaries. Stage 1 of this school development is positioned towards the northern section of the site. Consequently the proposal satisfies DCP provisions.

Landscaping

A Landscape Concept Plan accompanies the development application for Stage 1. This plan shows a 6m wide landscape strip along part of Parker Street in front of the oval, some mass planting and turfed area in front of the proposed ELC, landscaping within the car park and a 9m vegetation buffer adjacent to Lot 21. Some hard stand surfaces are also proposed within the school grounds along with footpaths and cycleway. Retention of existing trees should also be encouraged to provide shade and amenity for future students. A detailed landscape plan will be required at Construction Certificate stage to demonstrate planting adjacent to boundaries of Lot 21 and retention of existing mature trees and will be conditioned accordingly.

Pedestrian Facilities

Plans accompanying the application demonstrate pedestrian pathways on the site connecting with Parker Street, car parking facilities, proposed buildings and other facilities on site including the oval. Pathways will also be provided along the Parker Street and Hospital Road frontages of the site connecting with the bus drop off facility and proposed pedestrian crossings. Additionally a pathway will be required along the Lang Street frontage of the site.

Access

As previously stated the site has frontage to Hospital Road on its east, Parker Street on its north and Lang Street (unformed) on its south. Hospital Road and Parker Street are bitumen sealed 5m to 6m wide. The Stage 1 development proposes access to the 38 space carparking area directly off Parker Street which has a combined entry/exit to that street. Internal access links through the site in a one way configuration from Parker Street car park to exit to Hospital Road are proposed

A bus drop off and pick up bay is also proposed within Parker Street fronting the ELC. Carparking drop off and pick up for the ELC is proposed immediately adjacent to this Centre on its east and is somewhat separated from the majority of carparking on site. Additional parallel carparking is located adjacent to the internal road. The internal access road is separated from the adjoining Lot 21, DP 588129 by a proposed 9m wide landscaped buffer.

The accompanying traffic report nominates Lang Street and Hospital Road/Appleton Avenue as being the predominant access routes to the new school. As previously stated the HRDC considered the application on 16th May 2007. The HRDC considered the following:-

- Traffic analysis;
- Road network;
- Traffic management;
- Vehicular access;
- Carparking/pedestrians/cyclists; and
- Public transport and service vehicles.

Various recommendations were made by the HRDC and the applicant considered and provided additional information to clarify some matters raised. The remaining comments of the HRDC have been considered by Council and applied as proposed conditions of any development consent. Subsequent correspondence from the HRDC confirmed requirements within Northcote Street and reinforced the use of the local road network (Lang Street) as the predominant access to the site.

As outlined above, the RTA required the application of a condition of any consent to restrict any right turn from Appleton Avenue onto Northcote Street, this being on the basis of limited sight distance to eastbound traffic in Northcote Street and possible future increased traffic to the school. The imposition of such a condition would impact existing residents and require those travelling eastbound from south Weston to utilize Boundary Road and Lang Street. Currently there exists a dedicated right turn lane from Northcote Street to Appleton Avenue, this turning movement is to remain unaffected.

The exclusion of right turn movements from Appleton Avenue to Northcote Street will necessitate all eastbound traffic from the south Weston urban area, including future school traffic and hospital traffic, to utilize Lang Street. This will increase traffic at the Hospital Road and Lang Street intersection increasing the need for the prescribed traffic control measures. Left turn into Appleton Avenue and left turn out of Appleton Avenue remain unaffected.

The provision of a raised median to restrict right turn out of Appleton Avenue whilst maintaining right turn into Appleton Avenue from Northcote Street will require specific design requirements. A condition has been applied accordingly.

The HRDC matters considered by Council were:-

- Provision of a roundabout (RAB) at Hospital Road and Lang Street. Currently this intersection is stop sign controlled on Lang Street;
- Reconstruction of Parker Street and Hospital Road frontages with kerb and gutter and drainage;
- Mini roundabout at Parker Street and Appleton Avenue entry to the site;
- Bus drop off turning path/cul-de-sac arrangement in Parker Street;
- Carparking design plans and line marking signage plans; and
- Pedestrian provision for crossings and linkages along Lang Street and internal/external arrangements for cyclists.

The Stage 1 development proposes entry, exit and bus drop off via Parker Street. It is considered that an alternative arrangement exists to better maintain residential amenity, reduce possible conflicts and better service the Stage 1 proposal and the long term development of the site for an educational establishment and ELC.

In summary this alternative proposal would:-

- Maintain the proposed carparking area accessed off Parker Street;
- Provide an internal link from the Parker Street carpark to Hospital Road as a two way private access road; and
- Remove the bus drop off area from Parker Street to Lang Street and provide internal pedestrian pathways to the Stage 1 development.

This scenario removes the bus movements from the residential precinct of Parker Street and locates them from the Stage 1 operation, to Lang Street via the proposed roundabout at Hospital Road/Lang Street. The conditioned mini roundabout at Parker Street and Appleton Avenue will control private vehicles and the entry exit onto Hospital Road is also controlled by conditioned roadworks.

Currently HEZ are seeking approval from Council to lease the unformed section of Lang Street to enable erection of fencing and gates. The alternative access proposal would not adversely impact this lease arrangement as the proposed gate could be moved from Hospital Road to the western end of the constructed Lang Street.

Provision within the Hospital Road roundabout will be made for the future extension of Lang Street under either the current access or proposed alternate access arrangements.

To satisfy the concurrence requirements of Clause 57(5) of Cessnock LEP 1989, the no right turn from Appleton Avenue onto Northcote Street must be imposed by Council, although it is acknowledged there will be some impact on residents of the South Weston area.

Car Parking Facilities

Off street parking can comply with relevant parts of Cessnock DCP 2006 in terms of the number of carparking spaces being provided on site as follows:-

Year	Student/Staff	Total Student/Staff Numbers	Parking Requirements	Parking Numbers
2008	Students Early Learning Centre	50	1 space per 4 students	13
	Staff Early Learning Centre	6	1 space per employee	6
	Students K-Y7	88	1 space per 15 students over 17 yrs old	0
	Staff K-Y12	11	1 space per 2 staff	6
	General office 320m ²		1 space per 35m ²	10
			Total Req'd	35

The site plan for Stage 1 shows that 38 off street carparking spaces are proposed, which exceeds the minimum required under Development Control Plan C1 – Parking and Access. Additionally 21 parallel parking spaces are provided along the internal access road totalling 59 parking spaces within the first stage. Therefore sufficient car parking spaces are provided on site to meet demand for Stage 1 of this proposed development.

Servicing

Sewer and water services are available within the surrounding road network and existing residential precinct of Appleton Avenue and Hospital Road. Appropriate conditions have been applied to meet the requirements of Hunter Water Corporation. Provision of services can be readily extended to the site. Overhead power is available to the land within Hospital Road and Parker Street. Conditions requiring compliance with Energy Australia, Hunter Water and Telstra are applied.

Drainage

The site falling gently from the south east to the north west drains generally in a north westerly direction towards the unformed western end of Parker Street. Kurri Kurri hospital located to the south east of the site sits generally atop the ridge marking the catchment boundary. Hospital Road currently intercepts the upstream external flows and currently discharges these via the unformed Lang Street and also drains into the subject site. The undeveloped site progressively discharges onto the Parker Street formation.

The applicant proposes the collection and treatment of site stormwater within the site prior to discharge. An accompanying drainage and stormwater strategy proposes:-

Water Quality

- Discharges should be in accordance with the Water Quality Management Plan (WQMP) and should not result in any deterioration of water quality.
- Incorporates principles of water sensitive urban design (WSUD) for capture and reuse of roof water.
- Provides a treatment train of measures to reduce pollutants loads to acceptable levels based upon existing current technologies.

Water Quantity

- Reduce developed runoff volumes by maximizing the capture and re-use of roof water.
- Reduce peak development flow rates back to existing pre developed flow rates by detention structures.
- Ensure site discharges are at velocities not conducive to erosion or scour of downstream water courses.

The drainage system proposes a series of roof water tanks, pits, conduits and a grassed basin No. 1 to service the proposed carpark and a lower basin No. 2 to service the entire remaining Stage 1 site. Both basins are linked and located adjacent to Parker Street. Final discharge from the lower basin No. 2, in the event of overtopping, would be via the proposed grassed oval. The basin piped outlet discharges to a grassed drain within the site. Final design of each element within the drainage strategy will be required and is conditioned accordingly.

The drainage strategy does not include contributing catchments outside of the site and given that full road frontage construction with kerb and gutter and associated drainage will be required these external catchments will be catered for within the road drainage. Accordingly no external road catchments will enter the site.

Waste Management

The bin location area for Stages 1 & 2 has been positioned to the south west of the internal accessway to Hospital Road. This internal waste collection area should be relocated well away from the adjoining Lot 21 and this area will need to be adequately screened and maintained in a tidy state at all times. This will be conditioned accordingly. Conditions can be attached to the development consent to ensure that waste bins are serviced outside school operating hours and to minimise noise impacts from trucks. Also this

Social and Economic Impacts

The development proposal will provide a much needed facility for future workers within the HEZ industrial estate which is readily accessible.

The proposal will provide additional as well as alternative educational facilities for not only residents of Kurri Kurri and Weston area but the wider LGA. Key Insights Pty Ltd, Social and Applied Research and Strategic Planning Consultants have prepared a social assessment to evaluate the social impacts associated with the development of the College. This report concludes: "the Department of Education demographics indicate that existing public schools in the Cessnock area are currently at permanent capacity levels, although some have room to expand into temporary / demountable school housing. However even with extensions it is unlikely that current primary schools will be able to cater to population growth associated with the HEZ development. The Department of Education demographer has indicated that a new public school will be necessary, but on preliminary analysis, the proposal is unlikely to require provision of a new high school. Currently there are limited opportunities for non government schooling in the area."

Establishment of educational facilities upon the subject site will have both direct and indirect economic benefits for the local economy. Constructing, operating and maintaining the school will increase employment opportunities in the area, with flow on effects such as increased viability of local bus services, etc.

Therefore this proposed school will provide non government facilities that will benefit the local community providing both social and economic benefits

Cessnock DCP 2006 – Chapter E.6 states that this community uses zone aims to provide flexibility to meet the combined recreational and social needs of the communities to its north and the planned workplaces to its south. In addition there is land where occasional or long day child care services may be located near to bus and commuter routes. Hence there has always been the intention to locate child care facilities to service both nearby residential areas of Kurri Kurri and Weston and the HEZ industrial estate and this development proposal satisfies the intentions of the DCP.

Environmental Management Strategy's

The following Environmental Management Strategy's (EMS) have been adopted by Council including:

- Water Cycle Management;
- Habitat Management;
- Air Quality;
- Energy Management/Efficiency;
- Bushfire Management;
- Lighting, Vibration, Interference and Noise Attenuation; and
- Waste Management and Resource Recovery

The requirements of the EMS documents relevant to the proposed educational establishment and ELC have been considered in the detailed environmental assessment, infrastructure design and mitigative management practices. The proposal is considered to be generally consistent with the objectives and principles of the relevant strategies

Section 94 Contributions

To date a Section 94 Plan has not been completed as the overall Traffic Study for the estate has not been finalised to the satisfaction of the RTA and Council. Given that no plan has been adopted, Section 94 contributions cannot be legally levied on this development proposal. Section 94 contributions will be considered as part of the State Significant Study for the HEZ. In addition the State Government is currently reviewing the provisions of the Environmental Planning and Assessment Act in terms of how Section 94 contributions are levied and this has the potential to impact on any future plan. This site is located at the northern extremities of the HEZ estate and in terms of traffic and other infrastructure is totally different to areas zoned for industrial purposes.

Notwithstanding the above comments the applicant will be required to undertake significant road and drainage works along frontages of the site.

CONCLUSION:

The proposal has been assessed in respect to the Hunter REP, Cessnock LEP 1989, Cessnock DCP 2006 – Chapter E.6 – HEZ and relevant Environmental Management Strategy's and is considered to be an acceptable development for this site and locality. Submissions in respect to this development have been duly considered and where necessary additional conditions have been attached to the development approval to mitigate against any potential amenity impacts.

This development application is for Stage 1 being the ELC and for part of the educational establishment and subsequent development applications will need to be lodged for each Stage which allows Council to closely monitor the development to ensure minimal environmental impacts result onto the surrounding area. This also provides Council with the opportunity to assess the diversion of traffic along Lang Street and away from the South Weston residential precinct to the north.

The HEZ Business Unit's assessment of the development supports approval of this application.

RECOMMENDATION that Council approve Development Application No. 8/2006/299/1 for Stage 1 of the Early Learning Centre and an educational establishment on part of Lot 7 DP 1037092 being off Parker Street and Hospital Road Weston (i.e. off Cessnock Road) generally in accordance with conditions below:

TERMS OF CONSENT

1. The proposed development shall be carried out strictly in accordance with the details set out on the application form, and the Plans numbered and other documentation in following table, the Statement of Environmental Effects dated 31 March 2006 and any other information submitted in support of the application, except as modified by the conditions of this consent.

Document	Prepared By	Dated	Number
Existing Site Plan	TFA Project Group	14.03.08	05130-10 Rev F
Site Plan – All Stages	TFA Project Group	14.03.08	05130-11 Rev F
Site Plan – Stage 1	TFA Project Group	20.04.08	051 30-22 Rev G
Street Elevations	TFA Project Group	14.03.08	05130-13 Rev F
Sediment Control Concept	TFA Project Group	14.03.08	05130- 14 Rev F
E.L.C Building	TFA Project Group	14.03.08	05130- 15 Rev F
Admin/GLA Block			
Ground Floor	TFA Project Group	14.03.08	05130- 16 Rev F
First Floor	TFA Project Group	14.03.08	05130- 17 Rev F
Elevations	TFA Project Group	14.03.08	05130- 18 Rev F
Refuse Vehicle Turning Path	TFA Project Group	1.04.08	05130- 25 Rev F
Statement of Environmental Effects	HSO	31.03.06	23153
Flora & Fauna Assessment	HSO	Feb 2006	23153
Bushfire Threat Assessment	HSO	Feb 2006	23153

Cultural Heritage Assessment	HSO		Feb 2006	23153
Landscape Concept Plan	Aspect P/L	Queensland	March 2006	26002
Drainage & Stormwater Management Strategy	Parsons Brinckerhoff		April 2007	2122642A-PR-0272
Traffic Impact Study	Parsons Brinckerhoff		April 2007	2112402B PR1520
Waste Management & Minimisation Plan	HSO		March 2006	
Social Impact Assessment	Key Insights Pty Ltd		March 2006	
Preliminary Servicing Report	HSO		March 2006	23153
Phase 1 Environmental Site Assessment	Parsons Brinckerhoff		April 2006	2122633A.PR-0189
Mine Subsidence Investigation	Parsons Brinckerhoff		August 2006	2122638A-PR-0515

Note: Any proposal to modify the terms or conditions of this consent, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application under Section 96 of the Environmental Planning and Assessment Act 1979 for Council's consideration. If amendments to the design result in the development not remaining substantially the same as that approved by this consent, a new development Application will have to be submitted to Council.

Reason

To confirm and clarify the terms of Council's approval

2. All building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

Reason

This is a prescribed condition under Section 80A(11) of the Environmental Planning and Assessment Act, 1979.

3. All access crossings and driveways 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

4. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is to be graded to prevent ponding of water and to ensure the free flow of water away from the building and adjoining properties.

Reason

To reduce the risk of environmental and building damage.

5. This consent allows the removal of trees and other vegetation from the site of approved buildings, structures, permanent access ways and carparks. No other trees or vegetation shall be removed or lopped except with prior written consent of Council.

Reason

To ensure that only trees and vegetation directly affected by the development are removed from the site, and to grant approval for such removal.

6. Landscaping works shall be carried out in accordance with the details indicated on the submitted landscape design plan, except as required to be modified under the terms of this consent.

Reason

To ensure that adequate and appropriate provision is made for landscaping of the site in association with the proposed development, to enhance the external appearance of the premises and to contribute to the overall landscape quality of the locality.

7. Should any archaeological sites be uncovered as a result of site clearing works, all work shall cease and the National Parks and Wildlife Service shall be consulted for their requirements.

Reason

To ensure any potential archaeological sites are not destroyed.

8. All vegetation cleared from the site is to be contained within the site for future reuse unless otherwise approved by Council.

Reason

To ensure noxious weeds identified on the site are not transferred.

9. The applicant is to advise 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

10. The collection of waste from the designated waste facility area shall be undertaken outside normal operating hours of the ELC and Educational Establishment to avoid conflicts with vehicular movements throughout the site.

Reason

To ensure safe movement of vehicles throughout the site and minimise amenity impacts onto adjoining properties.

11. Prior to the commencement of any clearing or construction on site, the applicant shall submit evidence to Council that approval for the removal of vegetation has been obtained in accordance with the Commonwealth Environment and Biodiversity Conservation Act 1999.

Reason

To ensure ongoing protection of the environment.

12. Details of activities outside of normal school operations which have the potential to adversely impact onto surrounding residential properties shall require a submission and approval of a separate development application to Council. Buildings and associated facilities to be used for these activities shall be suitably located away from Lot 21.

Reason

To minimise potential environmental impacts onto surrounding properties.

13. The registered proprietor of the land shall take all reasonable measures to ensure that any hollow bearing trees will not be disturbed by fencing activities or construction of access roads.

Reason

To minimise the impact of development on native fauna in the locality.

14. Right turn movements from Appleton Avenue onto Northcote Street shall be prohibited due to the limited sight distance for eastbound traffic in Northcote Street. Such right hand turn movements shall be restricted by the provision of a raised median.

Reason

To ensure the provision of safe vehicular access from the surrounding road network to the development

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

15. The registered proprietors of the land shall comply with all requirements of the Hunter Water Corporation Ltd. The applicant shall submit to Council details of the Hunter Water Corporation's requirements together with a copy of the Corporation's Certificate of Compliance prior to release of the Construction Certificate.

Reason

To ensure that adequate facilities are available for the disposal of sewage waste and to ensure observance of appropriate health standards.

16. The registered proprietors of the land shall provide evidence of satisfactory arrangements having been made with electricity supply authority, telecommunications provider and the Hunter Water Corporation Ltd in regard to any existing installations and proposed connections prior to the release of the Construction Certificate for the development.

Reason

To ensure that adequate electricity supply is provided and that the interests of the energy supply authority are protected.

17. The proposed buildings shall be provided with access and facilities for the disabled in accordance with AS 14281.1. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for the building/s.

Reason

To ensure there is adequate access and facilities for the disabled.

18. The applicant shall provide Council as the Principle Certifying Authority, with a site report from a qualified Geotechnical Engineer detailing the site classification in accordance with the provisions of AS 2870.1 1988, prior to the issue of a Construction Certificate.

Reason

To ensure that the foundation material is adequate to support the loads likely to be imposed upon it by construction of the building.

19. A schedule of external finishes shall be submitted to and approved by Council or the Private Certifier prior to release of the Construction Certificate for the buildings.

Reason

To ensure that the nature and colour of external materials and finishes meet Council's requirements.

20. Lighting of the development shall not project glare onto adjoining properties or roadways. Full details of the lighting illustrating compliance with this requirement shall be submitted to and approved by Council or the Private Certifier prior to release of the Construction Certificate for the buildings.

Reason

To ensure that lighting of the land does not adversely affect the environmental quality of adjoining land nor create a hazard to motorists.

21. Plans showing the extent of excavation and/or filling together with details of the method of retaining, draining and stabilising the disturbed areas shall be submitted to and approved by Council or the Private Certifier prior to issue of the Construction Certificate.

Reason

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

22. The Registered Proprietors shall construct a reinforced concrete access crossings from the kerb and gutter to the property boundary, including laybacks in the kerb, in accordance with Council's Engineering Requirements for Development (available at Council's offices) and Australian Standard 2890.1 & 2 with respect to location, size and type of driveway. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for the buildings.

Reason

To ensure the provision of safe, adequately defined and properly constructed means of vehicular access from the road to the development.

23. All driveways, access corridors and carparking areas are to be designed in accordance with AS2890.1 & 2 - Parking Facilities. The carparking areas shall be constructed with a base course of adequate depth to suit design traffic loadings with an all weather surface treatment, graded and drained in accordance with Council's 'Engineering Requirements for Development'.

(a) Full details shall be provided with an application for a Construction Certificate for the driveways, access corridors and carparking areas.

An engineering design plan of the required parking layout, including necessary drainage, shall be submitted to and approved by the Development Services Manager prior to release of a Construction Certificate for the development.

Reason

To ensure the orderly and efficient use of on-site parking facilities and ensure that adequate provision is made on-site for the loading and unloading of goods.

24. A separate off-street loading/unloading facility with capacity to accommodate the largest delivery vehicle likely to deliver goods to and from the site shall be provided for all loading and unloading of vehicles wholly within the property. Such facility shall be constructed clear of the car parking area and driveways. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for the buildings associated with Stage 1.

Reason

To ensure the orderly and efficient use of on-site parking facilities and that loading and unloading of vehicles does not interfere with the use of public footpaths and roadways.

25. On-site car parking shall be provided for a minimum of fifty nine (59) vehicles and such being set out generally in accordance with Council's Car Parking Code and submitted plans. Full details shall be submitted to and approved by Council or the Private Certifier prior to release of the Construction Certificate for Stage 1.

Reason

To ensure that adequate provision has been made for manoeuvring and parking of vehicles within the development or on the land, to meet the expected demand generated by the development.

26. Three (3) car parking spaces shall be designated and signposted for use by disabled persons for the life of the development. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for Stage 1 buildings.

Reason

To ensure the provision of adequate on-site parking for the disabled.

27. A construction management plan shall be submitted with the application for the Construction Certificate. 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) Details of dust mitigation on building sites and access roads
- (d) Location and phone number of the site office
- (e) 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 Department of Housing 'Soil and Water Management for Urban Developments'.

Reason

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

28. The applicant shall comply with Council's requirements as set out in Council's "Engineering Requirements for Development" document (available at Council's offices). A Construction Certificate incorporating engineering plans are to be submitted to Council for approval by the Development Services Manager with the relevant application prior to commencement of works on site or relative to the development. The payment of appropriate performance bonds in accordance with Council's Fees and Charges will be necessary prior to approval and release of engineering plans with the Construction Certificate.

Reason

To provide appropriate design and standards of engineering works.

29. The applicant shall comply with all conditions and requirements of the Mine Subsidence Board in relation to Stage 1 buildings. Documentation demonstrating compliance with the following requirements shall be submitted to Council or the Private Certifier prior to approval or release of the Construction Certificate:
- (i) Final drawings are certified by a qualified structural engineer to the effect that buildings will be safe, serviceable and repairable taking into account the geotechnical conditions on the site;
 - (ii) Removal of any risk of mine subsidence by a suitable means, such as grouting. Alternatively satisfy the Board by confirming through geotechnical investigations that the workings are long term stable and there is no risk on mine subsidence affecting the site;
 - (iii) The geotechnical investigation must include a sufficient number of boreholes to the floor of the seam and numerical modelling/sensitivity analysis to demonstrate the appropriateness of the strata to support development given the mine workings. The investigation is to contain confirmation of the depth of coal seam. Height of workings, floor conditions and thickness of competent rock, as well as providing details of the pillar dimensions used in any analysis. ISG co- ordinates and measured deviation from vertical are required for any boreholes. The report must be to the satisfaction of the MSB.

Reason

To ensure the proposal meets the requirements of the Mine Subsidence Board.

30. The waste collection area shall be repositioned on site away from adjoining Lot 21 and be suitably screened and maintained in a clean state at all times. Details of the manoeuvring into and out of this area by suitable sized trucks and screening of this waste area shall be submitted to Council or the Private Certifier prior to the approval and release of the Construction Certificate and be satisfactory to the Development Services Manager.

Reason

To minimise potential amenity impacts onto adjoining properties.

31. The applicant shall provide details of fencing along external boundaries of the site and security measures to be implemented including lighting or security patrols to Council or the Private Certifier prior to the approval and release of the Construction Certificate.

Reason

To ensure the development satisfies relevant planning instruments.

32. The applicant shall provide, at their full cost, a 3m height fence incorporating acoustic properties for the full length of the west and south boundaries of Lot 21, DP 588129. Such fencing shall incorporate acoustic panels and components to ensure stability under all normal conditions. Details of this fencing shall be submitted with the Construction Certificate for approval.

Reason

To ensure continued privacy of adjoining land owners.

33. The applicant shall provide details of finished ground and floor levels of all buildings, associated facilities, accessways and parking facilities shall be provided on the Construction Certificate submitted to Council or the private certifier. The accessway and parking facilities adjacent to Lot 21 shall be designed to ensure roadways, etc are lower than adjoining Lot 21.

Reason

To confirm and clarify the terms of Council's approval.

34. A revised landscape plan shall be submitted to Council or the private certifier prior to approval and release of the Construction Certificate for Stage 1 of the development. This plan shall demonstrate landscaping treatments along Parker Street and Hospital Road frontages with the inclusion of semi advanced species and suitable screening adjacent to Lot 21. The landscape plan shall locate all existing mature trees to be retained on site.

Reason

To ensure adequate levels of privacy are retained to this adjoining property.

35. A revised clearing plan for Stage 1 shall be submitted to Council or the private certifier prior to approval and release of the Construction Certificate. This plan shall clearly detail all vegetation to be retained on site particularly mature trees including the provision of asset protection zones in accordance with Condition 36. Clearing of vegetation outside Stage 1 is not permitted unless necessary for approved asset protection zones.

Reason

To clarify the terms of the consent.

36. The following bushfire prevention measures are to be implemented and details are to be provided to Council or the Private Certifier prior to approval and release of the Construction Certificate:
- (i) Both buildings proposed for Stage 1 Childcare Centre & Admin/Junior School are to fully comply with the requirements of Level 1 construction as required by Australian Standard AS 3959 – 1999 Construction of Buildings in Bushfire Prone Areas;
 - (ii) Roofing shall be gutter less or have leafless guttering and valleys which are screened with non corrosive mesh to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
 - (iii) The property around the buildings to the west, north west and extending to the northern boundary, to the distance of 35 metres, shall be maintained as an Inner Protection Area (IPA) and then an additional 15 metres shall be maintained as an Outer Protection Area (OPA) as outlined within Section 4.2.2 in Planning for Bushfire Protection 2006.
 - (iv) The property around the buildings to the southwest, south to a distance of 65 metres, shall be maintained as an Inner Protection Area (IPA) and then an additional 15 metres shall be maintained as an Outer Protection Area (OPA) as outlined within Section 4.2.2 in Planning for Bushfire Protection 2006.
 - (v) The property around the buildings to the east, northeast and extending to the northern boundary to a distance of 35 metres shall be maintained as an Inner Protection Area (IPA) and then an additional 15 metres shall be maintained as an Outer Protection Area (OPA) as outlined within Section 4.2.2 Planning for Bushfire 2006.
 - (vi) Access is to comply with section 4.3.2 Planning for Bushfire Protection 2006.

- (vii) A Bush Fire Evacuation Plan is to be submitted to the NSW Rural Fire Service- Development Control Services for approval. The evacuation plan is to detail the following:
 - (a) Under what circumstances will the complex be evacuated;
 - (b) Where will all persons be evacuated to;
 - (c) Roles and responsibilities of persons co-ordinating the evacuation;
 - (d) Roles and responsibilities of persons remaining with the complex after evacuation;
 - (e) A procedure to contact the NSW Rural Fire Service District Office/NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.
- (viii) A Bush Fire Management Plan is to be prepared that addresses the following requirements:
 - (1) Contact person/department and details;
 - (2) Schedule & description of works for the construction of asset protection zones and their continued maintenance;
 - (3) Management strategies, proposed schedule and description of works of any remnant bushland within the property boundary;
 - (4) Details of access through any gate/fire trail system for remnant bushland areas.

All buildings shall be maintained in accordance with the above specified standards for the life of the development.

Reason

To protect both life and property in the event of a bushfire.

37. The applicant shall prepare and submit to council for approval a full set of engineering design plans incorporating the following:-
- a) Roadworks required for the frontage of Parker Street and Hospital Road including road drainage;
 - b) Pedestrian pathway/cycleway required by from Elford Avenue to Boundary Road and along Lang Street;
 - c) Road signage and line marking plan incorporating all traffic control measures for the site operation including internal and external measures;
 - d) Internal design of carparking, access facilities waste storage and access pedestrian pathways and provision for cyclists;
 - e) Intersection/mini roundabout arrangements at Parker Street and Appleton Avenue;
 - f) Roundabout design comprising rigid pavement at Hospital Road and Lang Street intersection; and
 - g) Bus drop off bay and extensions of Lang Street from Hospital Road to the bus bay.

Such design plans shall be in accordance with Cessnock City Councils Engineering Requirements for development and appropriate Austroads/RTA standards. Design plans shall be submitted for approval with a Construction Certificate prior to commencement of any works.

The application for the Construction Certificate shall not be approved or issued until a Section 138 of the Roads Act approval has been issued for all works within a public road by Council.

Reason

To ensure that adequate and safe access and parking facilities are available to the development.

38. The applicant shall carry out detailed geotechnical investigation of the subterranean mine workings under the site. Such investigations shall be in accordance with the requirements of the Mine Subsidence Board and shall be submitted to Council or the private certifier prior to release of any construction certificate for the site. The investigation shall consider any required ameliorative measures necessary to permit the development.

Reason

To ensure the suitability of the site for the proposed development from mine subsidence.

39. A detailed drainage design for the disposal of roof and surface water from the site, including any natural runoff currently entering the property and connection to the existing drainage system in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices). Such layout shall include existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for the buildings within Stage 1.

Reason

To ensure that on site stormwater runoff is properly collected and conveyed to an appropriate drainage facility.

40. The applicant shall collect all roof and stormwater runoff from the impervious areas on site, and any other drainage entering the site, and discharge it to Council's satisfaction in accordance with Council's 'Engineering Requirements for Development'. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for Stage 1.

Reason

To ensure that on site stormwater runoff is properly collected and conveyed to an appropriate drainage facility.

41. 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 site. Initially, one (1) site visit only is expected for the proposal, 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 \$187.30.

Reason

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

42. The applicant shall lodge payment of fees and contributions as follows:-

Based on a road length of approximately 580 metres. Final bond amounts will be levied on accurate dimensions contained within the engineering plans.

- (i) Road fees - engineering plan checking and supervision of \$ 7506.60.
- (ii) A performance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (transferable).
- (iii) A road maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (refundable).

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts. If no contract price is submitted, Council will estimate the value of construction works.

The fees and bonds shall be payable prior to release of the Construction Certificate for the Civil Works and/or release of the Subdivision Certificate and shall be in accordance with Council's adopted fees and charges current at the time of payment.

Reason

To meet costs associated with the approval of engineering plans and inspection of construction works.

43. The applicant shall pay Detention Basin(s) engineering checking and site supervision fees in accordance with Council's adopted fees and charges prior to release of a Construction Certificate for the site. Council's current fee is \$ 187.00 per basin for basins less than 50m³. Final fee amounts will be levied on accurate dimensions contained within the engineering plans and in accordance with Council's adopted fees and charges current at the time of payment.

Reason

To ensure that the developer meets all costs associated with the approval of engineering plans and the inspection of detention basin works associated with the development.

DURING CONSTRUCTION

44. If the soil conditions require it:-

- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- (b) adequate provision must be made for drainage.

Reason

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

45. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.

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

Reason

This is a prescribed condition under Section 80A(11) of the Environmental Planning and Assessment Act, 1979.

46. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) must be a standard flushing toilet, and
- (b) must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

Reason

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

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

Mondays to Fridays	7.00a.m. to 6.00p.m.
Saturdays	8.00a.m. to 4.00p.m.
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.

48. A container of at least one (1) cubic metre capacity shall be provided and maintained from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste.

Reason

To ensure that waste generated by the building works is contained and does not pollute the surrounding environment.

49. All building materials, plant and equipment is 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.

50. 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.

51. 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 Department of Housing '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.

Reason

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

52. No obstruction is to be caused to Council's footpaths, roads and/or other public area during construction of the development.

No spoil, building materials, excavated or demolition material from the site shall be stored or deposited on the public road, footpath, public place or Council owned property, without prior approval of Council.

Reason

To ensure that construction activity does not interfere with the orderly use of public footpaths, roads or places, or Council owned property.

53. All reasonable measures shall be taken to protect all other vegetation on the site from damage during construction. 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. Areas outside Stage 1 proposed for vegetation retention shall be protected by suitable barriers prior to commencement of works.

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.

54. A representative of the Mindaribba LALC should be present on site during clearing of vegetation and stripping of topsoil from the site.

Reason

To ensure any potential archaeological sites are not destroyed.

PRIOR TO OCCUPATION

55. The applicant shall construct intersection control at the Hospital Road/Lang Street intersection. Such control shall be in the form of a roundabout which complies with Austroads Pt 6. The intersection control shall include provision for pedestrians within splitter medians across both Hospital Road and Lang Street. The works are to be provided prior to use or occupation of Stage 1.

The roundabout shall include provision for a future leg to Lang Street west and cater for Hospital Road south and Hospital Road access.

Reason

To ensure adequate traffic control and public safety of pedestrians.

56. The applicant shall provide intersection control at the Parker Street/Appleton Avenue intersection and the proposed site entry. Such intersection control shall be in the form of a mini roundabout in accordance with Cessnock City Councils requirements and shall incorporate pedestrian facilities along the Parker Street frontage of the site. The intersection control shall be provided prior to use or occupation of Stage 1.

Reason

To ensure adequate traffic control and pedestrian safety for pedestrians.

57. The applicant shall construct kerb and gutter and road shoulder to half road width of both Hospital Road and Parker Street for the full frontage of the development and including both street frontages of Lot 21, DP 588129. Such road construction shall include upright kerb and gutter, piped drainage where necessary and provide special provision at the entry to Lot 21 in the form of kerb blisters or similar and concrete driveway.

Full construction shall be completed to the satisfaction of Cessnock City Council prior to use or occupation of Stage 1 of the school development.

Reason

To ensure adequate provision for traffic control, pedestrian safety and site amenity.

58. Street lighting will be required at the intersection of Appleton Avenue and Northcote Street and shall be designed in accordance with Australian Standard 1158. Details shall be provided to Council prior to the occupation of Stage 1 of the development.

Reason

To ensure the provision of safe and properly constructed vehicular access from the surrounding road network to the development

59. The applicant shall construct an indented bus drop off/pick up bay within the Lang Street frontage of the site. Such bus bay shall have provision for forward turning movements only such as a cul-de-sac arrangement. The design and construction of such a facility shall maintain full footpath width allocation within Lang Street and construction of the full length of Lang Street for Stage 1. The indented bus bay shall be dedicated as public road forming part of Lang Street.

The turning bay shall be constructed prior to use or occupation of the Stage 1 of the development.

Reason

To provide adequate facilities to service the school community.

60. The applicant shall provide a concrete cycleway and pedestrian pathway in accordance with Austroads Pts 13 & 14 from the western end of Elford Avenue and entry to the school within Parker Street along Parker Street and Hospital Road to the existing pathway at Boundary Road, within Lang Street and from the bus drop off bay in Lang Street to link with the pathway in Hospital Road. Such concrete pathway shall be constructed prior to use or occupation of the Stage 1 of the school development.

Reason

To make adequate provision for pedestrians and cyclists attending the school.

61. The applicant shall provide a central raised median within Northcote Street the configuration which shall prohibit right turn movements from Appleton Avenue to Northcote Street. The design and approval of the raised median and lighting shall be in accordance with RTA requirements.

Reason

To improve road safety requirements of the RTA and implement suitable traffic controls.

62. The applicant shall apply to the local traffic committee for approval of any line marking and signage plans associated with the required road works associated with Stage 1.

Reason

To ensure appropriate approval of the signage requirements.

63. The applicant shall, prior to opening of the school for normal operations apply to the Roads and Traffic Authority for the provision of school zone traffic management 40kph speed advisory signage. Such signage shall be installed prior to commencement of school operations for Stage 1.

Reason

To ensure road safety of school students.

64. Prior to the issue of an Occupation Certificate the applicant shall provide Council with appropriate certification to confirm that all of the buildings, other works and associated development have been constructed strictly in accordance with the provisions of the Development Consent and Construction Certificate.

Reason

To ensure that the building and other works have been constructed in accordance with the Development consent and Construction Certificate prior to the issue of the Occupation Certificate and use of the building.

65. Occupation or use of premises for the purposes approved by this consent shall not commence until all conditions of this consent have been complied with and the Occupation Certificate has been issued.

Reason

To ensure compliance with the provisions of the Environmental Planning and Assessment Act, 1979, and Council's terms of consent

66. Construction of all access roads, roadworks (including the removal and restoration of redundant vehicular crossings etc), driveways, access corridors, carparking areas and loading bays, including the provision of appropriate linemarking and other traffic management devices, are to be completed prior to the release of the Occupation Certificate for Stage 1.

Reason

To ensure that adequate provision has been made for vehicle manoeuvring and amenity within carparks.

67. Bicycle parking racks shall be provided prior to the issue of an Occupation Certificate to accommodate twenty (20) bicycles.

Reason

To ensure that provision is made for bicycles to be stored in an orderly, safe and secure manner.

68. The Registered Proprietors shall construct a reinforced concrete access crossing from the kerb and gutter to the property boundary, including a layback in the kerb in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices) and AS 2890.1. The works shall be completed prior to the use or occupation of the buildings for Stage 1.

Reason

To ensure the provision of safe, adequately defined and properly constructed means of vehicular access from the road to the development

69. All fire fighting equipment and construction details to mitigate the impact of bushfires shall be completed or installed prior to use or occupation of the buildings for Stage 1.

Reason

To protect both life and property in the event of bushfire

70. Loading/unloading facilities shall be constructed prior to occupation of the buildings for Stage1.

Reason

To ensure the orderly and efficient use of on-site parking facilities and that loading and unloading of vehicles does not interfere with the use of public footpaths and roadways.

71. The proposed development shall be provided with vehicular access and parking for the disabled in accordance with AS 1428.1. The access shall be provided prior to occupation of the buildings for Stage 1.

Reason

To ensure there is adequate access and facilities for the disabled.

72. All redundant vehicular accesses within the road reserve shall be removed and the footpath, road shoulders and kerb and gutter, where applicable, restored to match existing conditions at no cost to Council prior to use of the building or issue of an Occupation Certificate for the buildings.

Reason

To define site access arrangements in the interests of traffic and pedestrian safety and ensure road efficiency.

73. The vehicular entrance and exit driveways and the direction of traffic movement within the site shall be clearly indicated by means of reflectorised signs and pavement markings prior to occupation of the building and for the life of the development.

Reason

To ensure that clear direction is provided to the drivers of vehicles entering and leaving the premises in order to facilitate the orderly and efficient use of on-site parking spaces and driveway access and in the interest of traffic safety and convenience.

74. The applicant shall show that the development will not increase the limits of upstream and downstream flooding for floods over the range of 1 in 1 year to the 1 in 100 year Average Recurrence Interval (ARI) storm events by the inclusion of on-site stormwater detention controls. A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details of on-site storage and the method of controlled release from the site and connection to an approved drainage system in accordance with Council's "Engineering Requirements for Development".

The detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics.

Note: Construction shall be completed prior to the release of the Occupation Certificate.

Reason

To ensure that the development is adequately drained and will not increase the flood hazard or flood damage to other properties or adversely affect flood behaviour.

75. The registered proprietor of the land shall submit a report and a works-as-executed (WAE) drawing of the stormwater detention basin(s) and stormwater drainage system. The WAE drawings shall be prepared by a registered surveyor and shall indicate the following as applicable:

- * invert levels of tanks, pits, pipes and orifice plates
- * surface levels of pits and surrounding ground levels
- * levels of spillways and surrounding kerb
- * floor levels of buildings, including garages
- * top of kerb levels at the front of the lot
- * dimensions of stormwater basins and extent of inundation
- * calculation of actual detention storage volume provided

The plan shall be accompanied by a report from the designer stating the conformance or otherwise of the as constructed basins in relation to the approved design.

The WAE plan and report shall be submitted to and approved by Council prior to the Occupation Certificate.

Reason

To ensure the stormwater detention system has been constructed in accordance with the design plans.

76. The registered proprietor of the land shall prepare a Plan of Management for the on-site stormwater detention facilities within the development. The Plan of Management shall set out all design and operational parameters for the detention facilities including design levels, hydrology and hydraulics, inspection and maintenance requirements and time intervals for such inspection and maintenance. The plan shall be submitted to and approved by Council for approval prior to the issue of an Occupation Certificate.

Reason

To ensure the on-going maintenance and operation of the on-site stormwater detention facilities in accordance with the approved design.

77. All retaining walls and associated drainage shall be installed and completed prior to use or occupation of the buildings for Stage 1.

Reason

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

78. Premises used for the sale, storage or preparation for sale of food for human consumption shall comply with the provisions of the "Food Act, 1989", the "Regulations" thereunder and the "National Code for the Construction and Fitout of Food Premises.

FOOD ACT REGULATION - Clause 7 (a) (b)

Reason

Any premises in which food is handled for sale must be constructed so that food, equipment, appliances, fittings and packaging materials on the premises are protected from likely contamination and so as to permit the premises to be easily cleaned.

POST OCCUPATIONAL OPERATIONAL REQUIREMENTS

79. All loading and unloading of goods shall take place within the site and not from the footpath or roadway for the life of the development

Reason

To ensure that loading and unloading of goods does not interfere with the use of public footpaths or roadways.

80. The landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and be permanently maintained for the life of the development.

Reason

To ensure that the proposed/required site landscaping works are conserved and properly maintained so as to enhance the overall appearance of the premises and add to the landscape quality of the locality.

81. Collection of waste from the designated waste facility shall be carried out outside school operating hours.

Reason

To ensure that conflicts do not occur with traffic movements associated with the child care and school are minimised.

ADVICE

1. This consent does not authorise the clearing of land in contravention of any other Act or instrument made under an Act concerned with soil erosion, protection of riverbank vegetation or catchment areas or the like, or threatened species, populations or communities.

Prior to any clearing of the subject land the registered proprietor of the land shall obtain any relevant approval required under the Native Vegetation Conservation Act, 1979 and/or the Threatened Species Conservation Act, 1995.

Reason

To ensure the development is carried out in accordance with relevant legislative provisions and Council policy.

2. CHILD SAFETY INFORMATION

Each year in New South Wales approximately 150 children are admitted to hospital with scald injuries caused by hot tap water.

Statistics indicate that 93% of hot tap burns occur in the bathroom. Most household water heaters supply HOT WATER at 65 to 75 degrees Celsius.

At 60 degrees Celsius it takes ONE SECOND for a child to incur third degree burns.
At 50 degrees Celsius it takes FIVE MINUTES for a child to incur third degree burns.

The temperature of hot water delivered to bathrooms can be reduced by installing one of the following devices:-

- (a) a tempering device
- (b) a thermostatic mixing valve
- (c) a temperature control device

Council recommends that one of the above devices be installed during construction to reduce the risk of scalding in the bathroom.

3. The applicant is advised that assessment and approval of this application by Council does not guarantee that the development will comply with the provisions of the Federal *Disability Discrimination Act*. The applicant should ensure that investigations are carried out to determine liability under this Act.

Australian Standard 1428 Parts 1, 2, 3, 4 - Design for Access and Mobility is a comprehensive guide on disability access.

To: ***The General Manager***
Corporate & Regulatory Services
Committee – 7 May 2008

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES

**ACTING DIRECTOR CORPORATE & REGULATORY SERVICES
REPORT NO. 32/2008**

DEVELOPMENT APPLICATION NO:	8/2006/595/3
APPLICANT/OWNER:	MRS W BISHOP
PROPERTY:	LOT 1 D.P 569264, SANDY CREEK RD MOUNT VINCENT
AREA:	3450 SQ M
ZONING:	1(A) RURAL
PROPOSAL:	MODIFICATION OF CONSENT (SEC 96- E.P& A) - AMENDMENT TO LOCATION OF DRIVEWAY ACCESS.

Senior Planning Assessment Officer, Mr Richard Forbes , reports:-

SUMMARY:

An application to modify a consent has been received for an approval issued 9 July 2007 for the erection of a dwelling on Sandy Creek Road, Mount Vincent. The modification under Section 96 of the Environmental Planning & Assessment Act, 1979 seeks to amend the layout of the access driveway to serve the dwelling.

The amendment proposes relocation of the driveway crossing to avoid a drainage gully located within the property and enable direct access to the dwelling.

The original conditions of consent required that vehicle access and parking remain wholly to the west of the drainage gully for environmental reasons. The dwelling is restricted to the useable portion of the lot which is located to the east of the drainage gully.

The relevant condition (condition 9) of Council's consent stated;

"...Note: All driveway and parking areas are to be contained within the western portion of the lot and this consent does not permit any driveway or parking areas to be constructed within the watercourse".

The original planning assessment of vehicle access to the site precluded crossing the drainage gully on the grounds of the adverse environmental impact resulting from the scale of works necessary to construct a permanent vehicle crossing in the drainage gully.

The amendment before Council has avoided the drainage gully by relocating the access onto Sandy Creek Road to the eastern portion of the property. The amended access crossing location lies approximately 40 metres east of the apex of the curve on Sandy Creek Road fronting the development site.

The amended access crossing location has been considered by Council's Traffic Committee and Engineering Assessment Officer and determined to be unacceptable on the basis of traffic safety and compliance with both Council's Engineering Requirements for Development and Australian Standard AS2890.1 – Parking Facilities. The applicant has been advised that the amended access location is considered too dangerous and is therefore not supported.

The applicant has subsequently requested (letter dated 8 April 2008) that Council reconsiders the original driveway layout submitted in conjunction with development application No 8/2002/1072/1 for a pole framed dwelling on the same site which was refused. The planning circumstances under which the 2002 development application was refused remain unresolved and reverting to the original proposal remains unsatisfactory with respect to Council's adopted vehicle access design standards and environmental impacts.

With respect to the two vehicle access options assessed, the relocation of the crossing onto Sandy Creek Road poses an unacceptable risk to traffic safety. Reverting to the layout proposed in 2002 which crosses the drainage gully remains unacceptable for reasons of environmental impact therefore the amendment application is recommended for refusal.

BACKGROUND:

The assessment of vehicle access to the site has been undertaken in conjunction with three previous applications, specifically;

- DA 8/2002/1072/1 for a Dwelling, Refused 18 February 2004.
- DA 8/2006/595/1 for a Dwelling, Approved 20 June 2007.
- DA 8/2006/595/2 for Amended access layout. Refused 7 August 2007.

In each case, two physical constraints to the possible layout of vehicle access have been established;

A vehicle driveway crossing through the existing drainage gully would require extensive earthworks and clearing with unacceptable environmental consequences.

The possible locations for a vehicle access crossing onto Sandy Creek Road are restricted by the lack of vehicle sight distance, topography in the location and the road alignment across the frontage of the site.

The applicant has indicated that they require direct access to the dwelling rather than footway access as approved by Council 20 June 2007. Due to the physical constraints of the site this is not practical to achieve without locating the access onto Sandy Creek Road in an unacceptably dangerous position. The access layout approved by Council 20 June 2007 therefore represents the best planning outcome in the circumstances.

SITE DESCRIPTION:

The site is located on the northern side of Sandy Creek Road, approximately 800m west of the intersection with Rodney Road. The land is a residue parcel of 3450 sq metres created by the original construction of Sandy Creek Road.

The land is characterised by a steep watercourse, a tributary of Wallis Creek, which runs in a north-south direction over the site. The land is predominantly sloping in excess of 22 degrees.

The usable portions of the site are generally constrained by their physical dimensions, slope and proximity to the property boundaries with the eastern portion being the only practical position to locate a dwelling.

The land has a dense covering of mature trees, predominantly eucalypt species. The property has been under scrubbed effectively eliminating the natural understorey.

The property forms part of the roadside vegetated corridor following Sandy Creek Road. Although under scrubbed, the property forms part of an important habitat link to the ecologically significant Bow Wow Creek Gorge.

PUBLIC EXHIBITION:

The application is not required to be notified under the Development Control Plan 2006 or the EP&A Act 1979 as it was considered that the overall development approved in June 2007 remained substantially the same. This is consistent with Council's previous consideration of a Section 96 amendment determined 7 August 2007. (ref 8/2006/595/2)

PLANNING ASSESSMENT: - STATUTORY SITUATION (S79C.a):

The application has been lodged as an amendment under section 96 (2) of the EP&A Act 1979 as the application involves amendment to condition No 9 and the stamped approved plans approved 20 June 2007.

Cessnock Local Environmental Plan

Clause 62 (4) (b)

(4) The Council must not consent to development on land to which this clause applies unless the Council is satisfied that the development:

(b) will allow native fauna to breed, disperse, colonise or migrate (whether seasonally or nomadically) by:

(iii) the clustering of development and the minimisation of driveways.

The site is affected by the designated habitat corridor for the Bow Wow Creek Gorge Catchment. The applicant has requested that Council reconsiders the crossing of the drainage gully as detailed in 2002 which is contrary to Clause 62(4) (b).

The applicant has asserted that the proposal was "on-foot" prior to the adoption of the relevant clause specific to Bow Wow Creek Gorge. If this is accepted, the proposal remains unsatisfactory with respect to Section 79C of the Environmental Planning & Assessment Act due to unsatisfactory impact on the ecological values of the designated habitat corridor (Sec 79C (b) – *Likely Impacts of the Development* .

It is recommended that the proposed modification be refused having regard to both Section 79C of the Environmental Planning & Assessment Act and clause 62 of the Cessnock Local Environment Plan 1989.

Clause 10 – General Development Principals

*(c) (i) buildings should be sited and designed and be of an appropriate scale so as to maintain the rural character of the locality, to minimise disturbance to the landscape through clearing, earthworks, **access roads**, the use of platforms or stilts and other similar construction methods, to maintain slope stability, and to generally fit into their environment to the maximum extent consistent with their being sited to minimise flood and bushfire hazards;*

The proposed crossing of the drainage gully requires a significant amount of excavation for the proposed driveways and turning areas. The result of the excavations is reduced slope stability and the potential for erosion and sedimentation.

RELEVANT D.C.P.'S (S79C.a):

Development Control Plan 2006 – Bow Wow Creek Gorge

Council has the following objectives in Bow Wow Creek Gorge Catchment and Habitat Corridors:

- (a) to conserve the biological diversity of the Bow Wow Creek Gorge Catchment, and
- (b) to conserve the native ecosystems of the Bow Wow Creek Gorge Catchment, and
- (c) to prohibit development that would adversely impact on the conservation of the native ecosystems and biological diversity of the Bow Wow Creek Catchment, and
- (d) to minimise the clearing of native vegetation, and
- (e) to facilitate the movement and survival of native fauna and flora by conserving habitat corridors, and
- (f) to minimise the impact of development on the water quality and quantity of Bow Wow Creek, downstream creeks and river systems, and
- (g) to protect the geological significance of the Bow Wow Creek Gorge, and
- (h) to protect the scenic qualities of land within the Bow Wow Creek Gorge Catchment, and
- (i) to protect the Aboriginal heritage values of land within the Bow Wow Creek Gorge Catchment.

Any crossing of the drainage gully will remain inconsistent with the biodiversity objectives for the Bow Wow Creek Catchment.

Section 79C (c) – Suitability of the site for the development.

The original assessment of the driveway access location concluded;

The proposed access entry/ exit point is extremely dangerous due to poor visibility, the steep approach when exiting the site and its location in relation to the sharp bend in Sandy Creek Road.

The best location for an access to the site is approximately 100 metres to the West where the subject lot narrows considerably.

31 October 2002.

The amendment has involved assessment of amended Engineering plans and preliminary driveway designs prepared by Barker Harle for access to the western portion of the lot.

From inspection of the site and assessment of the plans, the sight distance available to a vehicle leaving the site is estimated to be in the order of 40m, and is partially obscured by trees. Figure 3.2 from AS2890.1 requires a minimum sight distance of 95m for entry to a domestic property in an 80km/h speed environment (note: a minimum sight distance of 105m is preferred).

The report prepared by Barker Harle does not estimate the actual sight distance available. The report only states that adequate sight distance “can be achieved”. As outlined above, this statement is not supported by reference to the adopted design standards.

The amendment is flawed with respect to the preliminary driveway as the assumptions are not based on assessment correct height measurements. . From AS2890.1, “*when checking sight distances, the driver’s eye height and the height of the object (approaching vehicle) are to be taken as 1.15m above the road surface*”. The driver’s eye location should also be moved back from the edge of bitumen to reflect the actual location of the driver eye observing the road.

The proposed access entry/ exit point is dangerous due to its location in relation to the sharp bend in Sandy Creek Road. The sight distance available for a vehicle exiting the site and visibility of the entering vehicle to traffic on Sandy Creek Road does not meet the requirements of AS2890.1.

Council’s Local Traffic Committee have confirmed the assessment and concluded:

“The proposed access location as depicted as Option A on Barker Harle drawings Job No 3289/A dated 28/9/07 is not supported by both the RTA and the Police on safety grounds”

30 January 2008.

It is recommended that Council not support the application to relocate the property access to the eastern portion of the lot due to safety concerns stated above.

Cut and Fill

The extent of clearing and excavation and the potential for slope instability, erosion and sedimentation was a major concern during assessment of the original application and remain so with the amendments.

The Plans indicate the vehicle platform area lies requires batters of 1 in 1 or steeper. From Council’s Engineering Requirements for Development it is desirable to limit fill batters to 1 in 4, or an absolute maximum of 1 in 2.

Removal of Vegetation

Removal of vegetation was a major concern during assessment of the original application. Plans submitted do not address the likely extent of clearing required to construct the amended access.

Pause Platform

The access crossing and driveway for the first 6m within the property is shown at a gradient of 12.5%. Whilst this appears to give numerical compliance with the grade requirements of Section 2.6 of AS2890.1, a gradient of 12.5% is considered too steep to suit a stationary vehicle waiting to exit the property.

To minimise problems associated with entering the traffic in the frontage road, Section 3.3 of AS2890.1 recommends that access driveways have a maximum gradient of 5% between the edge of the road and the property boundary and for a distance of at least the first 6m into the property. If the western access point is to be supported by Council, the pause platform area will not comply with the maximum gradient of 5%.

Driveway Gradient

The reversing manoeuvre from the car port will involve reversing up a gradient of at least 20%, over a crest, then down a gradient of 10%, while negotiating a 5m radius curve. This is not safe and trafficable access to the dwelling.

CONCLUSION

An assessment of the amendment application under section 79(c) of the EP&A Act has concluded that the proposed modification to relocate the driveway access crossing onto Sandy Creek Road or to permit the crossing of the drainage gully will have an unacceptable environmental impact and should not be supported for the following reasons:

- The extent of cut and fill required to achieve the access is excessive and combined with the extent of clearing of mature trees necessary for the proposed development, will contribute to unacceptable risk of waterway pollution, sedimentation and erosion to protected lands.
- The driveway location and design is inconsistent with the provisions of the Cessnock Local Environment Plan 1989, clause 10 and clause 64.
- The driveway location is considered to result in an unacceptable hazard to traffic on sandy Creek Road.

The proposed access entry/ exit point is confirmed by Council's Traffic Committee as being dangerous due to its location in relation to the sharp bend in Sandy Creek Road. The sight distance available for a vehicle exiting the site and visibility of the entering vehicle to traffic on Sandy Creek Road does not meet the minimum requirements of AS2890.1. It would not be in the public interest to support the relocation of the driveway.

The application is inconsistent with the provisions of the Cessnock Local Environment Plan 1989, the EP&A Act 1979 and accepted road design standards. The application is therefore recommended for refusal.

RECOMMENDATION that the application to modify consent for the erection of a dwelling on Lot 1, D.P 569264, Sandy Creek Road Mount Vincent to relocate the property access to the eastern portion of the lot be refused for the following reasons;

- a) The amendment is unsatisfactory with regards to Section 79C – *Likely Impact of the Development* due to adverse impact as a result of clearing and earthworks on flora & fauna within a recognised habitat corridor.
- b) The amendment is unsatisfactory with respect to the objectives for the development of rural land under clause 10 (1) (a) – (c) of the Cessnock Local Environmental Plan, 1989.
- c) The scope of works required by the amendment are unsatisfactory with due regard for Section 79C – *Suitability of the site for the Development* due to the physical constraints imposed by the slope, size and shape of the amendment.
- d) The amended means of vehicle access is unsatisfactory with regard for the public interest due to the adverse effect on traffic safety in the location.

To: **The General Manager**
Corporate & Regulatory Services
Committee – 7 May 2008

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
24 April 2008

OFFICER'S REPORTS

ACTING DIRECTOR CORPORATE & REGULATORY SERVICES REPORT NO. 34/2008

SUBJECT: INVESTMENTS

Financial & Administrative Services Manager, Mr Robert Maginnity, reports:

Details of investments held by Council as at 30 April 2008 are set out below:

I, Robert Maginnity, Responsible Accounting Officer, hereby certify that this report is produced in accordance with Clause 212 of the Local Government (General) Regulation 2005 and all investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and Council's investment policies.

Inv. No.	Amount \$'000	Instru ment	Term	Coupon Date	Maturity Date	Interest Rate %	Interest to Date \$	Form Held With
	2,231	CASH						Commonwealth Bank of Australia
1001o	500	FRN	90	27/05/2008	27/11/2008	9.63%	8,311	Greater Building Society
1010o	500	FRN	92	17/06/2008	15/12/2008	9.51%	5,732	Wide Bay Capricorn Bldg Society
1020o	1,000	CDO	90	5/05/2008	5/05/2008	9.42%	21,933	Credit Suisse First Boston Int.
1029o	1,500	CDO	90	5/05/2008	5/05/2008	9.42%	32,900	Credit Suisse First Boston Int.
1069m	2,000	CDO	92	8/07/2008	8/10/2011	9.89%	12,464	RIMsec
1102i	500	AN	91	17/06/2008	16/12/2010	7.50%	0	Commonwealth Bank of Australia
1126e	500	AN	90	6/05/2008	6/11/2011	9.25%	10,644	Commonwealth Bank of Australia
1132f	500	CDO	92	20/06/2008	20/12/2009	8.78%	4,931	JP Morgan Chase Bank
1133a	1,000	ELD	364	22/12/2008	20/12/2009	7.87%	27,591	Commonwealth Bank of Australia
1138a	500	ELD	365	5/03/2009	5/10/2010	3.00%	2,301	Commonwealth Bank of Australia
1142d	1,000	CDO	91	20/06/2008	20/03/2011	9.08%	9,951	Lehman Brothers
1143a	500	ELD	365	30/06/2008	30/03/2013	4.00%	16,658	ANZ Banking Group
1146c	1,000	CDO	92	20/06/2008	20/06/2010	8.78%	9,862	Merill Lynch International
1147	500	ELD	366	5/06/2008	7/10/2010	6.00%	27,123	Commonwealth Bank of Australia
1149d	500	TD	91	17/07/2008	17/07/2008	8.06%	1,435	Newcastle Permanent B.S.
1161a	500	TD	49	8/05/2008	8/05/2008	7.74%	4,347	Illawarra Mutual Building Society
1165a	500	TD	91	17/07/2008	17/07/2008	8.04%	1,432	Illawarra Mutual Building Society
1167	1,000	TD	92	1/05/2008	1/05/2008	7.70%	19,197	Maitland Mutual Building Society
1168	1,000	TD	93	15/05/2008	15/05/2008	7.82%	16,711	Local Government Financial Services
1169	500	TD	97	22/05/2008	22/05/2008	7.96%	8,178	Illawarra Mutual Building Society
1170	500	TD	107	5/06/2008	5/06/2008	8.16%	7,936	Maitland Mutual Building Society
1171	500	TD	112	12/06/2008	12/06/2008	7.99%	7,552	Newcastle Permanent B.S
1172	500	TD	92	29/05/2008	29/05/2008	7.99%	6,895	Illawarra Mutual Building Society
1174	500	TD	98	19/06/2008	19/06/2008	8.23%	5,412	Newcastle Permanent B.S
	<u>19,731</u>						<u>269,496</u>	

Weighted Average Return on Portfolio (Year to Date)	7.58%
Average 90 day BBSW (Year to Date)	7.20%
Interest on investments matured so far in 2007/08	897,829
Interest on above investments	<u>269,496</u>
	<u>1,167,325</u>

N.B. This amount includes investment returns on Section 94 and Waste Services Funds.

Financial Institution Summary	Amount Held \$'000	Percentage of Total
Commonwealth Bank of Australia	5,231	26.52%
Credit Suisse First Boston Int.	2,500	12.67%
Newcastle Permanent Building Society	1,500	7.60%
Maitland Mutual Building Society	1,500	7.60%
Illawarra Mutual Building Society	2,000	10.14%
RIMsec	2,000	10.14%
Lehman Brothers	1,000	5.07%
Merill Lynch International	1,000	5.07%
Local Government Financial Services	1,000	5.07%
ANZ Banking Group	500	2.53%
Greater Building Society	500	2.53%
JP Morgan Chase Bank	500	2.53%
Wide Bay Capricorn Bldg Society	500	2.53%
	<u>19,731</u>	<u>100.00%</u>

Instrument	Amount Held \$'000	Percentage of Total
Cash	2,231	11.30%
Collateralised Debt Obligation (CDO)	7,000	35.48%
Floating Rate Note (FRN)	1,000	5.07%
Term Deposit (TD)	6,000	30.41%
Equity Linked Deposit (ELD)	2,500	12.67%
Accrual Note (AN)	1,000	5.07%
	<u>19,731</u>	<u>100.00%</u>

RECOMMENDATION that the information be noted.

To: **The General Manager**
Corporate & Regulatory Services
Committee – 21 May 20088

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
5 May 2008

**DIRECTOR CORPORATE & REGULATORY SERVICES
REPORT NO. 35/2008**

**SUBJECT: GOODS AND SERVICES TAX - COUNCIL COMPLIANCE
 REQUIREMENTS**

Financial & Administrative Services Manager, Mr Robert Maginnity, reports:-

The Department of Local Government requires councils to provide an annual certificate confirming compliance with GST legislation. The requirement first applied in the 2004/05 financial year and applies for all future years. This certificate is for the period ending 30 April each year and is provided for the purpose of enabling the Department of Local Government to provide more accurate and current information to NSW Treasury.

In previous years, Council was required to have an independent GST review undertaken and a GST Audit Review Report prepared by an auditor and lodged with the Department of Local Government.

It is no longer mandatory for councils to have their auditors undertake a review of the GST systems and Council can now supply the Department with an annual certificate confirming compliance with GST Legislation. However, a council may, at its own discretion, initiate an external review to support the process.

Council's previous auditors, PricewaterhouseCoopers have previously audited Council's GST systems and on each occasion have provided an unqualified report. Council's GST systems and supporting internal controls continue to be maintained and developed to ensure ongoing compliance with GST legislative requirements.

It is therefore recommended that Council supply the Department of Local Government with a certificate confirming compliance with GST Legislation.

This certificate is to be signed by the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer in accordance with a Council resolution.

RECOMMENDATION that Council endorse the certificate of compliance with GST legislation for the period 1 May 2007 to 30 April 2008.

To: **The General Manager**
 Corporate & Regulatory Services
 Committee – 21 May 2008

D FITZGERALD
**ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES**
8 May 2008

ACTING DIRECTOR CORPORATE & REGULATORY SERVICES
REPORT NO. 36/2008

SUBJECT: 2007/08 LOAN BORROWING PROGRAM

Financial & Administrative Services Manager, Mr R Maginnity, reports:-

Council's loan borrowing program for 2007/8 financial year is for \$500,000. These borrowings are required to fund the continuation of the urban drainage construction program. Approval is now sought to take up these funds.

The borrowing is contained within Council's Management Plan and is also contained in Council's loan borrowing program as submitted and approved by the Department of Local Government. Loan borrowings are within the provisions of Secs 621-624 of the Local Government Act.

Whilst previous Council resolutions have approved the allocation of funds for this program, no specific resolution exists to borrow the required funds and to affix the Council seal to the loan documentation.

Quotes will be obtained from various financial institutions so as to obtain the most advantageous deal for Council.

RECOMMENDATION that:-

1. Council staff negotiate with respective financiers and accept the most financially advantageous offer provided to Council.
2. Council raise a loan facility in the amount of \$500,000 for a maximum period of ten (10) years with a fixed interest rate for the period of the loan repayable by monthly instalments of principle and interest.
3. The Common Seal of Council is duly affixed to the relevant loan documentation.

To: **The General Manager**
Corporate & Regulatory Services
Committee - 21 May 2008

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
8 May 2008

**ACTING DIRECTOR CORPORATE & REGULATORY SERVICES
REPORT NO. 37/2008**

DEVELOPMENT APPLICATION NO: 8/2005/240/2
APPLICANT: ASQUITH & DE WITT P/L
OWNER: MR P TREVILLIEN
PROPERTY: LOT 1 , D.P 770815, 74 CHURCH ST WESTON
AREA: 13.76 HA
ZONING: 2(A) RESIDENTIAL
PROPOSAL: AMENDMENT TO CONDITIONS OF CONSENT
– TWENTY-SIX (26) LOT SUBDIVISION.

Senior Planning Assessment Officer, Mr Richard Forbes , reports:-

SUMMARY:

Council at its meeting of 7 February 2007 granted consent to a subdivision creating twenty-six (26) lots on Lot 1, D.P 770815, Church Street, Weston. The applicant has sought to modify the conditions of consent under the provisions of Section 96 of the Environmental Planning & Assessment Act with respect to conditions for the provision of road infrastructure, a Construction Management Plan, restrictions concerning development over land subject to the 1:100 year ARI flood event and the dedication of land adjoining Swamp Creek as a drainage reserve.

The principle issue in assessment of the modification has been the reduction in the requirements for road work associated with the subdivision. Discussions to date have focussed on the principles of nexus between the scale of the development and the works required.

The satisfaction of community concerns raised in the assessment of the original proposal relied upon compliance with the full extent of the works required by conditions 9, 10 & 11 of the original consent. The original conditions of consent addressed community objections with respect to dust and traffic hazards on Bailey's Lane, the existing unsatisfactory condition of Bailey's Lane and limited prospects of for improvements to be delivered in the short term by further development in the locality. The proposed amendment, if approved, would result in the retention of the existing unsatisfactory vehicle access to the twenty-six lot subdivision without proper regard to Section 79C of the Environmental Planning & Assessment Act .

The amendment proposes a construction limit of 400 metres over the length of Church Street to the intersection of Bailey's Lane. Any improvement to the remainder of Bailey's Lane would therefore rely upon Council and the scale and timing of future development to address the issues of dust and traffic safety raised by community objection to the amendment.

The balance of the proposed modifications, other than road works, were determined to be satisfactory in that they would not substantially alter the intent of the original development consent.

The modifications sought to the means of vehicle access would have the effect of substantially amending the basis on which Council supported the original proposal. The resulting subdivision would not be adequately serviced and the safety and amenity of existing residents significantly affected. It is recommended that the application to modify the original conditions of consent be refused.

PROPOSAL:

The original proposal was approved by Council at its meeting of 7 February, 2007 granting consent subject to conditions. The applicant has proposed to amend the following conditions of consent:

9. *The registered proprietor of the land shall construct a six (6) metre wide seal on an eight (8) metre wide gravel formation from Frame Drive within Bailey's Lane and Church Street to the northern boundary of the subject site in accordance with Council's 'Engineering Requirements for Development' to serve the subdivision. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for the Civil Works.*

Reason

To provide appropriate means of access to the development.

The applicant has indicated that the extent of the works beyond the 400 metres offered from the development site are unreasonable based on traffic figures provided by TPK & Associates in June 2007.

10. *The registered proprietor of the land shall construct the following works along the property frontage to Church Street in accordance with Council's 'Engineering Requirements for Development'. The design is to be submitted on a set of plans, four (4) copies of which shall be submitted to and approved by the Development Services Manager prior to release of the Construction Certificate for the Civil Works.*

- i) Construct concrete roll kerb and gutter on both sides of the road.*
- ii) Construct and gravel road to allow for an 8 metre wide carriageway.*
- iii) Place an 8 metre wide 2 coat bitumen seal.*
- iv) Construct an asphalt cul-de-sac head with a 9.5 metre radius*
- v) Form/topdress/grass seed footpath.*
- vi) Construct drainage works where necessary.*

Reason

To ensure that adequate provision is made for vehicular and pedestrian movements to meet expected demand generated by the development, in accordance with current Council requirements.

The applicant has indicated that the need to provide full construction to include kerb and gutter is unreasonable based on the report provided by TPK & Associates in support of the amendment.

11. *The registered proprietor of the land shall construct the following at the intersection of Frame Drive and Bailey's Lane in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to and approved by the Development Services Manager prior to release of the Construction Certificate for the Civil Works.*
1. *Construct a shoulder widening on the western side of Frame Drive in accordance with Council's standard drawing SD18 for 80 kph speed environment.*
 2. *Construct a left turn treatment in accordance with Austroads Pt 5 'Intersections at Grade' Figure 5.16 desirable" requirements.'*
 3. *Place two (2) coat hot bitumen seal on new works.*
 4. *Construct drainage works as necessary.*

Reason

To ensure the public road facilities are upgraded to an appropriate standard as a result of additional requirements of the development.

The intersection works applied are considered by the applicant to be unreasonable based on the number of lots to be created.

- 15 *A construction management plan shall be submitted with the application for the Construction Certificate for the Civil Works. 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) *Details of dust mitigation on building sites and access roads*
 - (d) *Location and phone number of the site office*
 - (e) *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 Department of Housing 'Soil and Water Management for Urban Developments'.

Reason

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

The applicant has requested that the requirements be met before the commencement of works rather than prior to release of a Construction Certificate for the works.

29. *The applicant shall dedicate all major watercourses as drainage reserves at no cost to Council. The area of required dedication shall be determined by the extent of inundation of the 1 in 100 year Average Recurrence Interval (ARI) flood event or the defined banks of the creek, whichever is the greater. This may require minor adjustments to lot boundaries.*

Note: Major watercourses shall be defined as those watercourses and natural flowpaths that have a flood velocity of 1 m/s and/or a flood discharge of 1m³/s for the 1 in 100 year ARI flood.

The applicant has requested that Council consider an extension of proposed minor filling in order that the restriction mentioned may be removed from the title to each of the lots affected.

- 32 *The applicant shall dedicate all major watercourses as drainage reserves at no cost to Council. The area of required dedication shall be determined by the extent of inundation of the 1 in 100 year Average Recurrence Interval (ARI) flood event or the defined banks of the creek, whichever is the greater. This may require minor adjustments to lot boundary*

Note: Major watercourses shall be defined as those watercourses and natural flowpaths that have a flood velocity of 1 m/s and/or a flood discharge of 1m³/s for the 1 in 100 year ARI flood.

Reason

To ensure the dedication and preservation of all major watercourses within public ownership.

The applicant has asked that the reserve be held in private ownership rather than dedicated to Council as drainage reserve.

A copy of the applicants submission, including an amended traffic study prepared by TPK & Associates and supporting documents are enclosed.

SITE DESCRIPTION:

The development site lies adjacent to Swamp Creek and Church Street, Weston in a locality characterised by small acreages. The area lies to the south of the Gingers Lane precinct which comprises lots of up to 2 hectares and smaller “lifestyle” lots of up to 4000 sq metres fronting Frame Drive and Baileys Lane to the West. The site is to be accessed via Church Street which is unformed and Bailey’s Lane to the Intersection with Frame Drive. Baileys Lane is approximately 740 metres long to the intersection of Church Street which is approximately 400 metres from the subject land.

The existing Bailey's Lane pavement from Frame Drive to Church Street consists of:

- 5m wide gravel pavement for a distance of 200 metres from the Frame Drive intersection.
- The next 145 m (approximate) length is a 3.5m wide sealed pavement.
- The next 145 m (approximate) length fronts "Lonsdale Place", a twelve lot subdivision, and has a 5m wide sealed pavement with roll kerb and gutter on the eastern side.
- The remaining 250m to the intersection with Church Street is a 4m wide gravel pavement.

The Church street section (400 metres) to the subject land is unformed.

The subject land is presently zoned 2(a) Residential, The site is intended to be rezoned under the provisions of the 2008 LEP Amendment to R5 – Minimum Lot size of 4 Hectares. A map of the extent of the proposed amendments is enclosed and indicates the reduction in future lot yield from undeveloped lots in the location should the "backzoning" occur.

PUBLIC EXHIBITION:

The amendment has been notified and exhibited in accordance with Council's Policy. Council received three (3) submissions with respect to the amendment which raised the following issues:

- The local road network is inadequate to serve the needs of the development .
- The conditions imposed by the original consent should not be "watered down" by deletion of the roadwork requirements.

The comments raised are consistent with those considered by Council at its meeting of 7 February, 2007 at which time concerns were raised regarding the capacity of Bailey's Lane to safely handle the additional traffic generation. In addition, the need to seal Bailey's Lane was raised due to the implications of additional dust and noise generation associated with the increase in traffic. The conditions of consent imposed by the original consent directly addressed the issues raised by requiring the sealing of Bailey's Lane.

PLANNING ASSESSMENT:

Section 79C – Environmental Planning & Assessment Act 1979 – Suitability of the site for the development.

The suitability of the site for the approved subdivision relied upon suitable measures being imposed to address the provision of safe and trafficable vehicle access. Based on the RTA's *Guide to Traffic Generating Development* the approved development gives rise to 234 additional vehicle trips per day and 22 peak hour vehicle trips on Bailey's Lane. It is considered that the deletion of the measures proposed to mitigate the impact of this additional traffic would result in the site no longer being suitable by virtue of inadequate road infrastructure..

The following comments relate to the Conditions of Consent that have been requested to be amended by the Section 96 application:

Condition 9

Condition 9 requires the construction of a 6m wide sealed pavement on an 8m wide gravel formation from Frame Drive within Bailey's Lane and Church Street to the northern boundary of the subject site.

In accordance with Council's Engineering Requirements for Development for semi-rural roads the road construction should consist of a 6m minimum wide carriageway and rolled kerb and gutter.

As Baileys Lane serves 18 lots of which 15 may have development potential it would seem reasonable to apportion the costs associated with upgrading Bailey's Lane and Church Street when they develop. The issue is that the current Section 94 Plan specific to contributions for urban road works in the vicinity is limited to providing \$789 (current figures) per additional lot created which will not address the scale of works required in the near future.

At present, there is no mechanism in place to ensure construction of the required works in the immediate future other than where Council undertakes the construction. Council does not have the funds to undertake the construction at this time.

Condition 10

Condition 10 requires the construction of Church Street across the frontage of the subject site to include an 8m wide sealed pavement, roll kerb and gutter on both sides of the road and a sealed cul de sac with 9.5m wide radius.

In accordance with Council's Engineering Requirements for Development for semi rural roads, the road construction should consist of a 6m wide carriageway with rolled kerb and gutter on both sides of the road.

The applicant requests that roll top kerb and gutter be required adjacent to the frontage of the subject site only.

This is considered satisfactory provided the roll kerb and gutter continues around the head of the cul-de-sac to provide effective drainage.

Condition 11

Condition 11 requires the construction of the intersection of Frame Drive and Bailey's Lane in accordance with Council's standard drawing SD18 with an Austroads Pt 5 "Intersections at Grade" Figure 5 "desirable" left turn treatment. A two (2) coat seal is to be placed on all works.

The applicant requests that no additional intersection works be required based on the fact that approximately 100 metres to the south of the intersection on Frame Drive, the single carriageway bridge limits traffic flow in the immediate vicinity thereby removing the need for intersection works.

The basis of determining the type of intersection required to be constructed at Bailey's Lane and Frame Drive was an assessment of the existing traffic generated by the neighbouring lots that gain vehicle access from Baileys Lane and the estimated traffic to be generated by the proposed development.

Once the subject land is fully developed it is estimated that Bailey's Lane would experience a total of approximately 45 vehicle trips per hour. In accordance with the Austroads "Guide to Traffic Engineering Practice" (Part 5: Intersections at grade) the proposed traffic generation from the subject site, in conjunction with the existing neighbouring lots that have direct access from Bailey's Lane, would warrant the construction of a Rural Type "B" intersection at the intersection of Frame Drive and Bailey's Lane.

A Type B intersection as outlined in Condition No. 11 would be costly to construct given the height of the road compared to the adjoining properties; the extent of the existing drainage in the vicinity and the need for retaining walls if land for road widening purposes is not dedicated. The intersection will benefit a number of properties with development potential which may contribute over time to its construction, however, to proceed with the subdivision as originally approved demands a Type B intersection in accordance with Austroads Part 5 "Intersections at Grade".

Condition 15

The applicant's request to amend this condition to require the Construction Management Plan to be submitted prior to the commencement of works rather than the issue of a Construction Certificate is supported. Council presently requires notice to be given of the intention to commence works such that the lodgement of a satisfactory Construction Management Plan may be confirmed prior to any work being undertaken.

Condition 29

The applicant proposes minor filling of Lots 1 – 5 to enable the removal of the requirement to create an 88B instrument over lots 1 to 5 restricting the finished floor height of the future dwellings on those lots to 500mm above the 1 in 100 year ARI level. The filling is of a minor nature and limited to the area at the southern most boundary of each lot. The fill does not extend into the 20 metre riparian buffer zone. The limited extent of the fill has been considered by Council's Roads, Bridges & Drainage Manager and may be dealt with by details submitted in conjunction with Construction Certificate for the Civil works.

Condition 32

The applicant proposes that this condition which requires the dedication of all major water courses as drainage reserves to Council be deleted.

It is in Council's best interest not to add this portion of land to its asset section and retain with the future owner of proposed lot 7. The Integrated Approval conditions imposed under the provisions of Part 3A of the *Rivers & Foreshores Act* controls the likely impact of any future use of the area adjoining Swamp Creek. The issue of ownership/responsibility for compliance with these conditions is not considered critical to the subdivision

CONCLUSION:

The modification to consent would result in unsatisfactory means of vehicle access being provided to the twenty-six lot subdivision. Council's support of the original proposal included the provision of works in the locality which addressed community concerns with regard traffic safety and amenity. In addition, the amendment would have the effect of placing unreasonable demands on Council to construct the required works if the subdivision proceeds. It is recommended that the proposed modification be refused.

RECOMMENDATION that the application to modify development consent 8/2005/240/1 for a twenty-six lot subdivision of Lot 1 D.P 770815 Church Street Weston under Section 96 of the Environmental Planning & Assessment Act, 1979 be refused for the following reasons:-

1. The modification to consent will result in unsatisfactory means of vehicle access to the proposed subdivision contrary to Section 79C of the Environmental Planning & Assessment Act, 1979.
2. The modification to consent will result in unreasonable demands for the provision of services on Council contrary to the provisions of the Cessnock Local Environmental Plan 1989.
3. The modification to consent is not considered to be in the public interest on the basis that it will adversely affect the nature and capacity of the existing road network in the locality.

To: **The General Manager**
Corporate & Regulatory Services
Committee – 21 May 2008

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
12 May 2008