



Vincent Street
CESSNOCK 2325

14 January 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, 23 January 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:

PAGE NO.

(1) APOLOGIES

(2) CONFIRMATION OF MINUTES

Minutes of the Corporate and Regulatory Services Committee
Meeting held on 12 December 2007

(3) DEFERRED BUSINESS

107/2007	8/2007/222/1 - 74 Northcote Street, Aberdare	2
114/2007	Draft Masterplan – Cessnock Aerodrome – Privately Owned Motel Precinct	19
115/2007	8/2007/365/1 – Off John Renshaw Drive, Blackhill	24
116/2007	5/1995/80124/3 – Buttai Quarry Amendment	42

(4) OFFICERS' REPORTS

ACTING DIRECTOR CORPORATE & REGULATORY SERVICES

1/2008	Investment Policy – Policy No. F12.3	52
2/2008	Investment Report	53
3/2008	Loan Borrowing – Cessnock Community Performing Arts Centre	55

(5) QUESTIONS WITHOUT NOTICE

DEFERRED BUSINESS

ACTING DIRECTOR CORPORATE & REGULATORY SERVICES REPORT NO. 107/2007

DEVELOPMENT APPLICATION NO: 8/2007/222/1
APPLICANT: MOBARO PTY LTD
OWNER: GW & SM LISTER AND TW TRETOWAN
PROPERTY: 74 NORTHCOTE STREET
LOT 23 SEC 24 DP 758002 ABERDARE
AREA: SQUARE METRES
ZONING: 2(A) RESIDENTIAL
PROPOSAL: MULTIPLE DWELLINGS 3 UNIT
(CONSTRUCT TWO NEW SINGLE STOREY
UNIT TO THE REAR OF EXISTING
DWELLING)

Report prepared by Senior Planner, Peter Giannopoulos:

The subject site is located on the north side of Northcote Street, Aberdare. A single storey dwelling occupies the site, constructed of timber with a corrugated metal roof. The applicant proposes to retain the existing dwelling and construct two additional dwellings.

The application was notified and six (6) objections were received, including two petitions.

The development complies with the Cessnock Local Environmental Plan and is consistent with the provisions of the Cessnock Development Control Plan 2006- Urban Housing.

The application is recommended for approval.

PROPOSAL:

The applicant proposes to retain the existing dwelling and construct two dwellings behind it. The proposed dwellings are attached by a party wall and have a similar floor plan but mirror reversed. The proposed dwellings are single storey, each with two bedrooms, single garage and a floor space of 95m².

Access to the dwellings is via a single 3 m wide driveway that adjoins the western boundary.

The proposed dwellings are to be constructed of brick with concrete roof tiles. The building design features 'Dutch gables'.

The subject site is located on the north side of Northcote Street, Aberdare, 100m east of Mulbring Street. Rectangular in shape, the site has a width of 20.1m, depth of 50.3m and an overall area of 1012m². The site abuts a lane to the north and residential properties to the east and west.

SITE DESCRIPTION:

The site is sparsely vegetated, much of the site grassed with a few (approximately four) shrubs. Topographically, the site has a slight slope, falling to the west.

A single storey dwelling occupies the site, constructed of timber with a corrugated metal roof.



PUBLIC EXHIBITION:

The application was notified to adjoining properties for 15 days. Six (6) objections were received including two petitions with 26 and 8 signatories respectively. The grounds of objection are:

1. Increase in noise from residents, garbage bins and vehicle traffic
2. Lack of privacy
3. Increase in greenhouse effect
4. Removal of trees and shrubs will affect local birds and small lizards
5. Development will result in water pressure and electricity cuts, there is poor road infrastructure (lack of footpath, kerb and guttering), lack of medical practitioners/good hospital in Cessnock
6. Lack of car parking
7. Lack of open space within and surrounding the development site
8. Developers should pay half the fencing costs
9. Architectural style of the building is poor
10. Children will be playing in the streets

The above grounds are discussed later in this report. The applicant's response to the objections is included in the attachments.

PLANNING ASSESSMENT:

The subject site is zoned Residential 2(a) under the provisions of Cessnock Local Environmental Plan 1989. Development for the purpose of multiple dwellings is permitted only with Development Consent. The development is considered to be consistent with objectives of the zone.

The application has been considered against the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979 and the following key issues have been identified:

Cessnock Development Control Plan

The development complies with the development standards for urban housing contained in Cessnock Development Control Plan 2006 (DCP). The following table provides a summary against the relevant standards in the Urban Housing chapter of the DCP:

Provision	Requirement	Compliance
Open Space		
Area	Min area is 35m ²	Complies - Existing dwelling >100m ² other units will have the minimum of 35m ² .
Dimension	4x4 area	Complies -minimum 4x4 dimension to outdoor areas adjacent to internal living areas.
Connection	Ground level & directly accessible from living area	All units comply.
Screening for privacy	1.8 metre screening	Complies – fencing to 1.8 metres in height.
Building Height and Scale		
Building height	7.2m max height measured to the ceiling level.	Complies - Approximately 2.7metres.
Side and Rear Setbacks		
Side and rear setbacks	1m min for walls up to 3m in height	Complies - proposed setback is 1.5 metres to rear lane 3.1 metres to side boundaries.
Views and Privacy		
Privacy for living room windows	Direct views screened in privacy sensitive zone (9m ground 12m above ground)	Complies.
Bedroom windows	3m line of sight from bedroom windows to driveways/parking	Complies.
Car Parking		
Minimum number of spaces	2 spaces per dwelling with 2 bedrooms or less (x3) 1 visitors for the first 3 dwellings (1)	Complies - 3 residents' spaces and 1 visitors' space proposed.
Dimension	Preferred dimensions	Complies - Parking dimensions in accordance with diagrams in DCP.
Turning	Min 6.5m turning area for garage	Complies - More than 8.5 metres.

Submissions

Below is a discussion in relation to the matters raised by public submission.

Noise

The likely noise that will be generated from the proposed development can be expected to be similar to that currently generated by residential development within this locality. During construction noise will be controlled by way of a condition that restricts the hours of construction. Following occupation of the dwellings, noise will be controlled in the same way as for other residential properties.

Privacy

Being of single storey construction the development will not significantly impact on the privacy of adjoining residents. The proposed buildings will have floor levels that are approximately 1.2 metres above existing ground level but the buildings are well setback from the boundaries with neighbouring properties (the setback is 3.1 metres whilst the requirements of Council's DCP are a minimum of 1.0 metre). The requirement for a minimum fence height of 1.8 metres will ensure that the privacy of the property to the west is maintained. Retaining walls are proposed with a height between 500mm to 900mm, with the fence to measured above finished ground levels.

Greenhouse effects

The new units satisfy the Basix requirements in respect to thermal efficiency and stormwater reuse. The development will also provide for more trees than there are in the existing development.

Loss of vegetation

This development proposes the removal of approximately four shrubs (there are no trees on the site). The loss of the shrubs will be offset by the 40 shrubs and trees (excluding small shrubs) that the applicant proposes to plant

Infrastructure

Hunter Water and Energy Australia have been consulted in respect to the provision of electricity and water.

Energy Australia state that there are two 400Kv transformers in the area, one in Pokolbin Street the other in Curry Street. The transformer that the developer will be required to connect to has been a load check, it is currently operating at a maximum of 432 Amps but has a capacity of 533 Amps. The proposed units are likely to generate 20-30 Amps and Energy Australia are satisfied that the development will not exceed the capacity of the existing supply.

Hunter water have stated:

There are areas of high ground level in Aberdare adjacent to this development which are known low pressure areas and are unable to be supplied with 20m minimum pressure during peak day demands. This is due to the elevation of the properties in respect to the supply reservoirs, Cessnock No. 1 Reservoir and Neath Reservoir.

However, the elevation of the development in question is such that it will be provided with adequate pressures. Furthermore, the additional demands from the proposed development will not deteriorate supply to these existing low pressure areas.

Car parking

The proposed car parking is in accordance with the requirements stipulated in Council's Development Control Plan. As the development meets the parking requirement, car parking cannot reasonably be argued as a ground of refusal. It should be noted that overflow parking is available on the street directly in front of the subject site, sufficient to accommodate two vehicles.

Open space

The provision of open space within the development accords with the requirements of Council's Development Control Plan 2006 (DCP). The existing dwelling has open space that significantly exceeds the 35 square metre minimum area that is required under the DCP. The two new dwellings have private open space areas that meet the minimum area of 35 square metres.

While the open space to the new units could be enhanced by the relocation of the clothes lines, this would place the clothes lines in a less accessible location. The proposed units are relatively small in size (2 bedroom) and will suit individuals who live alone, couples and small families. The expectation is that they are unlikely to be occupied by people with a need for large areas of open space.

Fencing costs

The applicant has agreed to pay the cost of new boundary fencing. A condition is recommended in respect to the applicant bearing the cost of such fencing.

Style of buildings

The objection to the appearance of the development seems to be directed at the style of the new buildings to the rear of the dwelling not the existing dwelling, however both should be considered.

The applicant proposes to retain the existing building, thereby minimising the impact on the streetscape. The existing house will be repainted and the developer will install a new awning to the window on the front elevation and provide new gable treatment. These changes along with the new fencing, driveways and landscaping will refresh the appearance of the site.

The appearance of the new units will not be readily visible from public vantage points. The visual impact of the new dwellings is largely an internal issue that will impact only on the future residents of the units. The impact on other residents who, in order to view the style of the buildings would need to enter the site or look over fences, is considered to be negligible.

Safety for children

Children playing on roads is not a safe practice, regardless of location, density or type of development proposed. This is a matter that cannot be resolved through the approvals process and cannot be used as a ground to refuse this application.

CONCLUSION:

The site is well shaped and appropriately sized for the development. There is no inherent constraint to the subject site, that would otherwise prevent the site being developed as proposed.

The development being proposed is consistent with Council's development control plan including the provisions for multiunit housing. It is considered that there are no significant or particularly detrimental impacts that would result if this development were to proceed. Therefore, it is recommended that the development application be granted conditional approval.

RECOMMENDATION that Development Application 8/2007/222/1 for Multiple Housing on Lot 23 Sec 24 DP 758002, 74 Northcote Street, Aberdare be approved subject to the following conditions:

TERMS OF CONSENT

General

1. The development being undertaken strictly in accordance with the details set out on the application form, any information submitted with the application and the Agcad Plans numbered DA-01 & DA-02 Job No.06-257 as modified by these further conditions.

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. The erection of a building in accordance with a development consent shall **not** be commenced until:-
 - (a) detailed plans and specifications of the building have been endorsed with a **construction certificate** by:-
 - (i) the consent authority; or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:-
 - (i) has **appointed a principal certifying authority**, and
 - (ii) has notified Council of the appointment, and
 - (c) the person having the benefit of the development consent has given at least 2 days notice to the Council of the persons intention to commence erection of the building.

Reason

To ensure the applicant complies with the provision of the Environmental Planning and Assessment Act 1979 (as amended).

3. 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.

4. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates:-
- (A) in the case of work for which a principal contractor has been appointed:
 - (i) has been informed in writing of the name and licence number of the principal contractor, and
 - (ii) where required has submitted an insurance certificate with the name of the insurer by which the work is insured under Part 6 of that Act,
 - (B) in the case of work to be done by an owner-builder:
 - (i) has been informed in writing of the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, has submitted a copy of the owner builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause 1 of this condition becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development has been given written notice of the updated information.

Reason

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

5. The driveways will be finished in two tones with the parking space and driveway as marked in red on the stamped plan to be a different colour to the rest of the driveway.

Reason

To reduce the visual dominance of the driveway.

6. All boundary fencing to be replaced at the expense of the developer. The new fencing must be, where the fence is beyond the building setback, a minimum height of 1.8 metres above the existing or proposed ground levels (whichever the higher) if there are retaining walls on the boundary the 1.8 metre height is to be measured above the retaining wall

Reason

To provide privacy and reduce impacts to adjoining properties

7. All driveways, access corridors and car parking areas are to be designed in accordance with AS2890.1 & 2 - Parking Facilities. The car parking areas shall be constructed with reinforced concrete, graded and drained in accordance with Council's 'Engineering Requirements for 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.

Building Construction

8. Excavations or filling against boundaries are to be adequately retained by retaining walls.

Reason

To reduce the risk of damage to adjoining properties.

9. A building waste enclosure having a minimum size of 1800mm square by 1200mm high being provided on the site prior to the commencement of any work. It is to be constructed with 'star' picket corners and weed control mat sides, or equivalent. The matting is to be securely tied to the pickets.

Reason

To control wind blown litter.

10. Development shall be undertaken strictly in accordance with all commitments specified in the current BASIX Certificate.

Reason

Compliance with the Environmental Planning and Assessment Regulation 2000.

Access, Car parking and Loading Arrangements

11. 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

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

General

12. Evidence shall be submitted to Council that the registered proprietors of the land on whose behalf the application was made have complied with the requirements of Section 50 of the Hunter Water Board (Corporatisation) Act 1991. Such evidence shall be submitted Council prior to the release of the Construction Certificate.

Reason

To ensure compliance with the Hunter Water Corporation requirements for the supply of water and sewerage to the new dwellings created.

Drainage and Flooding

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

Reason

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

14. The registered proprietor of the land is to provide a stormwater detention facility within the boundaries of the site to reduce the peak stormwater discharge from the developed lot to that of the peak stormwater discharged from the undeveloped lot for all storm events from the 1 in 1 year to the 1 in 100 year Average Recurrence Interval (ARI) storm event. 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 the existing stormwater pit in Northcote Street 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. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate

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.

Fees, Development Contributions, Monetary Bonds, Dedication of Land

15. A monetary contribution is to be paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of public amenities and public services in the contribution types below.

CONTRIBUTION TYPE	\$
District Open Space	1152.00
District Community Facilities (Halls)	703.00
District Community Facilities (Libraries)	189.00
District Community Facilities (Bushfire)	53.00
District Roads – Urban Areas	863.00
Studies (Plan Preparation)	65.00
Plan Administration	251.00

At this time the total contribution required is \$3276.00 and is to be paid prior to the release of the Construction Certificate.

NOTE:

- i) A copy of the Residential Section 94 Contributions Plan may be inspected at Council's Customer Services Section, Administrative Building, Vincent Street, Cessnock or can be accessed on Council's Website:
www.cessnock.nsw.gov.au
- ii) The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index – All Groups – Sydney. Indexation of contributions for payment occurs quarterly, on the first working day of December, March, June and September

Reason

To assist the Council in meeting the expected increased demand for public facilities and services arising as a consequence of the proposed development, and to ensure that the real value of contributions is not deflated by price movements.

DURING CONSTRUCTION

General

16. 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.

17. Prior to commencement of any works within the road reserve for the provision of services, the applicant or their nominated contractor shall obtain a road opening permit from Council's Roads, Bridges and Drainage Section. Reinstatement of the road shall be to the satisfaction of Council's Roads, Bridges and Drainage Manager prior to the issue of an Occupation / Subdivision Certificate.

Reason

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

Building Construction

18. 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.

19. 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.

20. 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.

21. 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 1.00p.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.

22. 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.

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

Reason

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

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

Reason

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

Site Works

25. 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" and Landcom's "Managing Urban Stormwater – Soils and Construction, Edition 4". 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.

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

Reason

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

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

Reason

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

28. 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.

PRIOR TO OCCUPATION

General

29. Evidence shall be submitted to Council that the registered proprietors of the land on whose behalf the application was made have complied with the requirements of Section 50 of the Hunter Water Board (Corporatisation) Act 1991. Such evidence shall be submitted Council prior to the release of the Occupation Certificate.

Reason

To ensure compliance with the Hunter Water Corporation requirements for the supply of water and sewerage to the new dwellings created.

30. The Registered Proprietors shall construct a 5.5m wide 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 Australian Standard 2890.1 & 2 with respect to location, size and type of driveway.

Reason

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

Building Construction

31. 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.

Access, Car parking and Loading Arrangements

32. The proposed visitor parking bays shall be clearly indicated by means of signs and/or pavement markings for the life of the development.

Reason

To encourage the use of the proposed on-site car parking facilities and thereby minimise kerbside parking in the adjacent public road as a result of the proposed development.

Drainage and Flooding

33. 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 Occupation Certificate.

Reason

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

34. The registered proprietor of the land shall ensure that connection of the stormwater drainage to the kerb inlet pits in Northcote Street is carried out in accordance with the following:

- (a) the connection point into the existing drainage pipe will be required to be sealed by the use of mortar ensuring that no material can enter the drainage system around the connection point. The connection of the PVC pipe is to be flush with the interior of Council's drainage pipe so that there are no obstructions within Council's drainage pipe.
- (b) Any excess mortar or concrete rubble caused from the connection into the pit is to be removed at the expense of the person/s undertaking the works from both the footpath and from within the pit.
- (c) When working within the footpath, appropriate signage is to be displayed warning pedestrians of the works. The owners of the above property shall hold Cessnock City Council indemnified against any claims arising out of damage or injury to property or persons in the performance of the proposed works.
- (d) Any disturbance to underground services is to be restored / replaced at the expense of the person/s undertaking the works.
- (e) All disturbed areas within the footpath are to be restored to at least the condition before the commencement of any works. This expense is to be borne by the owner of the property.

- (f) An inspection of the stormwater connection into the pit will be required by a Council employee. The Subdivision and Engineering Co-Ordinator shall be notified at least 48 hours before the time of inspection.
- (g) All works are to be carried out in accordance with Cessnock City Council's 'Engineering Requirements for Development.'

Construction works are to be completed prior to the use or occupation of the development.

Reason

To ensure that adequate connection to the Council stormwater system is provided and Council's drainage asset is preserved, in accordance with current Council requirements.

35. 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.

Development Contributions, Monetary Bonds, Dedication of Land

36. The registered proprietors of the whole of the land shall, prior to endorsement and release of the Occupation Certificate at their costs and expense, enter a positive covenant over all of the land comprised in the development providing as follows:-
- a) *Covenanting with the Council (the prescribed Authority) to at all times at their costs maintain, repair and keep the on-site stormwater detention facilities in a good and safe condition and state of repair in accordance with the approved design to the reasonable satisfaction at all times of the said Council having due regard to the Plan of Management for the operation and maintenance of the on-site stormwater detention facilities in accordance with Condition No (17), and*
 - b) *Providing that the liability under the said Covenant will jointly and severally bind the registered proprietors of the proposed dwellings, and*
 - c) *Providing that the Cessnock City Council (the prescribed Authority) will be the person entitled to release or modify the Covenant.*

All costs associated with the Covenant, including any legal costs payable by Council, are to be paid by the owner on whose behalf the applicant has lodged the application.

Reason

To ensure that on-site stormwater detention facilities are maintained to an appropriate standard.

ADVICE

1. Where Council is the Principal Certifying Authority 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.

2. 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 \$492.00 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.

3. 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.

To: ***The General Manager***
Corporate & Regulatory Services
Committee – 12 December 2007

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
2 November 2007

MOTION **Moved:** Councillor Smith **Seconded:** Councillor Parsons
797 (12/12/2007)

RECOMMENDED that Development Application 8/2007/222/1 for Multiple Housing on Lot 23 Sec 24 DP 758002, 74 Northcote Street, Aberdare be **DEFERRED** until the next meeting of Council, due to the report being the subject of an address to Council earlier in the evening.

CARRIED

ACTING DIRECTOR CORPORATE & REGULATORY SERVICES
REPORT NO. 114/2007

SUBJECT: **DRAFT MASTERPLAN – CESSNOCK
AERODROME – PRIVATELY OWNED MOTEL
PRECINCT**

OWNER: **HUNTER VALLEY ACCOMMODATION
CENTRE**

PROPERTY: **LOT 210, DP 559578, 453 WINE COUNTRY
DRIVE, POKOLOBIN**

AREA: **3 HECTARES**

ZONING: **5(E) SPECIAL USES (AERODROME) ZONE**

Kerry Porter, Acting Development Co-ordinator, reports:

SUMMARY:

A draft master plan for the privately owned motel precinct at the Cessnock Aerodrome has been prepared on behalf of Council by Planning Consultants Andrews Neil Pty Ltd (see enclosures for copy of draft masterplan). This masterplan is required to be prepared and adopted by Council under the provisions of the Cessnock Development Control Plan No. 2006 - Part E.7 (Specific Areas) - Cessnock Aerodrome, prior to approval of any development application for the site.

The masterplan provides “conceptual” development guidelines, in addition to some design standards, to ensure that future development of the site is predominantly for tourist-related purposes, consistent with the desired character of the Vineyards District and surrounding rural area, and provides good integration with the existing Aerodrome and Visitor’s Centre.

It is recommended that prior to the masterplan being adopted, Council inspect the site with Council staff (and Council’s Planning Consultant Andrews Neil Pty Ltd) to gain an understanding of the site conditions that have led to the recommendations contained within the draft Masterplan document.

BACKGROUND

On March 23, 2005 a draft Master Plan for the privately owned motel precinct (at the Cessnock Aerodrome) was lodged by Harper Somers O’Sullivan (on behalf of the owners of the site – Hunter Valley Accommodation Centre). At the same time, a development application for the associated new hotel building (on the same site) was also lodged.

Council held several meetings with the applicant prior to lodgement of the masterplan and DA for the site where it was advised that the design of the masterplan and hotel building did not comply with development guidelines contained within the DCP for the Aerodrome, nor the adopted design guidelines for the privately owned motel precinct.

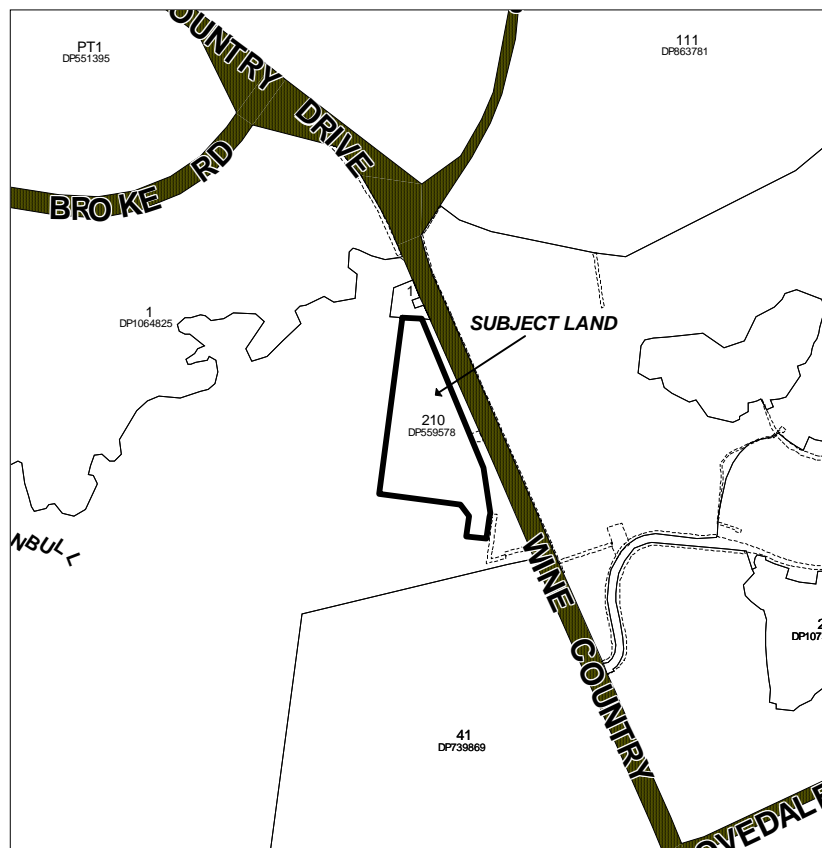
Notwithstanding Council’s advice, the masterplan and DA were lodged (unamended) and the applicant has been reluctant to amend the design over the past 2 years to comply with the DCP. During this time, an independent planning assessment of the proposal was undertaken (at the request of Council) by Planning Consultant Andrew Martin. This independent assessment also concluded that the proposed masterplan and DA failed to satisfy the objectives of Council’s LEP 1989, DCP for the Cessnock Aerodrome and adopted design guidelines for the privately owned motel precinct.

In order to progress the matter, Council engaged an independent Planning Consultant in early November 2007 (Andrews Neil Pty Ltd) to review the work undertaken to date and to finalise the masterplan document for the site.

SITE DESCRIPTION:

The subject land is located on the western side of Wine Country Drive, is approximately 3 hectares in area and is located adjacent to the Hunter Valley Wine Country Tourist Information Centre. The site is immediately adjoined by the Cessnock Aerodrome to the south and west. The land is currently occupied by a motel, with associated swimming pool, tennis courts and backpacker accommodation.

The subject land is located within the primary gateway to the Vineyards District and falls within a visually significant area, as identified under Council's Development Control Plan 2006 Part E (Specific Areas) – E.3 - Vineyards District.



PURPOSE OF THE DOCUMENT

The purpose of the Masterplan is to ensure the vision and objectives for the Cessnock Aerodrome can be achieved. The vision for the Cessnock Aerodrome is for*“a well planned and serviced aerodrome facility managed in a manner which attracts new and environmentally responsible economic development opportunities to the Cessnock region.”*

The specific purposes and objectives of the Masterplan are to:

- Ensure that the land is developed for tourist-related purpose which are complimentary to / consistent with the design scale of and / or form and / or materials used in the Hunter Wine and Visitors Centre.
- Ensure development on and near the Aerodrome is consistent with the desired character of the Vineyards District and surrounding rural area.
- Encourage moderate growth in the standard of infrastructure available.
- Encourage appropriate ancillary development related to the Aerodrome and to the Wine Interpretive Centre while protecting sensitive existing surrounding development from adverse environmental impact.
- Provide design guidelines for certain development to ensure development on and near the Aerodrome responds to the principles of environmentally sustainable development and becomes a model for implementation of those principles and;
- Retain and enhance (where approximate) existing vegetation.

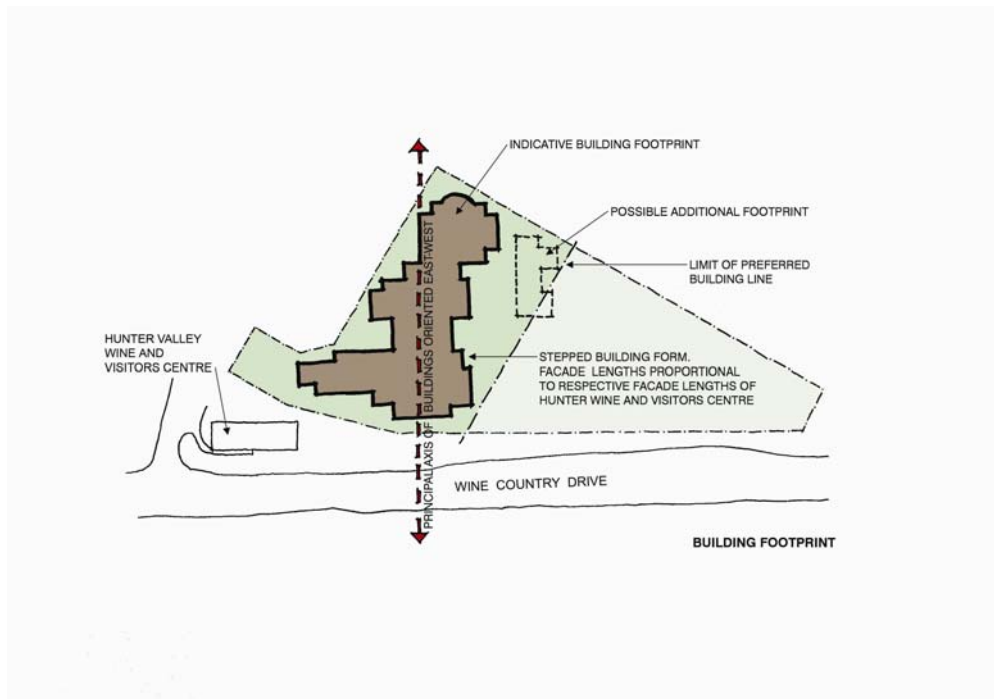
KEY DESIGN ELEMENTS OF THE MASTERPLAN

The masterplan separates the subject land into two (2) areas: building zone and view corridor.



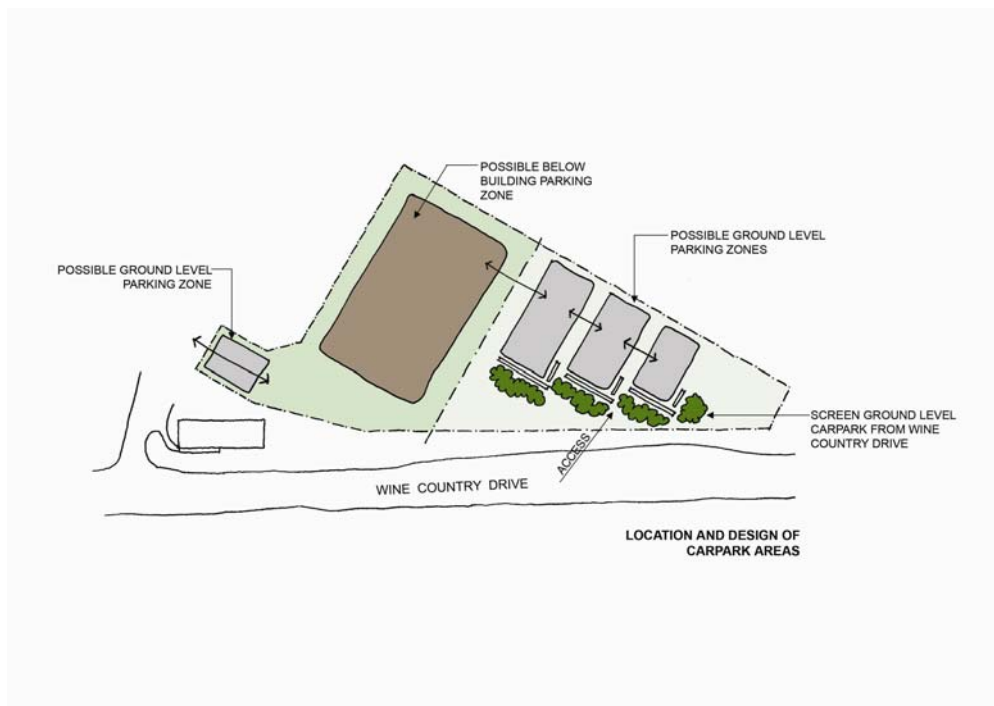
The building zone will contain all buildings while the view corridor will be restricted to parking and landscaping to preserve the view corridor to distant hills currently available across the site from Wine Country Drive.

Building heights in the building zone will be restricted to a mix of single and double-storey forms and there will be restrictions on unarticulated lengths to provide visually interest.



Parking areas are to be adequately landscaped and screened from Wine Country Drive to preserve the visual significance of this particular location.

A separate access point into the site from Wine Country Drive is also proposed to relieve congestion at the main entry point to the existing Aerodrome. This separate access point has been encouraged in the past by both the RTA and Local/Regional Traffic Committees. However, the exact location and design of this entry will be subject to further assessment upon lodgement of the associated development applications for re-development of the site.



CONCLUSION

It is considered that the recommendations contained within the draft Masterplan for the privately owned motel precinct at the Cessnock Aerodrome are consistent with the overall vision and objectives of DCP 2006 (Part E.7 - Cessnock Aerodrome DCP) and the adopted design guidelines for the site. The masterplan gives strong consideration to the visual significance of the site, the relationship with the adjacent Aerodrome, Visitors Centre and is sensitive to the overall character of the surrounding Vineyards District.

RECOMMENDATION that Council defer consideration of the Masterplan for the Cessnock Aerodrome - privately owned motel precinct, to the Council Meeting to be held on 23 January 2008 to allow all Councillors to undertake an inspection of the site with Council staff and Planning Consultant Andrews Neil Pty Ltd to gain an understanding of the site conditions that have led to the recommendations contained within the draft Masterplan document.

To: **The General Manager**
Corporate & Regulatory Services
Committee – 12 December 2007

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
4 December 2007

MOVED **Moved:** Councillor Parsons **Seconded:** Councillor Smith
797 (12/12/2007)

RECOMMENDED that Council **DEFER** consideration of the Masterplan for the Cessnock Aerodrome - privately owned motel precinct, to the Council Meeting to be held on 23 January 2008 to allow all Councillors to undertake an inspection of the site with Council staff and Planning Consultant Andrews Neil Pty Ltd and the Owner to gain an understanding of the site conditions that have led to the recommendations contained within the draft Masterplan document.

CARRIED

**ACTING DIRECTOR CORPORATE & REGULATORY SERVICES
REPORT NO. 115/2007**

DEVELOPMENT APPLICATION NO: 8/2007/365/1
APPLICANT/OWNER: COUNTY PROPERTY HOLDINGS PTY LTD
PROPERTY: LOT 75, DP 755260 OFF JOHN RENSHAW
DRIVE, BLACKHILL
AREA: 128.5 HECTARES
ZONING: RURAL 1(A)
PROPOSAL: USE OF EXISTING ROAD TO HAUL GRAVEL
ASSOCIATED WITH REHABILITATION OF
QUARRY

Senior Planning Assessment Officer, Mr Rod Sandell, reports:

SUMMARY:

Application has been received to use an existing road off John Renshaw Drive to haul gravel from the Benwerrin quarry. The proposal is associated with the rehabilitation of the quarry. The proposal represents designated development and the accompanying Environmental Impact Statement and rehabilitation plan have been advertised in accordance with the Act with an extension for submissions being granted until 9 November 2007.

A total of twenty three (23) submissions have been received from local residents objecting to the application. The submissions have been considered in the following report.

Both the subject site and that of the adjoining site (Lot 76) which is also subject of a report to Council (and now also owned by the applicant company) have an associated and close history and should be read in conjunction with each other.

The application has been recommended for approval.

PROPOSAL:

The applicant has advised that the proposal involves the use of an existing road to haul gravel associated with the rehabilitation of a quarry operating from the subject site. The haul route is also to be used for the transport of additives used in a blending process to stabilise gravel for use as roadbase external to the site.

The application has been accompanied by a Rehabilitation Plan. Part of the rehabilitation process will involve "benching" the existing quarry face. The Rehabilitation Plan indicates that benches will be established at approximately 12 metre levels, commencing at the quarry floor level. The benching process will involve the extraction of quality gravel material from the quarry face. The applicant has further advised that "*gravel material to be removed from the quarry will be from **benching operations only** associated with the proposed quarry rehabilitation and the proposal **does not** seek to expand the quarry or the base of the quarry wall.*"

Additional details of the proposal include:-

- a) Daromin Engineering Pty Ltd estimates that there is approximately 350,000m³ of gravel and overburden to be removed from the site as a result of the rehabilitation process.
- b) Based on the extraction of approximately 70,000m³ per year, it is anticipated that the time frame would be in the order of 5 -7 years depending on demand.
- c) Drilling and blasting will be used to fragment fresh rock. Blasting is to occur between the hours of 9.00am and 3.00pm twice per week
- d) Machinery to be used in the extraction operation include a pug mill, a Cat 330 hydraulic excavator, a Cat966/972 front end loader, a mobile drilling rig, an hydraulic rock breaker, a mobile primary and secondary crusher, a water cart, a dump truck and a grader, scraper and Cat D7/D9 bulldozer for part time use.
- e) Truck movements associated with the quarry operation during peak demand periods are envisaged to be a maximum of 60 loads/day or 120 truck trips/day for material transportation.
- f) Hours of operation of the proposed quarry and haul route will be between 7.00am and 6.00pm Monday to Saturday.

BACKGROUND:

The subject land has been used intermittently since 1949 for coal mining activities and in more recent years as an open gravel quarry. The Buchanan Borehole Colliery was established on the site in 1947 and mining ceased in 1956.

Development Consent for a gravel quarry and service roads (Development Application No. D74/73/3) was granted by Council on 2 March 1973. The consent contained a requirement that stated, *provided that the area which is being quarried is reinstated to the satisfaction of Council when the quarrying operations are completed.* Access to the quarry was approved through Lots 41, 42 and 94 and then via Lings Road through to John Renshaw Drive.

A new application for consent (Development Application No. D74/74/44) for an open cut coal mine on Lot 75 was granted approval by Council on 4 September 1980. The Department of Mineral Resources notified owners on 20 January 1994 that Coal lease no. 207 in respect to coal mining operations at the Benwerrin mine site had been cancelled.

The access route now proposed to be used in the present application is via Old Buttai Road which was originally surveyed and dedicated to the public on 9 January 1974. The remaining portion of the access road is a Crown Road reserve.

Council's records indicate that the access route may have been used prior to this time to haul coal from Lot 75. The access route has been used at times since 1974 to haul both gravel and coal from Lot 75 however no formal agreement to haul gravel has become evident. Further, such access was located through Lot 74 prior to its subdivision in 1997 and only partly within the Crown Road reserve.

RECENT HISTORY

In October/November 2005 Council received complaints that the present owner/operator had undertaken roadworks within the Crown reserve road immediately to the west of the two dwellings on Lots 741 and 742 DP 876393 and other earthworks within the quarry. The roadworks extended the gravel road construction from the access to the two dwellings to the northern boundary of Lot 75 thus providing access to that lot. In addition, earthworks had been undertaken above the highwall in the south-eastern corner of the site so that the new earthworks could be clearly seen from John Renshaw Drive.

The owner/operator subsequently agreed to cease further work on the site and to enter into discussions/negotiations with Council officers on the further development of the subject site and the quarry development on the adjoining Lot 76. This application and an amendment to the quarry development on Lot 76 are as a result of those discussions/negotiations.

SITE DESCRIPTION:

The subject site is located off John Renshaw Drive and then via Old Buttai Road. It is situated approximately 10 kilometres south of East Maitland and 2.5 kilometres south of John Renshaw Drive and on the western side of Lings Road.

Lot 76 has an area of approximately 128.5 hectares and remains as a vacant site with a large open gravel quarry and several dams located towards the eastern side of the site. Some evidence is also available on the site of previous coal mining activity although rehabilitation work on the site has been undertaken by the Department of Mineral Resources. The site has been substantially degraded due the mining and quarrying activities that have occurred on the site since the 1940's.

PUBLIC EXHIBITION:

The proposed designated development was advertised for an initial period of thirty (30) days from 22 September 2007 until 23 October 2007. This period was extended during the exhibition period until 9 November 2007. A total of twenty three (23) submissions were received from residents of the Blackhill area.

A submission was received from the two (2) community groups involved (The Black Hill Environment Protection Group and The Buttai Community Development Group) together with submissions from the owners of Lots 741 and 742 who are most affected by the proposal. In summary the local community's' objections have been based on the following seven (7) themes:-

- 1) The current application is completely misleading as it contains a number of inaccuracies and omissions including:-
 - a) The Executive Summary states that *"the proposal involves the use of an existing road to haul gravel.....* This statement is incorrect as there is no "existing haul road for gravel.
 - b) The application pretends that there is a fully operational quarry on Lot 75 when in fact the quarry has been abandoned since the late 1980's.
 - c) No reference is made in the application to the relationship between the approved quarry on Lot 76 and the proposal given that both sites are owned by the same or related companies.
 - d) No quarry products exist on Lot 75 and the approved haulage route is no longer available. Access has been illegally provided to Lot 75 and previous rehabilitation work undertaken relates to coal extraction activities.

- 2) All aspects of the development need to be considered together not the haulage route in isolation and a full environmental assessment for rehabilitation on Lot 75 is needed.
- 3) The proposed haulage route is illegal, inequitable, dangerous and unacceptable for the two (2) owners and families of Lots 741 and 742 who purchased these properties in good faith.
- 4) The application is misrepresented as a “rehabilitation project” due to the amount of material to be removed from the site and the number of truck movements involved.
- 5) The cumulative impact of the proposal with other nearby quarry and mining developments including the approved gravel quarry on Lot 76 have not been considered.
- 6) Inadequate community consultation has been undertaken by the developer.
- 7) It is not possible to satisfactorily monitor the environmental impacts arising from two quarries operating beside one another under different consents and therefore standards.

These matters will be addressed in the following report.

STATUTORY CONTEXT

The proposal represents “designated development” under Schedule 3, Part 2, Clause 35 of the EP & A Regulations, 2000. The establishment of an alternative haulage route results in a significant increase in the environmental impacts of the development compared to the approved development. These impacts include the proposed location of the haul road in close proximity to two (2) dwellings which will potentially increase environmental impacts including noise, dust and vibration for the residents of those dwellings and the construction of an intersection of the haul road with John Renshaw Drive, a classified State Road.

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:

a) The Provisions of any Environmental Planning Instrument

State Environmental Planning Policy No. 11 – Traffic Generating Developments

The applicant has submitted a Traffic Impact Assessment for the proposal in accordance with the above policy for consideration by the Local Traffic Committee and Roads and Traffic Authority (RTA). The Local Traffic Committee has recommended dust abatement sealing works be undertaken along the haulage route and the RTA require an upgrading of the intersection of Old Buttai Road with John Renshaw drive.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

The proposed development does not seek to clear any significant vegetation and therefore no Koala habitat will be affected by the proposal.

Hunter Regional Environmental Plan, 1989.

The primary objective of this plan is to *'promote the balanced development of the region, the improvement of its urban and rural environments and the orderly and economic development and optimum use of its land and other resources, consistent with conservation of natural and man made features and so as to meet the needs and aspirations of the community.'* (Clause 2)

This objective proposes to regulate activities to ensure that reserves of coal, other mineral resources and low cost extractive resources such as sand, gravel, clay and the like are developed to their full potential.

Clause 39 of the Plan provides the following objectives in relation to planning strategies concerning extractive materials:-

- a) manage the coal and other mineral resources and extractive materials of the region in a co-ordinated manner so as to ensure that adverse impacts on the environment and the population likely to be affected are minimised;
- b) ensure that development proposals for land containing coal and other mineral resources and extractive materials are assessed in relation to the potential problems of rendering those resources unavailable; and
- c) ensure that the transportation of coal and other mineral resources and extractive materials has minimal adverse impact on the community.

The Plan also identifies the following development control matters that Council's should consider when determining applications for extractive industries (Clause 41) :-

- a) the conservation value of the land concerned and apply conditions which are relevant to the appropriate past mining and extractive land use.
- b) Consult with offices of relevant State Government departments to determine appropriate post-mining or extraction land uses.
- c) Ensure the progressive rehabilitation of the extracted area.
- d) Minimise the extent and impact of the final landform.
- e) Minimise any adverse effect of the proposal on groundwater and surface water quality.
- f) Review any likely impacts on air quality and the acoustical environment.
- g) Be satisfied that an environmentally acceptable mode of transport is available.

The Plan also identifies in a map (Map 4(a)) that the Blackhill area is one area of the Lower Hunter containing an important road base material resource.

The objectives and principles contained within the Hunter Regional Environmental Plan, 1989 and as referred to above have been considered in the following report.

Cessnock Local Environmental Plan 1989

The subject land is zoned No. 1(a) – Rural “A” Zone and the relevant objective of this zone is (e) *to ensure that the type and intensity of development is appropriate in relation to:-*

- i) the rural capability and suitability of the land;*
- ii) the preservation of the agricultural, mineral and extractive production potential of the land;*
- iii) the rural environment (including scenic resources); and*
- iv) the costs of providing public services and amenities.*

The objectives and principles contained within the Cessnock Local Environmental Plan, 1989 and as referred to above have also been considered in the following report.

b) The Provisions of any Development Control Plan

The application has been considered under the Cessnock Development Control Plan (DCP) 2006 –Part C – General Guidelines Chapter 4 – Land Use Conflict and Buffer Zones.

The Plan identifies quarries as a Category C activity and recommends a minimum self-contained buffer distance of 1000 metres from Category A land uses ie dwelling houses. The plan identifies potential conflicts between these land uses as noise, dust, vibration, blast over-pressure fly-rock from blasting and disruption and contamination of ground and surface waters.

The nearest dwellings are located in excess of 1,000 metres from the existing quarry wall where the quarry operation will occur. A direct impact in terms of dust and noise and vibration however will occur for those residents of Lots 741 and 742 due to the transport to and from the site of quarry product and materials being transported to the site. The dwellings are located approximately 40 and 60 metres from the haul route however they will be adversely affected by the proposal. In order to mitigate this impact the applicant has advised that a sealed section of the haul route will be constructed in front of these dwellings.

The Plan suggests one method of reducing conflict between land uses is the compulsory acquisition of affected properties through conditions of consent.

c) The Likely Impacts of that Development

Context and Setting

The proposed development involves an application for the approval of an alternative haulage route to that originally approved for the quarry development in 1973. Although Council’s records indicate that the operation of the quarry ceased in 1993 consent for the quarry remains valid as the notion of an abandonment of an approved land use is not recognised.

The establishment of an alternative route for the gravel quarry is to take place in conjunction with the rehabilitation of the quarry. The rehabilitation plan submitted provides some information on the areas proposed to be remediated and these include the existing quarry face, the quarry floor, old haul roads, ramps and buffers.

Access, Transport and Traffic

The proposed haul road consists of a gravel road approximately 2 kilometres in length passing over relatively flat terrain. From the quarry site the Crown Reserve road travels in a northerly direction for approximately 800 metres before joining Old Buttai Road. The road then turns sharply to the west and intersects John Renshaw Drive after approximately 1.15 kilometres.

In addition to the proximity of the haul road to the two (2) dwellings located on the road objection has also been received from local residents that the applicant within the EIS has provided inaccuracies concerning the proposed haul route. These are summarised as the haul route:-

- i) has been constructed illegally and without approval from the relevant authorities
- ii) that owing to a discontinuity in the Crown Reserve Road no legal access is available to Lot 75 from this road
- iii) that the access from Lot 75 along the Crown Reserve Road was located within Lot 74
- iv) the road has never been used as a gravel haul road.

In relation to these matters it should be noted that the access road had been constructed as a gravel road to provide access to the two (2) dwellings on Lots 741 and 742 as a result of a subdivision of Lot 74 DP 755260 in 1997 Council Ref. DA 150/595/44).

The remaining portion of the road (approximately 120 metres) to Lot 75 along the Crown Reserve road together with some upgrading of the road was undertaken without the consent of the Department of Lands.

The Department has been consulted and the EIS referred for comment. The Department has advised that following the subdivision referred to above *“the transfer of the Crown road to Council pursuant to Section 151 of the Roads Act 1993 is scheduled to be undertaken shortly”*. The Department further states, *“This places Council in a position to consider, determine and fulfil any obligations (past and future) under the Roads Act and the EP& AAct. It is also consistent with the transfer protocols established with Council.”*

The discontinuity referred to by local residents has also been investigated and a title search over Lot 75 has revealed that a right-of-carriageway exists over Lot 1 DP 780462 in favour of Lot 75 and thereby providing access to the subject land.

The final points made by local residents have been investigated and from Council's records it would appear that the road was used with Council approval to haul coal from Lot 75 (hence the deceleration lane on John Renshaw Drive) and only involved access through Lot 74. While no formal approval to haul gravel along the haul road is evident it would seem reasonable to assume that as both coal and gravel were available on the site then this access to a main road may have been used to transport both products. The applicant states that the present owner who became the operator of the gravel quarry in the 1980's used this haul route for a number of years albeit without a formal approval.

In conjunction with the application the applicant completed a Traffic Impact Assessment in relation to the use of the haul road which recommended that the following works be required:-

1. The construction of a dust abatement seal on the quarry access road from the quarry entrance gate for a distance of 250 metres towards Old Buttai Road.
2. The construction of a type AUR (right turn auxiliary lane) intersection at the Old Buttai Road/John Renshaw drive intersection in accordance with Austroads/RTA requirements.
3. Selective under scrubbing at the quarry access road/Old Buttai Road to improve sight distance to the east along Old Buttai Road.

Both the Roads and Traffic Authority and the Local Traffic Committee have considered the EIS and have raised no objection to the application subject to the imposition of appropriate conditions.

Noise, Dust and Vibration

The proposed development has the potential to impact on the amenity of those residents in dwellings on Lot 741 and 742 and to a lesser extent to those on other rural properties in the locality. All dwellings in the area are in excess of 1 kilometre from the quarry face. However it is the times of the quarry's operation and the size and frequency of vehicles hauling material to and from the subject site which will have the most adverse impact on the existing residents in terms of noise, dust and vibration.

The proposed hours of operation of the quarry are from 7.00am to 6.00pm Monday to Saturday. The applicant has stated that truck movements will take place between the hours of 7.00am and 6.00pm and average 120 per day (60 loads) which equates to one movement every 5.5 minutes.

The applicant has advised that both the owners of Lot 741 (Stevenson's) and Lot 742 (Wheldon's) have been consulted in relation to the proposal. The Stephenson's were not supportive of the proposal due to the number of truck movements and loss of amenity to be experienced and requested additional roadworks along the haulage route if the application was to proceed. The Wheldon's were consulted and advised that in general they did not object to the proposal but also asked for additional roadworks to be undertaken on the haul route and for additional security measures to be implemented as the unauthorised provision of access into Lot 75 had resulted in antisocial behaviour in the area.

The applicant has conducted both an air quality assessment and noise assessment with respect to the nearest dwellings on Lots 741 and 742 and other dwellings in the locality in order to assess the impact of noise and dust from the use of the haul road. The following mitigation measures have been combined to ensure that there are no exceedences of acceptable levels for noise to the dwellings under the NSW Industrial Noise Policy (INP) or for particulate (dust) under the EPA criteria set down in the Approved Methods for the Modelling and Assessment of Air Pollutants NSW (DEC 2005):-

1. Primary Mitigation Recommendation

A sealed section of haulage route extending from 100 metres north of Lots 741 and 742 DP 876393 (and along the western boundary of Lots 741 and 742 DP 876393 (approximately 280 metres) to 100 metres south from the subject sites' northern boundary is required to be constructed.

2. Secondary Mitigation Recommendation

* a 40 km/hour speed zone be applied to the sealed section of the haul route. (as both families have young children)

* signage displaying 'limit noise' and/or 'limit compression braking' is erected near the existing dwellings.

* effective organisation is implemented when entering and exiting the site so that trucks are not unnecessarily idling near the existing dwellings.

As the proposed transportation of materials to and from the site will have such a profound impact on the amenity of those persons residing in dwellings on Lots 741 and 742 it is proposed that in addition to the mitigation measures outlined that the owners be given the opportunity for their properties to be compulsorily acquired by the quarry owner through conditions of consent.

Safety and Security

The owners of Lot 42 have raised concerns about the antisocial behaviour of persons who have gained access to the quarry. In this regard the owners of the quarry will be required to put in place appropriate measures to ensure that this does not occur particularly outside the times that the quarry is operating.

Social Impact

The proposed development is considered to have a positive social benefit by providing an opportunity for the rehabilitation of Lot 75 which has been left in a degraded state following its use for coal mining and as a gravel quarry site since the 1940's.

Aspects of the proposal have the potential to have an adverse impact on the health and safety of the local community. However, it is considered that the exposure to such potential is for a limited duration only and that the mitigation measures proposed by the applicant together with those imposed by Council as conditions of any consent to be issued will minimise any adverse impact that may arise.

Economic Impact

The subject site contains only a limited amount of gravel reserve due to the increasing depth of overburden covering the gravel and the fact that the gravel deposit dips to the south-east at an angle of approximately 5%. The economic viability of completing the extraction of the remaining reserves remains marginal but may in other ways be of value to the owner of the reserve.

The formal approval of a gravel haul route from Lot 75 to John Renshaw Drive will provide the owner and operator of the quarry with several positive economic outcomes with the most obvious being an efficient means of transporting any remaining product from the quarry to external clients.

Visual Impact

As stated above in October/November 2005 Council received complaints that the present owner/operator of the quarry was undertaking earthworks in the south-eastern corner of the quarry. These earthworks were clearly visible from John Renshaw Drive and are located in the area proposed to be rehabilitated.

The EIS and Rehabilitation Plan submitted by the applicant do not address the issue of the visual impact of the rehabilitation of the highwall. The use of plant tubestock on 12 metre high benches will mean that the visual scarring of the highwall will be evident for a number of years before the plantings can be established to provide a vegetation screen.

It is noted from the consent granted to the quarry that *“the area which is being quarried is reinstated to the satisfaction of Council.....”*. In other words under the consent for the quarry Council must be satisfied with the works proposed under the rehabilitation plan. In this regard the applicant should be required to restrict the height of benches given that other quarry developments have been required to adopt bench heights of seven (7) metres (Woodbury’s Blackhill Quarry) and ten (10) metres (Darracon quarry on Lot 76 adjoining). Further details are also required from the applicant in this regard as well as further details of the quarry floor rehabilitation. As the applicant has suggested a program of progressive rehabilitation this should be linked to the progressive extraction of material from the quarry.

Cumulative Impacts

The subject site contains a gravel quarry with limited remaining reserves. The site adjoins Lot 76 on which a new quarry is presently being established for a twenty (20) year term. The two quarries are held in the same ownership and are therefore likely to be operated in conjunction with one another rather than operate independently. The cumulative impact of these quarry developments are therefore likely to be minimised due to their common ownership and operation.

CONCLUSION:

The proposal involves the establishment of an alternative access to an approved gravel quarry on Lot 75. The consent for the quarry was issued in 1973 and remains valid. The only condition of the consent was that the site be reinstated to the satisfaction of Council. The Rehabilitation Plan submitted requires further amendment prior to its approval by Council.

The applicant has sought Council's consent to establish an alternative haul route for the quarry in conjunction with the rehabilitation of the quarry. Only material associated with the rehabilitation (benching) of the quarry will be removed from the quarry. Any consent issued with respect to the alternative haulage route will contain only those conditions relating to the establishment of the alternative haul road and its use.

The establishment of the proposed alternative haul route will have a significant impact on the amenity of residents of Lots 741 and 742 in DP 876393 and although the applicant has proposed a number of measures to mitigate that impact it is considered of such significance that they should be provided with the opportunity to have their properties acquired by the quarry owner/operator should they wish this to occur. The establishment of the proposed haulage route is unlikely to have a significant impact on the amenity of other residents in the locality.

RECOMMENDATION that:-

- A) Development Application No. 8/2007/365/1 for the establishment of an alternative access to the approved quarry on Lot 75, DP 755260 Off John Renshaw Drive Blackhill be approved subject to compliance with the following conditions of consent:-**

SCHEDULE 1

TERMS OF CONSENT

General

1. The proposed development shall be carried out strictly in accordance with the details set out on the application form, and the Environmental Impact Statement dated August 2007, and Noise & Air Assessments from Insite dated February 2007 and March 2007 respectively and any other information submitted in support of the application, except as modified by the conditions of this consent.

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. The intersection of John Renshaw Drive and Old Buttai Road to be upgraded to a Type 'AUR' right turn treatment (designed in accordance with the RTA's Road Design Guide and the relevant Austroads guidelines) prior to the commencement of any quarrying on the site. Such intersection works shall be undertaken at full cost to the developer.

Note 1 - The applicant will be required to enter into a Works Authorisation Deed with the RTA. In this regard 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 specific change to state road network for the RTA's assessment and final decision concerning the work.

Note 2 - The conditions of consent set by Council do not guarantee the RTA's final consent to the specific road work, traffic control facilities and other structures works on the classified road network. The RTA must provide a final consent for each specific change to the state road network prior to the commencement of any work.

Reason

To ensure that a safe and efficient means of access is available to and from the quarry site via the State Road prior to the commencement of quarrying/rehabilitation activities.

3. All gravel material to be transported from the quarry shall be from benching operations only associated with the proposed quarry rehabilitation and no further expansion of the quarry is to be undertaken.

Reason

To confirm the terms of consent.

4. a) The applicant shall:-
 - (i) within twenty eight (28) days of the date of this consent, serve upon the owners of Lot 741 and Lot 742 DP 876393 adjoining the subject land a copy of this condition.
 - (ii) Upon receipt of a request to purchase within six (6) months from the commencement of commercial operation of the quarry from the owners of Lot 741 and Lot 742 DP 876393 purchase the property.
 - (iii) Pay not less than market value having regard to the existing use of the land immediately prior to the date of development consent and as if unaffected by the proposed development.
 - (iv) Pay reasonable costs, if any, of the claimant in respect of expenses for legal advice and representation and expert witnesses in determining the value of the property and the terms of acquisition.
- b) Where agreement as to acquisition details cannot be reached between the applicant and the relevant land owner within 6 months of the date of the applicant having received a request to purchase, then:-
 - (i) either party may refer the matter to the Council who shall arrange through the President of the Australian Institute of Valuers for an independent valuation of the relevant property to be undertaken in order to determine current market value as of the land was not affected by the proposed development, and reasonable costs and compensation referred to in (a) (iv) and (v) above;

- (ii) the applicant shall bear the costs of the valuation arranged by the Council'
- (iii) following receipt of advice of such valuation, the applicant shall offer to purchase the relevant property at a price of not less than the said valuation.

Should the applicant's offer to purchase under part (iii) not be accepted by the relevant landowner within 6 months of the date of such offer, the applicant's obligations pursuant to this condition shall cease in respect of the land subject of that offer.

Reason

To provide the owners of Lots 741 and 742 DP 876393 with an opportunity for their properties to be compulsorily acquired by the owner of the quarry should they wish for this to occur.

Access, Car parking and Loading Arrangements

- 5. 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.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Access, Car Parking & Loading Arrangements

- 6. The registered proprietors shall reconstruct the existing all-weather access road from the property boundary to the quarry site to a Category "B" standard with a 6m wide carriageway and 1m wide road shoulders and a dust abatement seal for the first 150m from the property boundary in accordance with Council's 'Engineering Requirements for Development' Pt 4.5.13 (available at Council offices). Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for the Haul Road.

Reason

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

7. The registered proprietors of the land shall construct the following works within Old Buttai Road from John Renshaw Drive to the intersection of the Crown Road 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 council's Development Services Manager prior to the release of the Construction Certificate for the Haul Road.
- (a) Construct and gravel road pavement with 6m wide carriageway and 1m wide road shoulders
 - (b) Place two (2) coat hot bitumen seal 6m wide for the first 200m from John Renshaw Drive.
 - (c) An 80km/h speed limit is to be posted.
 - (d) Construct drainage works

Full engineering pavement design in accordance with ARRB Special Report No. 41 is to be submitted for assessment.

Reason

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

8. The registered proprietors of the land shall construct the following within the Crown Road extending from the subject property boundary north for a distance of 380 metres (being the combined frontage of Lot 741 and 742 and 100 metres north of Lot 741) in accordance with Council's policy "Road standards for Crown Road Transfers" and 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 council's Development Services Manager prior to the release of the Construction Certificate for the Haul Road.
- (a) Construct and gravel 320mm road base with a 6m wide carriageway and 1m wide road shoulders
 - (b) Place two (2) coat bitumen seal 6m wide for the full length.
 - (c) Selective under scrubbing works to improve sight distance at the Quarry Road/ Old Buttai Road intersection.
 - (d) Signage displaying "limit noise" and/or "limit compression braking" being erected near the existing dwellings on lot 741 and 742 DP 876393 adjacent to the entrance to the quarry.
 - (e) Construct drainage works
 - (f) Signage for an enforceable 40km/hour speed zone on the sealed sections of the haulage route in the vicinity of Lots 741 and 742 DP 876393.

Reason

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

9. All driveways, access corridors and car parking areas are to be designed in accordance with AS2890.1 & 2 - Parking Facilities. The car parking 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'.

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.

Drainage and Flooding

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

Reason

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

Site Works

11. 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.
 - (c) Details of dust mitigation on construction sites and access roads
 - (d) Location and phone number of the site office
 - (e) Details regarding provision of areas set aside for the stockpiling of:
 - (i) Topsoil
 - (ii) Raw materials such as sand, soil, mulch and the like
 - (iii) 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.

DURING CONSTRUCTION

General

12. 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.

Site Works

13. 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.

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.

14. 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.

Scheduling of Inspections

15. 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.

PRIOR TO OCCUPATION & OPERATION

16. Prior to the issue of an Occupation Certificate the applicant shall provide Council with a Compliance Certificate which confirms that the Haul Road and associated works have been constructed strictly in accordance with the provisions of the Development Consent and Construction Certificate.

Reason

To ensure that Haul Road works have been constructed in accordance with the Development Consent and Construction Certificate

17. The registered proprietor of the land shall prepare a Plan of Management for the maintenance of the Haul Road to minimise noise, dust nuisance, soil erosion and all other relevant environmental matters. The Plan of Management shall set out the operational parameters for the 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.

ADVICE

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

Based on a road length of approximately 730 metres. Final bond amounts will be levied on accurate dimensions contained within the engineering plans.

- (i) Road fees - engineering plan checking and supervision of \$5,208.00.
- (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 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.

- B) Having regard to the requirement under the original consent for the gravel quarry (Development Application No. D74/73/3 dated 2nd March 1973) for the reinstatement of the site to the satisfaction of Council the applicant be advised that Council will require the submission of a revised Rehabilitation Plan for its consideration incorporating the following amendments prior to its acceptance of the Plan:-**
- a) **The Rehabilitation Plan to address the visual impact of the quarry when viewed from John Renshaw Drive.**
 - b) **A reduction in the height of the proposed benching of the quarry face or justification as to why a height of 12 metres for the benching is considered appropriate having regard to bench heights approved for similar quarries in the Cessnock Local Government area.**
 - c) **The proposed program of progressive rehabilitation intended for the quarry to be linked to the progressive extraction and production of gravel materials from the quarry.**
 - d) **Further details being provided of the quarry floor rehabilitation.**
- C) A Liaison Committee comprising Ward D Councillors the Mayor and appropriate Council officers be established to monitor progress of the operation of the haul road and rehabilitation of the quarry and shall meet on a bi-yearly basis or as determined by Council.**

To: **The General Manager**
Corporate & Regulatory Services
Committee - 12 December 2007

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
25 November 2007

MOTION **Moved:** Councillor Smith **Seconded:** Councillor Davey
797 (12/12/2007)

RECOMMENDED that Development Application No. 8/2007/365/1 for the establishment of an alternative access to the approved quarry on Lot 75, DP 755260 Off John Renshaw Drive Blackhill be **DEFERRED** until the next meeting of Council, due to the report being the subject of an address to Council earlier in the evening.

CARRIED

ACTING DIRECTOR CORPORATE & REGULATORY SERVICES
REPORT NO. 116/2007

DEVELOPMENT APPLICATION NO: 5/1995/80124/3
APPLICANT: DAROMIN ENGINEERING PTY LTD
OWNER: DAROMIN ENGINEERING PTY LTD
PROPERTY: LOTS 76, 77 & 84 DP 755260, LOTS 1 & 2 DP 34957, LOT 3 DP 809377 AND LAND IN DP 977069 LINGS ROAD AND GEORGE BOOTH DRIVE BLACKHILL
AREA: 131 HECTARES (LOT 76 ONLY)
ZONING: RURAL 1(A)
PROPOSAL: APPLICATION TO AMEND DEVELOPMENT CONSENT 118/695/124

Senior Planning Assessment Officer, Mr Rod Sandell, reports:

SUMMARY:

Application has been received for an amendment to the consent for Development Application No. 118/695/124 granted by the Land & Environment Court on 28 August 1997. The amendment seeks approval to modify or remove several conditions of the consent relating to the provision of a seventy (70) metre buffer between the subject land and Lot 75 immediately adjoining to the west. The basis on which the amendment is made is that the applicant/owner has now acquired Lot 75 and an adjoining Lot 42 and therefore the buffer is no longer required.

The application represents an amendment to a designated development and was advertised in accordance with the Act. A total of twenty nine (29) submissions were received from local residents in the area objecting to the proposed development.

It is considered that the proposal which involves a minor extension to the approved quarry area will be unlikely to have any significant increase in environmental consequences. The application is therefore recommended for approval.

PROPOSAL:

The applicant/owners of the subject land have advised that they have received written approval from Land and Property Information to compile a plan of consolidation for Lots 75 and 76. The applicant therefore requests the following amendments to the consent:-

- modification to Conditions 1; and
- a minor extension of the approved quarry area (1.2 hectare area of the buffer)

The amendment to Condition 1(imposed by Council and enforced by Court) involves the following:

- removes the 70 metre buffer to boundary of Lot 75 (maintained for all other boundaries to the site),
- allows construction and operation of the quarry to encroach below the 100 metre contour line only on the current boundary with Lot 75.

A request for the deletion of Condition 13A (imposed by the Land & Environment Court), which requires that the boundary between 75 and 76 be surveyed and pegged for the life of the development has been withdrawn.

BACKGROUND:

The original application for the development of a gravel quarry on Lot 76 was lodged with Council in August 1990 via Development Application No. 118/690/165. Consent to the proposal was granted by Council on 24 August 1993 but was subject to an appeal in the Land and Environment Court. The application was deemed to be refused by the Court as it was considered by the Court that among other issues the haul route via Lings Road was unacceptable.

Development Application 118/695/124 was made on 9 June 1995 and maintained the same quarry plan as that previously consented to by Council but indicated that the haul route from the quarry would be located to the south following an existing fire trail and public road reserve until it intersected with George Booth Drive.

During consideration of this application, reference to a buffer was first discussed in the Council report 151/1996 (11 December 1996). In relation to the impact on Lot 75 from blasting (flyrock) the report states:

“In the absence of an existing buffer zone, a condition requiring purchase of Portion 75 will be imposed should the owner wish to take advantage of it. From Council’s point of view, the conditions able to be imposed, and the relative importance of the resource to the community as a whole, mean that this is the only fair way to address what is an imposition on one particular landowner “.

The report acknowledged a need for a buffer to Lot 75 but did not specifically mention Lot 42 or any other lots. This report did not include a condition requiring a buffer, but imposed a condition requiring the owners of Lot 76 to purchase Lot 75 should the owners of 75 wish.

Following consideration of this report, Council resolved that the matter be “deferred pending the receipt of legal advice and further clarification”.

On 19 March 1997 the DA was reported back to Council (Council report 24/1997).

In relation to buffer zones. The report stated that the properties most affected are Lot 75 and, to a lesser extent Lot 42. An assertion from the owner of Lot 42 that this property was being “ignored” in terms of the quarries impact (and associated requirement to purchase) was not accepted by Council officers. In the 1996 report no other properties were identified as needing to be purchased, however the report states that the “*impact on each Lot including Lot 42 has been addressed through the assessment of Section 90 heads of consideration and acceptable limits according to advice received from Statutory Authorities*”.

Discussions were held with the Buttai Community Group and Black Hill Environment Protection Group and a submission from this group was annexed to the Council report. These groups were given the opportunity to review the proposed conditions of consent and provide comment.

In regard to the 70 metre buffer the groups “*welcomed the inclusion of a buffer zone and endorse the comments made on page 2 of ESR 24/1997*”, which in part state that the 70 metre clear buffer zone, in which no activity takes place between the quarry and the surrounding lots/portions, would help address residents concerns. The report further states:

“it also keeps quarrying operations an adequate distance from the existing high wall and maintains a natural wall of material and vegetation which will assist in visually and acoustically screening the proposal from adjacent properties.”

The submission also requested that Lot 42 be included within Condition 12 which required the owners of the quarry to purchase Lot 75. Condition 12 was amended to include Lot 42. Condition 1 also imposed a 70 metre buffer zone to any adjoining lot or portion. The consent was issued to the applicant on 7 April 1997.

1997 Appeal to Land & Environment Court

An Appeal was lodged by Beanie and Myrtle Jones (then owners of Lot 75) with the Land & Environment Court on 21 May 1997, against Council's decision to grant consent to the quarry. This appeal was resolved on 28 August 1997 by consent orders and resulted in an amendment to Condition 13 and the introduction of a new Condition 13A. The underlying intent of the appeal and resultant conditions was that the owners of Lot 75, 40 and 42 could have the opportunity to comment on the quarry operation plan before Council approved it.

SITE DESCRIPTION:

The subject site consists of a principle lot (Lot 76) having an area of 131 hectares together with a number of lots owned by Coal and Allied through which access to George Booth Drive has been constructed. Lot 76 is rectangular in shape and the approved quarry site is located on an elongated ridge or spur running in a south-west to north-east direction. The maximum elevation of the ridgeline is 120m AHD rising up from a height of approximately 50 AHD. The land is predominantly covered in an open Eucalypt forest on moderate to very steep slopes.

PUBLIC EXHIBITION:

The proposed amendment to the designated development was advertised for an initial period of thirty (30) days from 22 September 2007 until 23 October 2007. This period was extended during the exhibition period until 9 November 2007. A total of twenty nine (29) submissions were received from residents of the Blackhill area.

A submission was received from the two (2) community groups involved (The Black Hill Environment Protection Group and The Buttai Community Development Group) together with submissions from other owners of properties in the locality. In summary the local community's' objections have been based around the following nine (9) themes:-

- 1) The application is based on false information and fails to address our previous concerns.
- 2) The modification is not "substantially the same development" as that approved by Council and the Land & Environment Court and should not be considered under the provisions of s.96AA of the EP & A Act.
- 3) The purpose of Condition 13A is misrepresented (which is essentially: "keeping the bastards honest) and this condition should be retained.
- 4) No justification is provided for this Modification and Council should not consider supporting the proposed amendments to conditions based on the information provided by the applicant.
- 5) Consolidation of Lots 75 and 76 would allow the operation of a "super-quarry", the impact of which has never been addressed. If the consolidation occurs, it would require a new comprehensive Environmental Assessment and the development of a single, integrated Environmental Management Plan.
- 6) The land owner has consistently shown non-compliance with the existing conditions of consent and we have concerns about ongoing compliance.

- 7) Other local and regional changes have occurred that justify tightening rather than loosening the conditions of consent.
- 8) Consideration of Clause 36 of Schedule 3 of the EP & A Regulation 2000.
- 9) Issues raised in Community Groups' March 15 objection that have not been adequately addressed.

These matters will be addressed in the following report.

STATUTORY CONTEXT

The proposed development involves alterations to a designated development consent under Section 96(2) of the EP & A Act 1979. In order for Council to consider the application under this provision it must be satisfied that the alterations are “*substantially the same development*”. This matter has been investigated having regard to the concerns raised by local residents and it has been concluded that it is appropriate to consider the application under Section 96(2) of the Act.

In addition, Council must also determine under Schedule 3 Part 2 of the EP&A Regulations 2000 whether the alterations are designated development: Schedule 3 provides that if the consent authority is of the opinion that the alterations and additions do not significantly increase the environmental impacts of the total development compared with the approved development, the application is not designated development.

In forming its opinion as to whether or not development is designated development, a consent authority is to consider:

- (a) the impact of the existing development having regard to factors including:
 - (i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice, and
 - (ii) rehabilitation or restoration of any disturbed land, and
 - (iii) the number and nature of all past changes and their cumulative effects, and
- (b) the likely impact of the proposed alterations or additions having regard to factors including:
 - (i) the scale, character or nature of the proposal in relation to the development, and
 - (ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality, and
 - (iii) the degree to which the potential environmental impacts can be predicted with adequate certainty, and
 - (iv) the capacity of the receiving environment to accommodate changes in environmental impacts, and
- (c) any proposals:
 - (i) to mitigate the environmental impacts and manage any residual risk, and
 - (ii) to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.

Comments

In relation to the matters raised above the following points are made:-

- a) The applicant company is well recognised in the field of road building and earthwork constructions and has owned and operated a number of gravel quarries in the Lake Macquarie area eg at Belmont, Boolaroo and Fennell Bay most of which have been rehabilitated. The company presently operates from the Stockrington quarry in Council's area and has done so for a number of years without complaint.

The company has commenced the initial stages of quarrying on Lot 76 and Council has recently conducted an audit of the consent conditions relating to the quarry's operation. The audit identified a number of conditions of consent that were outstanding and many of these have now been addressed by the company. Council is seeking the ongoing cooperation of the company to ensure compliance with the consent conditions as the quarry is further developed to the stage where it is transporting its gravel product to external clients.

- b) The proposed removal of the buffer area adjoining Lot 75 results in an additional area of 1.2 hectares being cleared and used for quarry compared to the eleven (11) hectare approved quarry site on Lot 76 ie approximately 10%. On the adjoining Lot 75 the area previously developed for quarrying is approximately 46 hectares.

The potential environmental impacts of the quarrying of the additional 1.2 hectares can be predicted with some certainty as these impacts were appropriately assessed for the approved quarry and considered to comply with acceptable noise, dust, vibration and other limits suggested by Statutory Authorities. Any requirement to seek a comprehensive review of the environmental studies previously undertaken for the quarry is considered to be unwarranted and unreasonable having regard to the scale of the proposed addition to the quarry and its likely impact when compared to that of the overall development.

- c) Approval of the additional 1.2 hectare quarry area would be subject to the conditions of the existing consent which contains conditions to mitigate the environmental impacts, manage any residual risk, and facilitate compliance with relevant standards set down by the appropriate authorities. It is appreciated that the application may involve minor amendments to management systems that have been proposed. For example the removal of the buffer will aid water management by providing more room for sediment structures and minor revisions to the water management plan would be required.

While it is considered that the proposed amendments to the consent do not significantly increase the environmental impacts of the total development compared with the approved development, given the history of the site, the community interest in the amendment and the significant neighbour objection previously received it was considered appropriate for the notification period to be extended in line with that required for designated development to ensure interested parties had adequate opportunity to review the amendments and provide their comments to Council.

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:

b) The Provisions of any Environmental Planning Instrument

Hunter Regional Environmental Plan, 1989.

The primary objective of this plan is to *'promote the balanced development of the region, the improvement of its urban and rural environments and the orderly and economic development and optimum use of its land and other resources, consistent with conservation of natural and man made features and so as to meet the needs and aspirations of the community.'* (Clause 2)

This objective proposes to regulate activities to ensure that reserves of coal, other mineral resources and low cost extractive resources such as sand, gravel, clay and the like are developed to their full potential.

Clause 39 of the Plan provides the following objectives in relation to planning strategies concerning extractive materials:-

- d) manage the coal and other mineral resources and extractive materials of the region in a co-ordinated manner so as to ensure that adverse impacts on the environment and the population likely to be affected are minimised;
- e) ensure that development proposals for land containing coal and other mineral resources and extractive materials are assessed in relation to the potential problems of rendering those resources unavailable; and
- f) ensure that the transportation of coal and other mineral resources and extractive materials has minimal adverse impact on the community.

The Plan also identifies the following development control matters that Council's should consider when determining applications for extractive industries (Clause 41) :-

- h) the conservation value of the land concerned and apply conditions which are relevant to the appropriate past mining and extractive land use.
- i) Consult with offices of relevant State Government departments to determine appropriate post-mining or extraction land uses.
- j) Ensure the progressive rehabilitation of the extracted area.
- k) Minimise the extent and impact of the final landform.
- l) Minimise any adverse effect of the proposal on groundwater and surface water quality.
- m) Review any likely impacts on air quality and the acoustical environment.
- n) Be satisfied that an environmentally acceptable mode of transport is available.

The Plan also identifies in a map (Map 4(a)) that the Blackhill area is one area of the Lower Hunter containing an important road base material resource.

The objectives and principles contained within the Hunter Regional Environmental Plan, 1989 and as referred to above have been considered in the following report.

Cessnock Local Environmental Plan 1989

The subject land is zoned No. 1(a) – Rural “A” Zone and the relevant objective of this zone is (e) *to ensure that the type and intensity of development is appropriate in relation to:-*

- v) *the rural capability and suitability of the land;*
- vi) *the preservation of the agricultural, mineral and extractive production potential of the land;*
- vii) *the rural environment (including scenic resources); and*
- viii) *the costs of providing public services and amenities.*

The objectives and principles contained within the Cessnock Local Environmental Plan, 1989 and as referred to above have also been considered in the following report.

b) The Provisions of any Development Control Plan

The application has been considered under the Cessnock Development Control Plan (DCP) 2006 –Part C – General Guidelines Chapter 4 – Land Use Conflict and Buffer Zones.

The Plan identifies quarries as a Category C activity and recommends a minimum self-contained buffer distance of 1000 metres from Category A land uses ie dwelling houses. The plan identifies potential conflicts between these land uses as noise, dust, vibration, blast over-pressure fly-rock from blasting and disruption and contamination of ground and surface waters.

The nearest dwellings are located in excess of 1,000 metres from the reduced buffer area under the Section 96 application. Given the existing setback to the new dwellings is outside the 1,000 metre buffer zone, it is likely that the impact on these dwelling will be within acceptable limits.

Having regard to the proposed modification with reference to the above matters, it is considered that the removal of the buffer for approximately 150 metres adjacent to the boundary of Lot 75 will not result in a significant increase in the environmental impacts of the development. It is appreciated that this will involve the removal of the 100 metre contour restriction in this locality.

c) The Likely Impacts of that Development

Context and Setting

The 70 metre buffer was imposed on the development as a condition of consent and was in addition to conditions requiring satisfaction of acceptable noise, dust, vibration and other limits suggested by Statutory Authorities and imposed through conditions. The maintenance of the buffer to all adjoining boundaries apart from Lot 75 should maintain the intent of the original condition which was to assist in visually and acoustically screening the proposal from adjacent properties.

However, since the original quarry consent was issued in 1997, Council has granted consent to at least three (3) dwelling houses to the north and northwest of the subject site. These dwellings are located at Lot 42 (Brooks DA 2005/663 replacing an existing dwelling), Lot 141 (Stevenson DA1999/1019 & 2005/10) and Lot 142 (Weldon DA2000/1044).

All three (3) dwellings are located over 1,000 metres from the reduced buffer area proposed under the s96 application and therefore it is likely that the environmental impacts on these dwellings in terms of noise, dust and vibration will be within acceptable limits .

Visual Impact

The applicant has undertaken a visual analysis of the area where the additional 1.2 hectares will be quarried in order to assess any visual impact of the addition from adjoining properties or public roads such as John Renshaw Drive. The visual scarring in evidence from John Renshaw Drive is associated with the quarry development on Lot 75 and this area will be subject to rehabilitation under Development Consent No. 8/2007/365/1 presently before Council. It is concluded that the additional area to be quarried will be unlikely to cause additional impacts on the visual amenity of the surrounding rural landscape.

Fauna and Flora

The application for additional quarry area has been considered for its impact on flora and fauna under the Environment Protection and Biodiversity Conservation Act 1999 and a Seven (7) Part Test has been conducted under the Threatened Species Conservation Act 1995. The site has also been investigated of potential and core Koala habitat in accordance with State Environmental Planning Policy No.44 – Koala Habitat Protection. No endangered ecological communities were identified within the site and no threatened flora species were identified on site. Four (4) threatened fauna species were recorded in the surrounding land during previous investigations and while it was concluded that the impact to potential local populations of threatened species would not be significant several mitigation measures were proposed to reduce ecological impacts.

CONCLUSION:

The present application represents an amendment to a designated development and has been advertised in accordance with the Act as designated development to enable local residents the opportunity to comment on the application. Substantial objection has been received from the local community seeking a comprehensive review of the environmental impacts of the proposed amendment involving the removal of a portion of the 70 metre buffer between the approved quarry and the boundary with Lot 75. Having regard to the scale and nature of the additional area to be quarried together with the detailed assessment that was undertaken for the original quarry development it is considered that this is not warranted.

The amended application has adequately been assessed and it is considered that the proposal which involves a minor extension to the approved quarry area will be unlikely to result in any significant increase in environmental consequences for the natural environment or for local residents.

RECOMMENDATION that Council grant consent pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979 to the following modifications to Development Consent No. 118/695/124/3 for the gravel quarry, haulage route and associated works on Lots 76, 77 and 84 DP 755260, Lots 1 and 2 DP 34957, Lot 3 DP 809377 and land in DP 977069 Lings Road and George Booth Drive, Buttai.

Condition 1

'The development is to be carried out generally in accordance with the proposal set out in the Environmental Impact Statement, the Addendum Report dated March 1996, the Archaeological Survey dated July, 1996 and the document titled "Response to Issues Raised by Cessnock City Council" dated September 1996, provided by E.R.M. Mitchell McCotter Pty. Ltd., and as modified by the following conditions of consent.

At no time during construction or operation of the quarry is it to encroach and closer than 70 metres to the common boundary of any adjoining lot or portion or the 100m contour line where it exceeds that distance. This separation distance is to be indicated in the detailed quarry plan to be submitted to Council, and is to remain clear of any development other than dams for control of runoff water, sedimentation control structures and the like. Initial plant and amenities are also not to be located within this 70 metre buffer. A quarry operation plan identifying this buffer zone is to be submitted to Council for approval as set out in Condition 13.'

Proposed modification to Condition 1

'The development is to be carried out generally in accordance with the proposal set out in the Environmental Impact Statement, the Addendum Report dated March 1996, the Archaeological Survey dated July, 1996, the document titled "Response to Issues Raised by Cessnock City Council" dated September 1996, provided by E.R.M. Mitchell McCotter Pty. Ltd., and the details of the Section 96 Modification contained within the Buttai Quarry – Section 96 Modification document prepared by ERM dated June 2007 and as modified by the following conditions of consent.'

At no time during construction or operation of the quarry is it to encroach and closer than 70 metres to the common boundary of any adjoining lot or portion. This buffer does not apply to the boundary with the existing Lot 75.

At no time during construction or operation of the quarry is it to encroach below the 100m contour line except on the current boundary with Lot 75. This separation distance is to be indicated in the detailed quarry plan to be submitted to Council, and is to remain clear of any development other than dams for control of runoff water, sedimentation control structures and the like. Initial plant and amenities are also not to be located within this 70 metre buffer. A quarry operation plan identifying this buffer zone is to be submitted to Council for approval as set out in Condition 13.'

To: **The General Manager**
Corporate & Regulatory Services
Committee - 12 December 2007

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
28th November 2007

MOTION **Moved:** Councillor Smith **Seconded:** Councillor Davey
797

RECOMMENDED that Development Application No. 5/1995/80124/3 for the modifications to Development Consent No. 118/695/124/3 for the gravel quarry, haulage route and associated works on Lots 76, 77 and 84 DP 755260, Lots 1 and 2 DP 34957, Lot 3 DP 809377 and land in DP 977069 Lings Road and George Booth Drive Buttai be **DEFERRED** until the next meeting of Council, due to the report being the subject of an address to Council earlier in the evening.

CARRIED

OFFICER'S REPORTS

POLICY

ACTING DIRECTOR CORPORATE & REGULATORY SERVICES REPORT NO. 1/2008

SUBJECT: INVESTMENT POLICY – POLICY NUMBER F12.3

Financial & Administrative Services Manager, Robert Maginnity, reports:

Council on 22 June 1998 adopted an Investment and Management of Council Funds Policy in accordance with section 625 of the Local Government Act 1993 and the Local Government (Financial Management) Regulations 1999, with this policy last reviewed on 21 August 2002.

The Minister's Order and Investment Guidelines under the above Act indicates that a Council should review its investment strategy at least once a year. This is an ongoing task under the present policy as cash flow requirements are considered, interest earnings optimised and relationships with Council's principal banking institutions are maintained. Council currently purchases a range of products such as Term Deposits and Promissory Notes in the short end with Floating Rate Notes, Collateralised Debt Obligations (CDO) and Principal Protected Global Property Notes longer term to enhance average interest earnings. As reported to Council, monthly investments are generally held in lots of \$500,000 to \$1,000,000 to limit exposure in any one class.

Since the adoption of Council's Policy in 2002, the Minister's Investment Order of 15 July 2005 has included some additional credit rating options for Local Government. The Local Government (Financial Management) Regulation 1999 has been repealed and incorporated into the Local Government (General) Regulation 2005.

Furthermore, the Local Government Finance Professionals have produced the NSW Local Government Investments Best Practice Guide – Version 1 – 10 April 2006. Council could have adopted the format of this Best Practice Guide or tailored Council's existing policy to include the required changes.

The best practice guide was found to be somewhat overbearing in the area of long term strategy and more suited to larger Council's with vast amounts of funds invested and it is considered to be more appropriate for Council's current policy to be updated to include the changes in the Minister's Investment Order.

Attachments are enclosed for Council's information:

- 1) Current Investment and Management of Council Funds Policy – F12.3;
- 2) Amended Investment and Management of Council Funds Policy 2007;
- 3) Definitions of Collateralised Debt Obligations and Floating Rate Notes sourced from the Australian Stock Exchange website.

RECOMMENDATION that the existing investment policy be deleted and the investment policy dated November 2007 be adopted.

To: **The General Manager**
Corporate & Regulatory Services
Committee – 23 January 2008

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
30 November 2007

ACTING DIRECTOR CORPORATE & REGULATORY SERVICES

REPORT NO. 2/2008

SUBJECT: INVESTMENTS

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

Details of investments held by Council as at 31 December 2007 are set out below:

Inv. No.	Amount \$'000	Instrument	Term	Coupon Date	Maturity Date	Interest Rate %	Interest to Date \$	Form Held With
	862	CASH						Commonwealth Bank of Australia
1001n	500	FRN	92	27/02/2008	27/11/2008	8.98%	4,182	Greater Building Society
1010n	500	FRN	91	17/03/2008	15/12/2008	9.03%	1,732	Wide Bay Capricorn Bldg Society
1020n	1,000	CDO	92	5/02/2008	5/05/2008	9.07%	13,908	Credit Suisse First Boston Int.
1029n	1,500	CDO	92	5/02/2008	5/05/2008	9.07%	20,862	Credit Suisse First Boston Int.
1057l	1,000	FRN	91	12/03/2008	12/03/2008	10.09%	5,252	Savings & Loans Credit Union
1069k	2,000	CDO	92	8/01/2008	8/10/2011	8.91%	40,995	RIMsec
1102h	500	AN	91	17/03/2008	16/12/2010	7.50%	0	Commonwealth Bank of Australia
1125	500	MF	436	31/01/2008	N/A	3.57%	19,789	RIMsec
1126d	500	AN	92	6/02/2008	6/11/2011	9.25%	6,969	Commonwealth Bank of Australia
1132e	500	CDO	91	20/03/2008	20/12/2009	8.30%	1,250	JP Morgan Chase Bank
1133	1,000	ELD	365	2/01/2008	20/12/2009	8.70%	86,523	Commonwealth Bank of Australia
1138	500	ELD	366	5/03/2008	5/10/2010	3.33%	13,731	Commonwealth Bank of Australia
1142c	1,000	CDO	91	20/03/2008	20/03/2011	8.60%	2,591	Lehman Brothers
1143a	500	ELD	365	30/06/2008	30/03/2013	9.60%	24,066	ANZ Banking Group
1146b	1,000	CDO	91	20/03/2008	20/06/2010	8.30%	2,501	Merill Lynch International
1147	500	ELD	366	5/06/2008	7/10/2010	7.31%	20,929	Commonwealth Bank of Australia
1149b	500	TD	42	24/01/2008	24/01/2008	7.35%	1,812	Newcastle Permanent Building Society
1150b	500	TD	69	17/01/2008	17/01/2008	7.15%	5,093	Newcastle Permanent Building Society
1152a	500	TD	91	3/01/2008	3/01/2008	7.16%	8,631	Maitland Mutual Building Society
1156a	1,000	TD	14	3/01/2008	3/01/2008	6.85%	2,064	Maitland Mutual Building Society
1157	500	TD	72	24/01/2008	24/01/2008	7.15%	4,701	Illawarra Mutual Building Society
1159	500	TD	42	24/01/2008	24/01/2008	7.33%	1,807	Illawarra Mutual Building Society
1160	1,000	TD	32	10/01/2008	10/01/2008	7.28%	4,388	Newcastle Permanent Building Society

18,362

293,776

Glossary

- AN - Accrual Note
- CDO - Collateralised Debt Object
- CP - Commercial Paper
- ELD - Equity Linked Deposit
- FRN - Floating Rate Note
- MF - Managed Fund
- TD - Term Deposit

Page 2 –Acting Director Corporate & Regulatory Services Report No. 2/2008

Weighted Average Return on Portfolio (Year to Date)	7.42%
Average 90 day BBSW (Year to Date)	6.91%
Interest on investments matured so far in 2007/08	362,160
Interest on above investments	<u>293,776</u>
	<u>655,936</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	3,862	21.02%
Credit Suisse First Boston Int.	2,500	13.62%
RIMsec	2,500	13.62%
Newcastle Permanent Building Society	2,000	10.89%
Maitland Mutual Building Society	1,500	8.17%
Illawarra Mutual Building Society	1,000	5.45%
Lehman Brothers	1,000	5.45%
Merill Lynch International	1,000	5.45%
Savings & Loans Credit Union	1,000	5.45%
ANZ Banking Group	500	2.72%
Greater Building Society	500	2.72%
JP Morgan Chase Bank	500	2.72%
Wide Bay Capricorn Bldg Society	500	2.72%
	<u>18,362</u>	<u>100.00%</u>

Instrument	Amount Held \$'000	Percentage of Total
Cash	862	4.69%
CDO	7,000	38.12%
FRN	2,000	10.89%
TD	4,500	24.51%
ELD	2,500	13.62%
AN	1,000	5.45%
MF	500	2.72%
	<u>18,362</u>	<u>100.00%</u>

I, D Fitzgerald, as Acting 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.

RECOMMENDATION that the information be noted.

To: **The General Manager**
Corporate & Regulatory Services
Committee – 23 January 2008

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
2 January 2008

ACTING DIRECTOR CORPORATE & REGULATORY SERVICES
REPORT NO. 3/2008

**SUBJECT: LOAN BORROWING - CESSNOCK COMMUNITY PERFORMING ARTS
 CENTRE**

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

At the Council meeting of 5 September 2007 (GM Report No. 44/2007) Council resolved to borrow \$6,000,000 for the construction of the Cessnock Community Performing Arts Centre. Approval is now sought to take up these funds.

As Councillors would be aware, authority to borrow funds cannot be delegated to the General Manager, therefore a Council resolution is required.

Quotations have been sought from a number of financial institutions to provide these funds. The quoted interest rate will be provided to Council on 23 January 2008 by the financial institutions and will be verbally reported to Council at the meeting of 23 January 2008.

It is proposed that after Council approval is gained to borrow the funds, an exact rate be confirmed on Thursday 24 January 2008. The General Manager will then be able to accept this rate on Council's behalf.

RECOMMENDATION that:

1. Council approve the borrowing of \$6,000,000 for the construction of the Cessnock Community Performing Arts Centre.
2. The Common Seal of Council be affixed to the mortgage documents.

To: **The General Manager**
 Corporate & Regulatory Services
 Committee - 23 January 2008

D FITZGERALD
ACTING DIRECTOR CORPORATE &
REGULATORY SERVICES
9 January 2008