



Vincent Street  
CESSNOCK 2325

10 June 2008

To All Councillors

*You are hereby notified that the next Meeting of the City Planning Committee will be held in the Council Chambers, on Wednesday, 18 June 2008 immediately following the conclusion of the Corporate and Community 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 City Planning Committee Meeting held on  
4 June 2008

**(3) OFFICERS' REPORTS**

**DIRECTOR CITY PLANNING**

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**(4) QUESTIONS WITHOUT NOTICE.**

## OFFICER'S REPORTS

### DIRECTOR CITY PLANNING REPORT NO. 42/2008

<b>DEVELOPMENT APPLICATION NO:</b>	<b>8/2008/6/1</b>
<b>APPLICANT:</b>	<b>RESITECH (A SERVICE AGENCY OF THE DEPARTMENT OF HOUSING)</b>
<b>OWNER:</b>	<b>DEPARTMENT OF HOUSING</b>
<b>PROPERTY:</b>	<b>LOTS 1-5 DP 12682 46-54 BUCKLAND AVENUE CESSNOCK</b>
<b>AREA:</b>	
<b>ZONING:</b>	<b>RESIDENTIAL 2(A)</b>
<b>PROPOSAL:</b>	<b>CONSTRUCTION OF THIRTEEN (13) X TWO (2) BEDROOM (SENIORS HOUSING) SELF-CONTAINED RESIDENTIAL UNITS</b>

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Senior Planning Assessment Officer, Mr R Sandell, reports:-

#### **SUMMARY:**

Application has been received for the erection of a seniors housing development comprising thirteen (13) x two (2) bedroom self-contained dwellings in a part single storey and part two storey construction. The proposed development has been notified to adjoining owner/occupiers in accordance with the Cessnock Development Control Plan 2006 and one petition has been received with the signatures of seven (7) residents of Mackellar Street raising concerns about the proposal.

The application has been assessed under the provisions of State Environmental Planning Policy (SEPP) (Housing for Seniors or People with a Disability) 2004 and Cessnock Development Control Plan 2006 and is considered satisfactory. The concerns raised by local residents have also been addressed and it is recommended that the application be approved.

The applicant, Resitech, acts on behalf of the Crown in relation to this application and Section 116C of the Environmental Planning and Assessment act, 1979 states:-

*"A consent authority, in respect of a development application made by on behalf of the Crown, must not:-*

- a) refuse its consent to the application, except with the written approval of the Minister, or*
- b) impose a condition of its consent, except with the written approval of the Minister or the applicant.*

The applicant has been provided with a copy of the draft conditions of consent and has issued its formal acceptance of the conditions.

#### **PROPOSAL:**

The proposed development comprises the following:-

- Construction of self-care seniors housing development comprising 13 x 2 bedroom self-contained dwellings, nine (9) of which will be wheelchair accessible dwellings and six (6) of which will be disabled/adaptable dwellings.
- Provision for a total of nine (9) on-site parking spaces, comprising five (5) garages and four (4) visitor spaces in a centrally located open parking area; and

- Provision of open space in the form of landscaped courtyards for ground floor dwellings and balconies for first floor dwellings.

The proposed unit development will be constructed in five (5) buildings with single storey units fronting both Buckland Avenue and Mackellar Streets. A single storey duplex and separate dwelling will front Buckland Avenue and a single storey duplex will front Mackellar Street. Two (2) buildings each containing four (4) units in a two (2) storey configuration will be located at the rear of the single storey units.

The proposed buildings will be constructed using selected face brickwork on the external walls, metal 'Colorbond' sheeting as the roofing material and powder-coated aluminium windows.

**SITE DESCRIPTION:**

The subject site is located on the south eastern corner of the intersection of Buckland Avenue and Mackellar Street.

The subject site is generally rectangular in shape with a total development site area of approximately 3,061 square metres. The site is currently vacant and has frontage to Buckland Avenue of 76.2m (which has not been constructed) and frontage to Mackellar Street of 40.235m, a common southern boundary of 40.169m and a common eastern boundary of 76.2m.

The site slopes approximately 4 metres from its south-western corner at the Buckland Avenue frontage, towards its north-eastern corner at Mackellar Street. The site is clear of all vegetation, except grasses. Vacant lands immediately surround the development site and a natural watercourse is located on adjoining land to the east. Development in the surrounding locality is primarily residential and consisting of predominantly single storey detached dwellings of brick veneer construction.

Reticulated water and sewerage services are available to the site.

**PUBLIC NOTIFICATION (S79C.d):**

The application has been notified in accordance with Council's Development Control Plan 2006 for a period of twenty-two (22) days. One (1) letter with seven (7) signatures from residents in Mackellar Street has been received in response to the notification. Residents are seeking clarification on a number of points as follows:-

1. What will the criteria be for being classified as "Aged or Disabled"?

**Comment:** Under Clause 8 of SEPP (Housing for Seniors or People with a Disability) 2004 seniors are any of the following:-

- a) people aged 55 or more years,
- b) people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided,
- c) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

Under Clause 9 of the Policy, people with a disability are "*people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life*".

2. Can the criteria for this classification be changed in the future to accommodate general or low income families?

**Comment:** This is matter for consideration by the Department but Clause 18(1) of the Policy states that development under the SEPP can only be carried out for the accommodation of the following:-

- a) seniors or people who have a disability,
- b) people who live within the same household with seniors or people who have a disability,
- c) staff employed to assist in the administration of and provision of services to housing provided under this Policy”.

Further, under Clause 18 (2) of the Policy, a consent authority (ie Council) must not consent to a development application unless:

*“a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and*

*b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act, 1919, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1)’.*

3. Will the Department’s ‘grounds and gardens’ be maintained by the Department of Housing or by the residents?

**Comment:** The Department has advised that it will engage local contractors to ensure that common landscaped areas within the development are continually maintained to a satisfactory standard.

4. The stormwater drainage from the development, will this be drained into the open area between Myra and Mackellar Streets?

**Comment:** Council will require the provision of water tanks and stormwater detention within the site in accordance with its requirements for unit development. This will ensure the collection of stormwater which will then be conveyed to the stormwater easement referred to by residents.

5. As this is housing for the aged and disabled, why are there two storey units, surely flights of steps would be difficult for most aged or disabled residents to manage?

**Comment:** The Department caters for a wide range of housing needs and many people 55 years of age and over are not restricted by a two storey unit development. Similarly, some disabled persons, such as hearing impairment, may not be restricted from accessing a two storey unit development.

The concerns raised by local residents have been referred to the Department of Housing who have provided a response to the petition.

**STATUTORY SITUATION (S79C.a):**

The proposed development is located within the Residential 2(a) zone and under the provisions of the Cessnock Local Environmental Plan 1989 the proposal is permissible with the consent of Council. The development also falls within the definition of ‘Seniors Housing’ under the State Environmental Planning Policy (SEPP) (Housing for Seniors or People with a Disability) 2004 and is required to comply with the provisions of this policy together with Council’s Development Control Plan 2006 (Part D Specific Development – Chapter D.2).

**RELEVANT ISSUES (S79c(b)(c)&(e)):**

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 Instruments**

**State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

Under the terms of the Policy ‘*seniors*’ are people aged 55 years or more and ‘*people with a disability*’ are people of any age who, as a result of an intellectual, physical, psychiatric or sensory impairment, either permanently or for an extended period, have substantially limited opportunities to enjoy a full and active life.

‘*Seniors Housing*’ is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability and includes a group of self-contained dwellings as proposed in this application.

The proposed development conforms with the general requirements of the policy in that nine (9) of the dwellings will be wheelchair accessible dwellings, with six (6) being disabled/adaptable dwellings.

**Specific Requirements**

- 1) Location and Access to Facilities (Clause 26) – the Policy requires that Council must not consent to an application for seniors housing unless it is satisfied that residents will have access to:-
  - i) shops, banks and other retail and commercial services that residents may reasonably require, and
  - ii) community services and recreation facilities, and
  - iii) the practice of a general practitioner

The Policy further states that the access to such facilities may be in the form of a transport service located at a distance of not more than 400 metres from the site of the proposed development by means of a suitable access pathway and have an overall average gradient along this distance of not more than 1:14. The Policy also requires that the transport service will take residents to a place that is located at a distance of not more than 400 metres from the facilities referred to above and that such service is available to and from the development site during daylight hours at least once each day from Monday to Friday.

The proposed development generally satisfies these requirements. It is approximately 395 metres from the bus stop in Buckland Avenue where Rover Coaches operates a local bus service with regular scheduled bus services (Route 169) on Tuesdays, Wednesdays and Fridays to and from the Cessnock city centre. In addition Cessnock Community Transport Inc also provides alternative transport arrangements and activities for residents and Rover Coaches also operate an extensive school bus service which is also available to local residents.

### **Design requirements**

- 1) **Site Analysis** (Clause 30) – this clause states that Council must not consent to an application unless it is satisfied that the applicant has taken into account a site analysis prepared by the applicant containing information about the site and its surrounds and is accompanied by a written statement explaining how the design of the proposed development has regard to the site analysis and design principles set out in Division 2 of the Policy.

The information submitted with the application is considered to be adequate for the purpose of this clause and was supported by the officer inspection of the site.

- 2) **Design of residential development** (Clause 32) – this clause requires Council to take into consideration a set of design principles for new residential development based on:-

- a) **Neighbourhood amenity and streetscape** – the proposal has been designed with single storey dwellings facing Buckland Avenue and Mackellar Street and the two storey component of the development located at the rear of the site facing vacant open space land to the east. The design of the proposed development complements the character of neighbouring residences by adopting a predominantly single storey form of construction with similar street setbacks.

Council's Building Line policy on corner lots requires a six (6) metre building line to the principle street and 4 metres to the secondary street. The application proposes a 4 metre setback to Buckland Avenue and a 6 metre setback to Mackellar Street. Although the principle street address is Buckland Avenue, the proposed building lines are supported given that this section of Buckland has not been constructed and Mackellar Street will be the primary frontage for access purposes. The existing dwellings opposite the development site in Mackellar Street also observe a 6 metre front setback.

- b) **Visual and Acoustic privacy** – the proposed unit development does not directly adjoin any other residential properties and in conjunction with the design has ensured that the visual and acoustic privacy of neighbours in the vicinity of the site have been preserved.

- c) **Solar access and design for climate** – the siting of the proposed development will have no impact on the access of sunlight into the living areas and open space areas of adjoining properties. All living areas of the proposed units and open space areas have been designed with a northern or eastern orientation to maximise solar access.

d) **Stormwater** – the applicant has submitted stormwater details incorporating the provision of a 2000 litre water tank for each dwelling unit and stormwater detention in accordance with Council requirements. Final plans for the stormwater detention and conveying of stormwaters to the Council's drainage easement will be required prior to the commencement of the development.

e) **Crime prevention** – fencing is to be provided along all site boundaries and along the boundaries of all private open space areas to provide a level of safety and security for residents. The design of the development will also allow for general surveillance of common areas and the central car parking area from the dwellings.

f) **Accessibility** – the proposed development provides safe pedestrian links that give access to transport services and provide a secure environment for pedestrians and motorists with convenient access for residents and visitors.

g) **Waste management** – the applicant has submitted a waste management plan in accordance with the Cessnock DCP 2006 (Part C – General Guidelines, Chapter C.5 – Waste Management & Minimisation) in order to maximise recycling during the construction of the development.

#### **Development standards to be complied with**

1) Development Standards – minimum sizes and building height – Council is unable to grant consent to an application unless the development complies with the following standards of the Policy:-

- (a) the size of the site must be at least 1,000 square metres
- (b) the site frontage must be at least 20 metres wide measured at the building line
- (c) the height of proposed buildings is less than 8 metres.

The proposal complies with the above standards.

2. Self-contained dwellings – standards concerning access and useability

Under Clause 41 of the Policy Council is unable to grant consent to a development unless the development complies with a range of specific standards relating to access and usability. The applicant has provided details demonstrating compliance with the standards referred to in Clauses 52 to 72 of the Policy.

#### **Standards that cannot be used to refuse development consent for self-contained dwellings (Div. 4 - Clause 50)**

The SEPP states that Council must not refuse to grant its consent to a development if certain criteria are satisfied. The proposed development complies with all of these criteria:-

- a) building height where buildings are 8 metres or less in height.
- b) density and scale where expressed as a floor space ratio, ie standard requires 0.5:1 or less and proposed is 0.5:1.
- c) landscaped area proposed is 35% of area of site (minimum of 30% of the area of the site to be landscaped is requirement).

- d) deep soil zones – the Policy states that not less than 15% of the site is to be available as a deep soil zone which are those parts of the site not built on, paved or sealed where there is soil of sufficient depth to support the growth of trees and shrubs. Proposal sets aside 18% of site as deep soil zones.
- e) solar access – requirement is for 70% of living areas and main private open space areas to receive a minimum of 3 hours of sunshine between 9am and 3pm in mid-winter and this has been achieved.
- f) private open space – requirement is for minimum 15m<sup>2</sup> per dwelling and for one area minimum dimension of 3m x 3m accessible from living area. Minimum open space per dwelling achieved is 66m<sup>2</sup> and minimum 3 x 4.1m accessible from living area.
- g) car parking – requirement is for minimum 1 car space per each 5 dwellings. Nine (9) car parking spaces have been provided.

**b) The Provisions of any Local Environmental Plan**

**Cessnock Local Environmental Plan, 1989**

The subject land is zoned Residential 2(a). The proposed development falls within the definition of a residential flat building and is permissible only with the consent of Council in the zone under the provisions of the Cessnock Local Environmental Plan 1979. The objectives of the zone are:-

- a) *primarily to provide for low density residential development;*
- b) *to enable residential flat buildings which are compatible with single dwelling development;*
- c) *to provide for other forms of development which may appropriately be located in a residential zone; and*
- d) *to ensure non-residential development is of a type, scale and character which will maintain residential amenity.*

The proposed development is consistent with objectives a) and b) of the zone. It should be noted that Clause 5 (3) of SEPP (Housing for Seniors or People with a Disability) provides that the provisions of the Policy prevail where any inconsistency exists between the Policy and the Plan.

**c) The Provisions of any Development Control Plan**

The proposal is required to comply with the provisions of the Cessnock Development Control Plan 2000 (Part D – Specific Development, Chapter D.2 – Urban Housing) unless otherwise covered by the SEPP.

**Design Elements – Building Design and Appearance**

With regard to the rear boundary setback the wall of the two storey dwelling units are setback 2.1m from the eastern boundary. The required setback is 2.38m and the applicant has requested a variation to this requirement as the eastern boundary adjoins a drainage reserve which will not be built upon. The variation represents a minor encroachment into the rear boundary setback and is supported in the circumstances.

The proposed development satisfies the remaining provisions of the Cessnock Development Control Plan 2000 – Urban Housing.

### **The Likely Impact of that Development**

**Access and Traffic** – car parking provided for the proposal exceeds the requirements of SEPP (Housing for Seniors or People with a Disability) 2004. Only three (3) car parking spaces are required under the SEPP while nine (9) spaces have been provided including five (5) garages. The standard satisfied in this regard recognises that a significantly lower requirement for on-site car parking is necessary for seniors and people with a disability than with normal residential unit development.

Buckland Avenue, adjacent to the development, is an unformed roadway. Mackellar Street, adjacent the northern boundary of the proposed development, is sealed but without kerb and gutter and no formed footway adjacent the development site. Both streets are to be constructed to a full width roadway including concrete kerb and gutter both sides, seeding of footpaths and construction of a 1.2m wide concrete footpath adjacent the development site.

**Social Impact in the Locality** – the proposal will result in a number of positive benefits to segments of the Cessnock community as it will give the Department of Housing an opportunity to meet the needs of the aging population by providing purpose built accommodation for aged people and people with a disability. In addition the new housing will result in more accessible housing becoming available and improvements to the sustainability of housing in the locality through improved energy and water efficient housing designs.

**Economic Impact in the Locality** – the proposed development will contribute in a positive economic way to the Cessnock economy through the employment of personnel for the construction of the development, the local sourcing of construction materials, on-going consumption from new additional households and the more efficient use of land resources, existing infrastructure and existing services.

**Suitability of the Site for the Development** – the subject site is suitable for the proposed development due to its proximity to transport infrastructure providing access to the commercial centre of Cessnock. The site is also in close proximity to Cessnock Hospital.

The constraints of the site are its present access to Buckland Avenue. The construction of the northern end of Buckland Avenue incorporating the sealed road, kerb and gutter and the provision of a concrete footpath will facilitate access to the transport infrastructure for residents of the unit development.

### **CONCLUSION**

The proposed development has been considered under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and Cessnock Council's DCP 2006 and in complying with these requirements will contribute in a positive way to the natural and built environment.

The design of the proposed development using a mixture of single and two (2) storey unit development will minimise the impact of the proposal on the nearby residential development and result in a positive contribution to the streetscape.

**RECOMMENDATION** that Development Application No. 8/2008/6/1 for the construction of thirteen (13) x two (2) bedroom (Seniors Housing) residential units on Lots 1-5 DP 12682 Nos 46-54 Buckland Avenue, CESSNOCK; be approved subject to compliance with the following conditions:-

### **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 Plans numbered 0720 DA (Job No. BF89H, Sheets D1 – D5) dated 19/10/2007 and Stormwater Plan (Job No. 07-681) dated 11/9/07, the Statement of Environmental Effects dated December 07 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 proposed self-contained dwellings shall be occupied exclusively by "seniors or people with a disability " as defined under Clauses 8 and 9 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in accordance with Clause 18 of the Policy.

In this regard the applicant is required to register a restriction as to user against the title of the property on which the development is to be carried out, in accordance with section 88E of the Conveyancing Act, 1919, limiting the use of any accommodation to which the application relates to the kinds of people referred to in Clauses 8 and 9 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

##### Reason

*To confirm the terms of approval and the basis of Council's consideration under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.*

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. The applicant shall comply with the requirements of the Hunter Water Corporation Ltd in respect of any building or structure proposed to be erected over any services or stormwater drain under the Corporation's control and in relation to the amplification of the sewer and water supply to the proposed development.

Reason

*To ensure compliance with the Hunter Water Corporation requirements for the supply of water and sewerage to the proposed development.*

Design Considerations/Building Setbacks

5. Lighting of the development shall not project glare onto adjoining properties or roadways.

Reason

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

6. A group mailbox shall be provided at the street frontage within the property boundaries in accordance with the requirements of Australia Post such to clearly display individual unit numbers and the required house number.

Reason

*To ensure appropriate and suitably located letterboxes are provided.*

Building Construction

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

Reason

*To reduce the risk of damage to adjoining properties*

8. 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, Carparking and Loading Arrangements

9. 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*

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.

Reason

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

Site Works

11. This consent allows the removal of trees and other vegetation from the site of approved buildings, structures, permanent access ways and carparks. It also allows for the removal or lopping of trees within three (3) metres of approved buildings. No other trees or vegetation shall be removed or lopped except with prior written consent of Council.

Reason

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

Landscaping

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

Reason

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

Roadworks

13. The registered proprietor of the land shall construct the following works along the property frontage to Buckland Avenue under the Roads Act and in accordance with Council's 'Engineering Requirements for Development'. The design is to be submitted on a set of plans, four (4) copies of which shall be submitted to and approved by the Development Services Manager prior to any works taking place within the road reserve.

- \* Construct full width sealed roadway.
- \* Construct concrete kerb and gutter to both sides.
- \* Construct and gravel road shoulders.
- \* Place 2 coat bitumen seal on road shoulders.
- \* Construct drainage works where necessary, including the extension of the existing 375mm RCP located at the north west corner of the intersection of Brown Street and Buckland Avenue. A kerb inlet pit is to be constructed, at the northern point of a kerb return at this intersection, to receive the existing stormwater pipe and direct it to the eastern side of Buckland Avenue, thence to Mackellar Street to connect to the "easement to drain water" on Lot 20 DP 9164.
- \* Construct a 1.2m wide concrete footpath adjacent to the subject site.

Reason

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

14. The registered proprietor of the land shall construct the following works along the property frontage to Mackellar Street under the Roads Act and in accordance with Council's 'Engineering Requirements for Development'. The design is to be submitted on a set of plans, four (4) copies of which shall be submitted to and approved by the Development Services Manager prior to any works being undertaken in the road reserve.

- \* Construct concrete kerb and gutter.
- \* Construct and gravel road shoulder.
- \* Place 2 coat bitumen seal on road shoulder.
- \* Construct drainage works where necessary.
- \* Construct a 1.2m wide concrete footpath adjacent to the subject site.

Reason

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

15. On-site car parking shall be provided for a minimum of four (4) vehicles and such being set out generally in accordance with Council's Car Parking Code.

Reason

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

16. 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.*

**DURING CONSTRUCTION**

General

17. 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.*

18. Toilet facilities are to be provided prior to works commencing, 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 must be a sewage management facility approved by the NSW Department of Health and/or Council and operate in an environmentally responsible manner, free of nuisance or offence, and be appropriately serviced.

Reasons

*To ensure that suitable and environmentally sustainable toilet facilities are provided for all persons employed or visiting the site. To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.*

19. 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.*

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

Reason

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

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

Reason

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

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.*

Scheduling Of Inspections

23. The applicant is to advise Council's Subdivision and Engineering Co-ordinator at least 48 hours prior to commencement of construction of on-site detention or external road works together with the approved contractor's name and address.

Reason

*To enable orderly scheduling of inspections.*

Building Construction

24. 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.*

25. 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

26. 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.*

**PRIOR TO OCCUPATION**

General

27. All of the building, other works and associated development must be constructed strictly in accordance with the provisions of this Development Consent prior to occupation and use of the dwellings.

Reason

*To ensure that the building and other works have been constructed in accordance with the Development consent prior to occupation and use of the building.*

28. The applicant shall make satisfactory arrangements with the Energy Supplier, the Hunter Water Corporation and telecommunications authorities in regard to the provision of services provided by those authorities to the development.

Reason

*To ensure that adequate services are provided to each dwelling created.*

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

Based on a road length of approximately 50 metres of road shoulder works in Mackellar Street and approximately 87 metres full road construction in Buckland Avenue. Final bond amounts will be levied on accurate dimensions contained within the engineering plans.

- (i) Road fees - engineering plan checking and supervision of \$2,652.01.
- (ii) A performance bond of a minimum of \$1000 or 5% of the road contract construction costs, whichever is greater (transferable).
- (iii) A road maintenance bond of a minimum of \$1000 or 5% of the road 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 the commencement of work and shall be in accordance with Council's adopted fees and charges current at the time of payment.

Reason

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

Drainage and Flooding

30. All drainage works required to be undertaken in accordance with this consent shall be completed prior to use or occupation of the development.

Reason

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

31. 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 generally in accordance with the approved stormwater plan shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details of on-site storage and the method of controlled release from the site and connection to an approved drainage system in accordance with Council's 'Engineering Requirements for Development'.

The detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development shall be prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics. Full details shall be prepared in consultation with and submitted to Council prior to commencement of work on the site.

**Note:** Construction shall be completed prior to the occupation of the development.

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.*

32. 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 Council prior to the occupation of the development.

Reason

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

33. 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 prepared in consultation with and be submitted to Council prior to the occupation of the development.

Reason

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

34. The registered proprietors of the whole of the land shall, prior to occupation of the site at their costs and expense, enter a positive covenant over all of the land comprised in the development providing as follows:-

- a) *Covenanted 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 (33), 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.*

35. The applicant shall pay Detention Basin(s) engineering checking and site supervision fees in accordance with Council's adopted fees and charges prior to commencement of construction on the site. Council's current fee is \$492.00 per basin for basins less than 50m<sup>3</sup>. 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.*

Building Construction

36. 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, Carparking and Loading Arrangements

37. 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.*

Site Works

38. All retaining walls and associated drainage shall be installed and completed prior to use or occupation of the building.

Reason

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

Consolidation

39. A plan of consolidation of all lots included within the bounds of the development shall be registered at the Land & Property Information office, Sydney, prior to commencement of occupation of the premises.

Reason

*To ensure that the proposed development is managed as a single entity by the owner or owners.*

**ADVICE**

**1. 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***  
City Planning Committee –  
18 June 2008

**D FITZGERALD**  
**DIRECTOR CITY PLANNING**  
29 May 2008

## **DIRECTOR CITY PLANNING REPORT NO. 43/2008**

**SUBJECT: VOLUNTARY PLANNING AGREEMENT: OFFER BY THE WINTEN PROPERTY GROUP (WINTEN (NO 23) PTY LIMITED) IN CONNECTION WITH REZONING OF LAND AT CLIFTLEIGH**

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Manager Strategic Planning, Mr Bo Moshage, reports:-

### **SUMMARY**

The Winten Property Group (Winten (No 23) Pty Limited) have submitted an offer to Council to enter into a Voluntary Planning Agreement under Section 93F of the Environmental Planning and Assessment Act. The offer is intended to provide developer contributions for the development of 977 dwellings at Cliftleigh, which are over and above that required by the current Section 94 Plan. This report summarises key elements of the offer by the Winten Property Group and recommends that Council agree to enter into the draft Voluntary Agreement after formal notification.

### **REPORT**

The Winten Property Group (Winten (No 23) Pty Limited) have made a formal offer to enter into a Planning Agreement with Council under Section 93F of the Environmental Planning and Assessment Act. The agreement proposes to make contributions towards the provision of services and facilities required as a result of development of the land, which are over and above that required by the current Section 94 Plan.

The offer is made in connection with Development Application 8/2007/757 and relates to Draft Amendment 120 to the Cessnock Local Environmental Plan 1989 (Cliftleigh Precinct), which was recently endorsed by Council at its meeting of 1 August 2007.

The planning agreements generally provides for either monetary contributions or works in kind, covering the provision of the following outcomes:

- Rehabilitation of Testers Hollow to provide passive open space and wetlands, including a five (5) year maintenance period;
- Playing fields, amenities and car parking at Testers Hollow;
- Testers Hollow local park and playground;
- Testers Hollow neighbourhood centre / child care facility;
- Land for the proposed Hilltop Park;
- Contributions towards library services;
- Contributions towards aquatic facilities;
- Traffic management / cycle ways / pedestrian facilities;
- Major road and bridge works; and
- Contribution towards public car parking provision in the Kurri Kurri CBD.

The total contribution is valued at \$14.836 million dollars. When divided by the potential lot yield represents a contribution of \$15,185.00 on a 'per lot' basis.

The VPA is legally binding on both parties and covers only those lots controlled by the principal developer and applicant for the rezoning, the Winten Property Group, which equates to approximately 90% of the total lot yield for the Cliftleigh Precinct. The other 10% of lots within the precinct will be covered by either similar VPAs with the other property owners or a site specific Section 94 Plan requiring 'per lot' contributions at an identical rate to the Winten VPA.

The Environmental Planning and Assessment Act requires that a Planning Agreement must be notified for a minimum of 28 days for public comment before it is formally entered into by Council.

A copy of the letter of offer to enter into a Voluntary Planning Agreement is contained in the enclosure document.

**RECOMMENDATION** that:-

1. Council accept the offer to enter into a Voluntary Planning Agreement for a contribution of approximately \$14.836 million dollars towards the provision of services and facilities and the undertaking of works in connection with the development of 977 dwellings at Cliftleigh
2. A copy of the voluntary planning agreement, be available for inspection by the public for a period of 28 days in accordance with the provisions of the Environmental Planning and Assessment Act.
3. Should no objections be received during the notification which may preclude adoption, Council resolve to submit the Cliftleigh Voluntary Planning Agreement to the Department of Planning in accordance with the provisions of the Environmental Planning and Assessment Act, 1979.

To: **The General Manager**  
City Planning Committee –  
18 June 2008

**D FITZGERALD**  
**DIRECTOR CITY PLANNING**  
6 June 2008

## **DIRECTOR CITY PLANNING REPORT NO. 44/2008**

**DEVELOPMENT APPLICATION NO:** 8/2006/298/1  
**APPLICANT:** VALAD PROPERTY GROUP  
**OWNER:** HEZ NOMINEES PTY LTD  
**PROPERTY:** LOT 7 DP 1037092  
**AREA:** 2.087 HECTARES  
**ZONING:** 4 (H) HUNTER EMPLOYMENT ZONE  
**PROPOSAL:** WHOLESALE NURSERY

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HEZ Business Unit, reports:-

### **SUMMARY:**

A development application has been received for the establishment of a wholesale plant nursery with accessway upon part of Lot 7 DP 1037092, being off the HEZ Spine Road. This proposed wholesale plant nursery will be used for the propagation and growing of key endemic plant species that can be used for landscaping and revegetation works within the HEZ estate, as well as providing plants to other retail nurseries within the Lower Hunter region.

A comprehensive environmental assessment has been undertaken by the HEZ Planning Team including specialist engineering and environmental consultants. The Unit has reviewed the development application plans, accompanying Statement of Environmental Effects report, traffic report, flora and fauna assessment report and other relevant technical reports accompanying the development application. The reports have been utilised for assessment purposes and to formulate relevant recommendations and proposed conditions of consent.

The Roads and Traffic Authority have now issued their concurrence pursuant to Clause 57(6) of Cessnock Local Environmental Plan 1989, as the Deed Containing Agreement (DCA) that defines infrastructure works on the State Road network for Precincts 1 and 2 of the HEZ estate is currently being prepared, with execution anticipated to be in July 2008. The Deed Containing Agreement (DCA) will be a separate report to Council.

### **PROPOSAL:**

The development proposal involves the establishment of a wholesale plant nursery including associated buildings, plant growing area, carparking and an access driveway.

The proposal consists of the following components:

- Selected clearing of the site;
- An open growing area which occupies a significant part of the site;
- Construction of a workshed with dimensions of 25.0 x 14.78 metres being of painted pre cast concrete wall panels with colourbond steel roof sheeting;
- Construction of a sales office comprising 4 offices, amenities, lunch room/kitchen, store room, meeting room and reception. This building has dimensions of 16.2 x 10.8 metres being of colourbond steel wall cladding and roof;
- Water storage dam that will be used for capturing runoff from irrigation of plants;
- Landscaping of the site;
- Car parking area consisting of 13 spaces;
- Designated truck parking area;
- Construction of a 7 metre wide access road from the HEZ Spine Road;

- Construction of diversion drains around the perimeter of the site;
- Retention of the north eastern corner of the site as bushland to protect valuable species found on site; and
- No of employees – 12 – 15 employees initially with potential for growth.

The necessity to establish a nursery within the HEZ estate has now become urgent to meet various approvals issued for the HEZ estate such as:

- the Conservation Management Plans prepared for Conservation Areas of the estate pursuant to the EPBC Act approval;
- the Assumed Concurrence issued by the former Department of Environment & Conservation (DEC); and
- schedules contained within the draft Habitat Management Strategy.

Seed collection and propagation needs to be undertaken within the HEZ estate to ensure sufficient levels of local provenance material are available when necessary. Hence seed collection has commenced with the approval of Department of Environment and Climate Change (DECC) with these seeds being propagated off site at the present time. To date 40,000 tube stock plants have been propagated and it would be desirable to transfer these plants to the HEZ estate to allow hardening within the local micro climate prior to planting. Approval of this nursery development application would allow relocation of these plants.

#### **BACKGROUND:**

The draft HEZ Habitat Management Strategy (HMS) recommends that a commercial nursery be established within the HEZ estate during the early stages of development. The nursery is required to propagate plants specifically from local indigenous plant species and to also cultivate from local seed stock or other genetic material. These can all be used for landscaping purposes within the HEZ estate. Such plants could also be used in bush rehabilitation programs associated with the HEZ estate, particularly within the 7(b) Environment Protection (Conservation) zone corridor.

Therefore, the establishment of the proposed nursery will assist in the early and ongoing landscaping of the HEZ estate, including the planting of road verges, entry features, roundabouts and other approved developments and rehabilitation works and program associated with other approvals.

#### **SITE DESCRIPTION:**

The subject site is located off the western side of Stage 1(c) of the HEZ Spine Road to the south of an existing roundabout and immediately west of two existing detention ponds. The site is described as being part of Lot 7 DP 1037092. The area of the site is approximately 2.087 hectares, being of a rectangular battleaxe shape with a 74 metre long access handle off the HEZ Spine Road.

The land is predominantly vegetated with native species and forms the confluence of four (4) ephemeral watercourse systems. The site topography is described as being gently sloping, falling from RL 59.5m AHD at the north west to RL 49.0m AHD toward the eastern boundary.

**PUBLIC EXHIBITION:**

The application was placed on public exhibition from the 8 November 2006 to 7 December 2006 being a period of 30 days in accordance with the provisions of Cessnock Development Control Plan 2006 – Chapter B2 Public Notification and Advertising. During this period Council received one (1) submission in respect to the application. (This is included in the enclosure document).

The following is a summary of the main issues raised in the submission:

**1. The development proposal does not meet the objectives of the 4(h) zone.**

**Comment:**

This matter is discussed in detail within the section of the report dealing with the objectives of the zone. The proposal does satisfy the objectives of the 4(h) zone.

**2. The approval of such a small business as this nursery is permissible within any zone of Cessnock LEP.**

**Comment:**

It is acknowledged that a wholesale plant nursery is permissible within other zones contained within Cessnock LEP 1989. However, in this case the nursery is being established to primarily service the landscaping and revegetative demands of the HEZ estate, as well as providing landscaping supplies such as endemic plants to other nurseries and landscaping contractors within the Lower Hunter region.

**3. The proposed nursery poses a risk to the ecological integrity of the Hunter Employment Zone as non endemic species will likely be grown thus contaminating the ecology of the HEZ.**

**Comment:**

The primary intent of the nursery is to grow endemic species. However, non endemic species can be grown and propagated on the site without damaging the ecology of the surrounding HEZ estate provided best practice procedures are implemented to protect surrounding bushland areas. Some of these controls/measures are recommended by the technical data accompanying the DA and specific conditions can be attached to any development approval to ensure implementation of appropriate environmental protocols.

**4. The proposal does not meet a number of principles of Clause 10(3) of Cessnock LEP 1989**

**Comment:**

Clause 10(3) states that Council shall have regard for these principles in the assessment of development applications. Regard has been given to these principles but notwithstanding, it would be difficult for any new development establishing within HEZ to satisfy all these principles as some cannot be directly applied to all developments. The proposal will provide employment opportunities and provide new skill opportunities for workers of the Cessnock LGA . The propagation of endemic plants can also has the potential to advance new techniques and make a positive contribution to the retention of biodiversity within the estate and the Lower Hunter region.

5. **Flora and Fauna report does not satisfy the guidelines of DCP No. 56. Little or no fauna survey work has been undertaken.**

**Comment:**

Two additional targeted surveys of the site were undertaken to verify ECMP data prior to completion of the Flora and Fauna Assessment report accompanying this application. The Flora and Fauna assessment of the site has been undertaken in accordance with provisions of the draft Habitat Management Strategy (HMS) applicable to the HEZ estate and is considered to be the most appropriate guideline for the site.

6. **The ECMP isn't a credible tool for assessing impacts on biodiversity in the HEZ.**

**Comment:**

Extensive research and investigation was undertaken during the preparation of the ECMP to allow accurate consideration of potential impacts on flora and fauna within the HEZ estate. The Department of Environment and Climate Change and the Commonwealth Department of Environment, Water, Heritage and Arts have accepted this ECMP data in terms of granting an assumed concurrence and approval under the EPBC Act.

7. **No discussion on the species of Stringybark *Eucalyptus agglomera aff.* that has been identified in the HEZ as possibly being a new species or the swift parrot habitat and foraging trees greater than 40cm DBH.**

**Comment:**

The *Eucalyptus sp aff agglomerate* has not been formally listed as a threatened species, under the Threatened Species Act and therefore does not require consideration pursuant to the Environmental Planning and Assessment Act. Whilst some new specimens of stringybark trees may occur within the HEZ, to date these have not been accepted as new species. Therefore the Flora and Fauna Assessment did not need to consider this species.

The removal of habitat and foraging trees for the swift parrot has been considered within the 7 part test contained within the Flora and Fauna Assessment Report accompanying the DA. It has been concluded that removal of this habitat is not likely to significantly impact on the long term survival of the species within the HEZ locality.

8. **Recording of *Grevillea parviflora* in the grid in which this development occurs yet the failure to find the plant on site.**

**Comment:**

The Flora and Fauna Report identifies that an ECMP grid falls partly on the western edge of the site with low densities of *Grevillea parviflora*. The target surveys of the site found no plants on the subject site hence the density grid was classified as being low. These species were found to the west of the site only.

9. **No attempt has been made to assess the impacts of an altered hydrological regime on the endangered Hunter Lowland Redgum occurring up stream.**

**Comment:**

No Hunter Lowland Redgum (HLR) has been found upstream of the site. However, this species has been identified as occurring downstream being on the eastern side of the HEZ Spine Road. Sufficient investigation and consideration of the hydrological impacts of the development have been undertaken during the assessment of this development application and two reports have been prepared identifying that waters will be appropriately treated and controlled to avoid any impacts onto surrounding ecology including the HLR.

10. **No spot lighting of the Yellow Bellied Glider has occurred as required by DCP No. 56. No spotlighting has occurred in the HEZ for 4 years nor any survey of the Green Thighed frog.**

**Comment:**

No additional spotlighting was considered to be necessary as the Flora and Fauna Report and 7 Part Test presumes that the species is likely to be present and hence removal of that vegetation has been assessed. It is considered that the species will not be significantly affected. The ephemeral stream running through the site is considered to be of a low quality habitat for the Green Thighed Frog particularly as it is located above constructed detention facilities. The removal of this potential habitat is not likely to significantly affect the long term survival of this species within the HEZ.

11. **The claim that 1,273 hectares of National Park was set aside by the rezoning of the Hunter Employment Zone and can be considered as an offset for some of the environmental impacts of the development in the HEZ is incorrect and misleading.**

**Comment:**

Cessnock LEP 1989 (Amendment No. 60) included land zoned 8(a) National Park as well as lands commonly referred to as the HEZ estate being lands zoned 4(h), 7(b) and 5(a).

12. **The claims that the ECMP has been used to achieve an adequate conservation outcome which has culminated in the DECC issuing an assumed concurrence is also misleading and wrong.**

**Comment:**

The ECMP data provides ecological data and attributes for the HEZ estate. The DECC has used this mapping to grant assumed concurrence for the HEZ estate with specific conditions attached and designation of deferred areas to achieve a desired conservation outcome for this industrial estate which satisfies both the DECC and DEWHA. This application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act and other relevant legislation.

## **GOVERNMENT AUTHORITIES**

### ***Mine Subsidence Board***

The subject site is located within the proclaimed Tomalpin Mine Subsidence District. The application was referred to the Mine Subsidence Board (MSB) and the MSB has provided Council with a stamped copy of the plans. Clause 47 of Cessnock Local Environmental Plan 1989 also requires the concurrence of the MSB prior to granting of the consent. As a copy of the approval from MSB has been furnished to Council, this requirement has been met.

### ***Department of Water & Energy (Former Department of Natural Resources)***

An existing ephemeral stream bisects the subject site and accordingly a 3A Permit will be required under the Rivers and Foreshore Improvement Act, 1948 for any proposed works. Hence the application was referred to the former Department of Natural Resources (DNR) for comment. The former DNR has responded by issuing General Terms of Approval (GTA) for the proposed development. These conditions will be attached to any development approval issued for establishment for a wholesale nursery upon the site. The former DNR has requested that a condition be attached to the consent stating that:

*The Construction Certificate will not be issued until the consent authority is provided with documentary evidence that the DNR has granted a permit under Part 3A of the Rivers and Foreshores Improvement Act 1948.*

This is a standard condition that would be attached to any development approval for the site.

### **Roads & Traffic Authority**

Clause 57(6) of Cessnock LEP states that: “consent must not be granted to development of land to which this clause applies that, in the opinion of the consent authority, will or will be likely to generate additional vehicular traffic until the consent authority has received written advice from the Roads and Traffic Authority that arrangements satisfactory to that Authority have been made relating to improvements and additions to road infrastructure on and in the vicinity of the land to which this clause applies.”

The application was referred to the RTA for comment. The RTA has now advised that it grants its concurrence to the proposed development for the following reasons:

- the nursery development is ancillary to meeting other planning approval requirements;
- the likelihood that the proposed development will have minimal traffic impact on the classified (State) road network;
- an expectation that the DCA will be executed in July 2008.

This concurrence is given on the basis that access to the state road will be via the existing temporary connection of the HEZ Spine Road and in the knowledge that there is a commitment to construct the permanent seagull as a requirement of other proposed developments approved.

The RTA has indicated that a DCA for Stages 1 and 2 of the wider HEZ estate could be established between the developer of the estate (i.e. HEZ Pty Ltd), RTA and perhaps Council prior to the finalization of the overall traffic study. Thereby allowing concurrence for this development application to be granted and appropriate works being completed which satisfies the RTA and Council.

Given the low traffic generation levels from this proposed development the RTA has not requested that a condition be imposed requiring the upgrading of the intersection of Leggetts Drive and HEZ Spine Road. However this condition will be imposed on other developments where traffic generation warrants as has been the case with the Ullrich Aluminium Extrusion Plant.

As previously stated a report on the DCA will be presented to Council by the Director of Infrastructure and Services in the immediate future.

### **Rural Fire Services (RFS)**

The HEZ estate is within a known bushfire prone area. Hence the application was referred to the Cessnock NSW Rural Fire Services.

The RFS advises that the following conditions should be attached to any development approval:

1. All roof ventilators are to be screened with a mesh not greater than 2mm and have a flammability index five (5) or less to reduce the risk of ember entering during a surrounding bush fire;

2. The Asynite roof sheeting shall have a flammability index five (5) or less, and shall be screened to reduce the risk of failure during an ember attack from a surrounding bushfire;
3. All roller doors are to be sealed with material having a flammability index five (5) or less to prevent the entry of embers during a surrounding bush fire;
4. The site shall provide a safety refuge for both employees and visitors if a bush fire is to impact on the site. This may be the sales office. It is recommended that the level of construction for this building be as level 2 AS 3959 on the western elevations and level 1 AS 3959 on the northern, southern and eastern elevation;
5. Provide easy on site instructions as to the activation of the internal sprinkler/watering system if required during a bush fire situation; and
6. Provide a 65mm storz fitting and ball valve to tanks on site as to allow access to water supplies during a fire emergency.

These conditions will be attached to any development approval issued for the site.

**PLANNING ASSESSMENT:**

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

**Cessnock Local Environmental Plan 1989**

The subject land encompassing this proposed wholesale plant nursery and accessway is zoned 4(h) Hunter Employment Zone pursuant to Cessnock LEP 1989. The proposed development is permissible within this zone with consent of Council.

The objectives of the 4(h) Hunter Employment Zone are:

- (a) *to encourage sustainable major industrial development or major employment-generating development that is conveniently accessible to urban centres and that has good road and rail access links, and*
- (b) *to encourage ecologically sustainable development by prohibiting development that contributes to the degradation of the Wallis and Fishery Creeks water catchments, and*
- (c) *to permit other development that is complementary, ancillary or related to existing development within the zone, and*
- (d) *to prohibit development that exposes residences and the natural environment to unacceptable levels of pollution or hazard risk, and*
- (e) *to minimise the clearing of native vegetation, and*
- (f) *to facilitate the movement and survival of native fauna and flora by conserving native vegetation corridors.*

The proposal has been assessed in terms of the above objectives and the following comments are provided:

- a) The subject site is relatively large in terms of a wholesale plant nursery (i.e. 2 hectares); as distinct from an industrial site. Notwithstanding, the site is readily accessible to urban centres of the Hunter by good road links that will be further improved once the Pelaw Main By Pass is completed. Initially the number of persons employed may only be up to 12 persons and this is likely to increase as the nursery becomes more established and further landscaping of the estate and individual sites occurs. As further landscaping of the estate is required, indirect employment opportunities will be created in terms of the installation and maintenance of existing landscaping within public areas and individual allotments of the estate. The applicant has indicated that the training of new staff is likely to result as the nursery becomes more established therefore creating additional employment opportunities for the local community.

Further landscaping of the HEZ estate will assist in the marketing of this developing industrial estate by encouraging and attracting new employment generating developments.

Key Insights Pty Ltd, social and economic research consultants, also advise that in terms of local businesses a nursery employing up to 15 people is a significant employer within the Hunter Region, with a firm of this size likely to be paying a significant amount of payroll tax. The ratio of employees per hectare in the case of this nursery is 7.5 employees per hectare where as in the case of the Aluminium Smelter the ratio is 3 employees per hectare (i.e. 600 employees taking up 200 hectares).

The development is likely to employ persons from the local community in the longer term and create both positive economic and social benefits for the estate and community.

- b) A detailed Water Cycle Management Plan has been prepared and accompanies the application. A water storage dam has been designed within the development scheme to capture runoff that will be used for irrigation of plants. Hence the proposal provides for the management of stormwater flows from the site. Consequently the majority of water used on site will be captured and held on site for recycling purposes and existing streams and catchments downstream of the site will not be adversely affected as the proposed nursery operations will be fully controlled. This proposed capture dam will significantly reduce the risk of any downstream contamination along with a layer of suitable impervious material being placed within growing areas preventing infiltration and contamination of soils, etc;
- c) The proposed nursery does qualify as being ancillary to existing and future development of the HEZ estate. Currently, planting is required to be undertaken along road verges, entry features, roundabouts and various developments approved by Council that are currently under construction or completed. Hence the proposed nursery will be able to provide plants directly from a site within the estate and also allow for propagation of suitable endemic species for the HEZ estate. As previously stated seed propagation has already commenced to ensure commitments and demands can be meet in the future. As the estate develops, an increased demand for plants and other landscaping supplies will eventuate.

- d) The proposal after detailed assessment demonstrates that levels of potential pollution are minimal, and are not likely to detrimentally affect the surrounding environment including any streams. Also a plant handling protocol has been prepared which will ensure that weeds and other non endemic species do not spread into adjoining bushland sections of the estate. An environmental management plan will also need to be prepared to control activities on site and to avoid any environmental risk from chemical spills, works during construction, etc.
- e) The amended plans demonstrate that the existing vegetation within the north east corner of the site and along the boundaries of the site will be retained. This north eastern corner contains *Callistemon linearifolius* and will provide an area of land adjacent to the proposed dam on site and adjoining water retention ponds within its natural bushland state. Therefore whilst most of the site will be cleared of natural vegetation a significant attempt has been made to retain important clusters of existing vegetation on site which will enhance the visual and landscape quality of the site as well as providing areas for native fauna. A vegetation clearing plan accompanies the application and will ensure that limited areas on site are cleared and surrounding bushlands are protected during the construction phase.
- f) Existing vegetation retained on site will allow for some continued movement of fauna within the estate. Retaining a parcel of natural vegetation in close proximity to existing water quality ponds is considered to be beneficial in assisting with the long term survival of fauna.

Overall the proposed development as demonstrated above can satisfy the objectives of the zone.

#### ***Hunter Regional Environmental Plan***

The development proposal is consistent with the relevant objectives of this Plan as it will provide a service by way of providing plants and other landscaping supplies in the developing stages of the HEZ estate that will assist in its continued growth and development.

#### ***Cessnock Development Control Plan 2006***

The proposed wholesale plant nursery and associated accessway has been assessed by the HEZ Business Unit in respect to the provisions of the Cessnock DCP 2006 – Chapter E6 HEZ and the following comments are made in respect to relevant provisions:

##### Flora and Fauna

A Flora and Fauna Assessment Report accompanies the development application. The development scheme has been designed to retain existing flora and fauna within the north eastern corner of the site and along boundaries. This will ensure that important plant species found on site are retained and will be supplemented by additional landscaping. A Vegetation Clearing Plan has also been prepared which addresses habitat removal, animal welfare removal considerations, weed eradication and controls to minimise any environmental impact and to meet the provisions of the Habitat Management Strategy.

One ecological community is found upon the subject site being the Lower Hunter Spotted Gum Ironbark Forest (LHSGIF) and one threatened species being the *Callistemon linearifolius*. A total of eleven (11) keystone mature trees occur within the site of which one (1) can be retained. The majority of the *Callistemon linearifolius* will be retained within the north eastern corner of the site.

A 7 part test has been undertaken for the 21 threatened species and one deemed ECC deemed relevant. It has been concluded that the long term survival of concerned threatened species/populations/ecological communities will not be significantly impacted upon by this proposal.

As previously stated a plant handling protocol has been prepared and will need to be implemented to ensure plants which have potential to become weeds within the HEZ are handled in an appropriate manner. The proposed development will need to adhere to this protocol and a condition will be attached accordingly.

#### Heritage

The subject site does not contain any non-indigenous heritage items identified under any environmental planning instruments or government inventory nor is it located within a designated heritage precinct.

Previous archaeological studies of the overall HEZ estate have been undertaken. No significant sites or artefacts were identified during the site assessment in this locality and the requirement of Clause 57(5)(c) of Cessnock LEP that a specific surface inspection is undertaken in conjunction with the relevant aboriginal community group (i.e. Mindaribba Local Aboriginal Land Council) has been satisfied. Notwithstanding this comment, should any artefacts be uncovered during the construction phase then the Local Aboriginal Land Council and DECC would be notified and works stopped immediately, which is a known standard procedure and a condition will be attached accordingly

#### Urban Design Matters

The proposed buildings to be erected on site include a large work shed and a sales office building. The work shed will consist of pre cast concrete and colorbond steel sheet roofing whilst the sales office comprises colorbond walls, hipped roof form and incorporation of windows within all elevations. Both buildings will blend in with the existing bushland environment being of a bushland (i.e. olive) and shale grey colouring and are described as being of a large single storey nature. These buildings are well below the 12 metre height limit permitted within the HEZ estate and are significantly setback (i.e. in excess of 5 metres) from side boundaries of this proposed allotment. Given that the proposed site is positioned well off the HEZ Spine Road and the nature of the type of use being proposed these buildings are considered to be of an acceptable design within this setting.

#### Security and Lighting

Some form of fencing will need to be erected along the boundaries of the site with the applicant indicating it will be fauna friendly. Whilst no specific details have been provided to date this may be conditioned requiring details to be provided with the Construction Certificate. Some lighting will be installed for operational and security purposes. Again further details will be requested with the Construction Certificate and will be conditioned accordingly.

#### Landscaping

A 5 metre landscaping area will be provided along all boundaries of the site. A diversion swale is then proposed along the northern, western and parts of the eastern and southern boundaries with a 1.0 metre vegetated zone on either side of this swale consisting of trees and ground covers. The drainage swales will be planted with native grasses (i.e. *Dryarna fillavius*). As advised previously, the north eastern corner of the site will be retained within its natural state with a 2 metre buffer area created to provide a transitional zone between this bushland area and growing areas and the proposed dam on site. Tree hollows removed from the site will be placed within this bushland area of the site.

Some landscaping will be implemented adjacent to the sales office building and car park to create a pleasant internal environment. The proposed landscaping satisfies DCP requirements and a landscaping verification table has been provided.

#### Bushfire

The subject site is designated within a bushfire prone area with surrounding lands being described as Open Forest, Group 1 Vegetation. It is noted that this Group 1 Vegetation from the site will be cleared. Proposed buildings to be erected on site are not classified as Class 1 buildings and therefore in this case given that the buildings fall within Class 5, 6, 7 and 8 the aims and objectives of the document Planning for Bush Fire Protection 2006 are only applicable.

The proposed work shed and sales office building have been positioned on site so that a 20 metre Asset Protection Zone (APZ) can be created surrounding the sales office building and 10 metres to the work shed.

It is noted the western and southern elevations of the proposed workshed being the main direction of high fire hazard do not contain any windows. The proposed buildings will need to achieve flammability index (5) or less and the roller doors of the work shed being heavy duty and sealed. Therefore these proposed buildings have been appropriately designed for this bushfire environment, notwithstanding, some requirements will be attached as conditions of consent.

Hence, the proposal satisfies DCP requirements and Planning for Bush Fire Protection 2006.

#### Access

Access to the site is proposed off the Stage 1(c) Spine Road which has been recently constructed. A concept intersection design has been prepared for the access handle which defines the intersection arrangements with the HEZ Spine Road. Full design details will be required within the Construction Certificate for the site works. The access road is proposed as 7 m wide within a 10 m handle and provides adequate two (2) way traffic flow.

The construction of this accessway will necessitate the removal of existing kerb and gutter and the rearrangement of existing road drainage along the HEZ Spine Road fronting the site. Also a 2m widening of the eastern side of the HEZ Spine Road opposite the site is required to provide sufficient turning area for heavy vehicles entering and leaving the site. This will necessitate removal of existing kerb and gutter, lengthening existing drainage, widening of the road pavement and increasing the footpath width. The length of widening is approximately 110m opposite the site. Full design details will be required with the construction certificate documentation. Turning path details have been provided demonstrating accessibility of the driveway following widening together with concept arrangements for service adjustments.

#### Car Parking

The proposal includes thirteen (13) on site carparking spaces within the development. Councils DCP 2006-C1 requires parking for industrial premises at the rate of 1 space per 75m<sup>2</sup> and retail plant nursery at the rate of 1 space per 130m<sup>2</sup> gross display area. Offices at the rate of 1 space per 30m<sup>2</sup>.

Adequate car parking is to be provided on site to satisfy these above DCP requirements.

Parking has also been provided for heavy vehicles to the west of the site in two dedicated spaces. Turning paths have demonstrated heavy vehicle manoeuvrability. Internal carparking and heavy vehicle access proposed within the site will require final design details to accompany construction certificate approval.

Traffic

The proposal is accompanied by a traffic report which discloses that the site development will be serviced by 12m rigid trucks for delivery and dispatch of stock. These are proposed, at full development, to constitute up to 25 truck movements per day. This is consistent with the industrial/commercial usage of the site. In addition, up to 15 vehicle trips per hour 2 way could be expected from employees (this assumes all employees driving separate vehicles). The traffic is expected to be distributed over a number of routes and in the wider context of the HEZ the traffic is considered minimal. Parking and internal access arrangements comply with relevant council standards, RTA design standards and Australian standards. All access to and from the site is in a forward direction

Drainage

The drainage for the site incorporates perimeter diversion drains to divert external stormwater flows predominantly within the major watercourse and the three (3) other minor watercourses around the site. The diversions comprise pipe drainage and above ground swale drains. The drainage has been designed to cater for the 10 year ARI storm event. Diversions occur within the site and the proponent will be fully responsible for their maintenance and effective operation.

All site discharge, from diverted drains will flow into the existing wetland/detention pond immediately adjacent to the east of the site as currently the case. Site discharge from growing areas which may contain nutrients, pesticides etc from growing operations is to be diverted via site grading, etc into the stormwater collection dam for treatment and reuse. Roof water from the work shed and office buildings is to be collected and stored in above ground tanks for reuse. Stormwater from carparking and paved areas is collected via kerb inlet pits, grated inlet pits and piped conduits via the access handle to the HEZ Spine road drainage system and the propriety GPT systems and thence to the existing wetland/detention pond. The drainage report provided demonstrates that the post development flows off the site are less than the pre development flows due to water capture and reuse on site. Natural drainage regimes are retained for all watercourses through diversions which divert existing upstream stormwater flows around the site.

The retained native vegetation area within the north east of the site is proposed to be irrigated to retain natural flows via subterraneous subsoil drainage structures. This will assist to support the long term viability of the retained vegetation.

As part of the proposal the nominated water collection and recycling dam has a storage volume of 2,400m<sup>3</sup> inclusive of an operational irrigation volume of 442m<sup>3</sup> (water reuse irrigation etc). The dam has been determined, within the Water Cycle Management Plan, to have capacity in excess of the 95th percentile 20 day rainfall event. Modelling conducted demonstrated that overtopping of the dam would only occur in exceptional circumstances amongst high stormwater flows thus diluting any possible contaminants from growing operations.

Chemicals contained within runoff into the dam, including herbicides, pesticides and fertilizers, are either applied only to point of runoff or within potting preparation of soils prior to planting. The report has demonstrated that the dam storage of 2,400m<sup>3</sup> is significantly greater than typical compliance levels for environmental protection licensing. The current dam proposal does not require environmental licensing. The dam is anticipated, from similar irrigation on other like sites, to use approximately 61% of water over the plant growing area with the remaining 39% purchased from mains supply. The dam spillway has been designed to discharge directly to the downstream road wetland/detention pond and thence under road culverts via protected (armoured) outlet. The dam is also proposed to be fenced for internal public protection. Given that all diversion drains and batters are internal their on going maintenance and effective operation are the responsibility of the nursery operator.

### Bulk Earthworks

The earthworks on the site comprise the regrading by excavation of up to 2m depth and filling in the lower area of the site of up to 1.5m to provide a constant grade throughout the site. Batters are proposed around the growing area of the site in the north west corner of the site having maximum batter slopes of IV to 3H. Slopes within swale drains atop the batters and around the perimeter of the site are 1V:4H and variable. All batters are protected by stabilizing with geoweb matting and are to be protected by topsoiling and stabilization with geofabrics during construction.

### Infrastructure

The Statement of Environmental Effects nominates on-site disposal for the staff and workshop facilities in the short term with connection of the site to reticulated sewer when available. However this is considered not to be appropriate in this case. Services are currently being installed within the wider HEZ estate within Stage 2(a) and (b) roads, water reservoir, sewer pump station and gravity mains, etc. Timing of these facilities would be expected to coincide with the timing of the nursery operations thereby providing adequate services.

All these services will need to be provided and connected to the site before occupation of the site occurs and this had been conditioned accordingly. If services cannot be connected to the site prior to occupation, then a Section 96 Application will need to be lodged outlining alternative servicing of the site which meets requirements of relevant service authorities and Council.

### Social and Economic Assessment

A Social and Economic Impact Statement was prepared by Key Insights Pty Ltd. The Statement indicates that the initial start up phase of the operation and resultant flow on effects will have A positive social and economic benefit on the locality generally.

### ***Environmental Management Strategies***

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

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

The requirements of the EMS documents relevant to the proposed wholesale nursery have been considered in the detailed environmental assessment of this application. Design and mitigative management practices particularly in terms of the Water Cycle Management, Habitat Management, and Bushfire Management Strategies are proposed. The proposed wholesale nursery can satisfy both the objectives and principles of these above relevant strategies.

### ***Environmental Assessment***

#### Air quality

Impacts on air quality will be minimal and should have no significant permanent impact within and beyond the HEZ area.

Dust

Some dust will be generated by vegetation removal, levelling and shaping of the site during the construction phase. The measures outlined within the SoEE Report relating to dust suppression during construction will be required as a condition of consent.

Odour

Some of the materials to be applied in the nursery such as pesticides and fertilizers will have odours. It is very unlikely that odour nuisance would be caused by routine application of nursery chemicals in this operation, as the site is well removed from sensitive (residential) receptors (approx. 5km).

Water cycle and quality

As outlined previously in this report, considerable attention has been given to the management of the water cycle in the material submitted in support of the application and is in accordance with the Water Cycle Management Strategy.

Water pollution

The offsetting consideration in an event such as an overflow would be the volume of dilution water flowing in the receiving streams during and after such an event. This would tend to mitigate the effects of discharge of any toxic materials to waters. However, sediment carryover might remain in the stream system having some impact subsequent to the high flows generated in a high rainfall event.

It is recommended that sediments in the proposed dam are sampled at representative points in the dam annually for the first three (3) years and then, on the basis of results, probably every five years. Accordingly a condition has been attached.

No allowance has been made in the SoEE Report documents for removal of accumulated contamination in circulating nursery waters and dam sediments. It is probable that occasional bleeds or 'blow-downs' of re-circulating water will be necessary to prevent excessive accumulation of contaminants and salts in the water. Any such proposal should be accompanied by a full analysis of the situation and a plan to prevent any impact on the receiving waters. Accordingly a condition will be attached to any development approval.

The dam sizing, the recommended requirement to analyse accumulation of chemicals and pollutants in the on-site dam and the risk management action required shall ensure that discharges of significant quantities of polluting materials to waters within the HEZ do not occur from this operation.

The analysis undertaken indicates the harvesting of water proposed is within the rules allowed for these ephemeral water bodies by the DNR. Cumulative impact on water flow should be minimal as a result of this harvesting.

Contamination of land

It will be important that the proposed operation on the site comply with the defence provision in its use of pesticides, fertilisers and other materials on the site. It will also be prudent to ensure that the integrity of the liner under the plant growing areas is maintained throughout the life of the operation to minimise not only impacts on groundwater but any impact of the chemicals used in the operation on the land itself.

Chemical Spills

The applicant needs to take responsibility for any spills related to the handling of chemicals both on and in transport to the site. Requiring a risk management process to be followed with adequate reporting to Council should address this aspect of responsibility for managing environmental impact. Relevant conditions are recommended and should be attached as conditions of consent.

Noise, vibration and light

Nursery operations are essentially low-energy-intensity activities. Minimal impact on the HEZ and surrounding environment is therefore posed by the development. The limited traffic flow to and from the site will be the most significant source of noise. Apart from the construction phase, no heavy machinery causing vibration is likely to be involved in the operations.

Lighting for security at night will be focused towards the ground to avoid light spill into other properties and native habitats.

Waste management

Waste generated during construction will be mulched/chipped and retained for landscaping or sent to landscape contractors.

Other wastes are estimated to be minimal (Waste Management Plan) and will be removed by an independent licensed contractor. Any unused or waste chemicals or chemically contaminated soil or materials resulting from a spill should be removed only by a contractor licensed under the POEO Act.

Energy

The nursery operation will not be an energy-intensive operation. Transport will be the most significant consumer of energy related to the site.

As neither energy consumption nor waste fermentation operations are significant, emissions of climate-change or 'greenhouse' gases (carbon dioxide and methane) will be minimal and do not warrant further consideration.

Combustion emissions

There are no combustion sources proposed for the site apart from vehicular traffic and earth moving equipment during construction. There will therefore be effectively no emissions of combustion gases, nitrogen oxides, sulphur oxides, carbon monoxide and carbon dioxide.

The project will therefore have no impact on air quality margins, for which consideration fine particles and nitrogen oxides are relevant. It will also not develop significant emissions of greenhouse gases, provided composting is not undertaken. The vegetation grown will result in some minor uptake of carbon dioxide, the main greenhouse gas.

In summary the proposal is considered acceptable and there is no environmental reason related to air quality, water quality, noise, vibration, light, waste or energy that precludes granting consent with appropriate conditions.

**Section 94 Contributions**

Council does not have an overall Section 94 Plan for industrial development within the LGA and to date a Section 94 Plan has not been completed for the HEZ estate. A Section 94 Plan will be completed once the overall Traffic Study for the estate has been completed to the satisfaction of the RTA and Council. This Traffic Study is ongoing and a DCA is being completed for traffic related issues for Stages 1 and 2 of the HEZ estate which will cover implementation of relevant road infrastructure as a direct Section 79(c) matter. The nursery development will provide environmental benefits for the estate in terms of provision of plants for landscaping and revegetation works. The DCA should cover relevant traffic related matters and thus the absence of a Section 94 Plan will not be detrimental for the development of the estate or for the community at large.

**CONCLUSION:**

The proposal has been assessed in respect to the Hunter REP, Cessnock LEP 1989, Cessnock DCP 2006 – Chapter E.6 - HEZ and the relevant Environmental Management Strategies and is considered to be an acceptable land use for this developing industrial estate. The proposal will assist in the enhancement of roadways, public areas including conservation areas and individual lots of the estate. The HEZ Business Unit assessment of the development proposal supports approval of this application with attachment of appropriate conditions.

The RTA has advised that they will support this wholesale nursery development due to the low traffic volumes and as the DCA is being completed and likely to be executed in July 2008 for Stages 1 & 2 of the HEZ development.

It is considered that the comprehensive conditions attached to the approval will ensure that the development of the site occurs in an ecologically sustainable manner.

**RECOMMENDATION** that Council approve Development Application No.8/2006/298/1 for a wholesale plant nursery with accessway on part Lot 7 DP 1037092 off HEZ Spine Road generally in accordance with the following conditions:

**TERMS OF CONSENT**

1. The proposed development shall be carried out strictly in accordance with the details set out on the application form, and the Plans and reports as follows:-

- \* HEZ – Hunter Revegetation Corporation plans DA01 and DA12 -  
Dated 13.10.2006 Issue E
- \* Drainage Plans – Warren Smith & Partners C-01 to C-10  
Dated 11.10.06 Issue K
- \* Landscape plans - Verge Landscape Architects L01 Revision F  
dated 17.03.2006
- \* Statement of Environmental Effects – Caladines  
Dated October 2006
- \* Statement of Soil and Water Management – Warren Smith & Partners  
Dated September 2006 revision E
- \* Water Cycle Management Plan – Asquith DeWitt Pty Ltd  
Dated October 2006
- \* Vegetation Clearing Plan – Harper Somers O’Sullivan  
Dated October 2006
- \* Bushfire Threat Assessment – Harper Somers O’Sullivan  
Dated October 2006
- \* Mine Subsidence Investigation – Parsons Brinkerhoff  
Dated August 2006
- \* Traffic and Parking Assessment – Parsons Brinkerhoff  
Dated August 2006

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. All services including reticulated power, sewer, water, telecommunications, etc to service the development must be provided and connected to the site prior to use or occupation of the development. Details shall be provided to Council to clearly demonstrate the arrangements entered into with each service authority to provide services to approval or release of the Construction Certificate for site or building works.

Reason

*To ensure that adequate services are available to the site prior to occupation and to satisfy service authorities and appropriate health standards.*

3. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:-
  - (a) stating that unauthorised entry to the work site is prohibited, and
  - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- (a) building work carried out inside an existing building, or
- (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

Reason

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

4. 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.*

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

Mondays to Fridays	7.00a.m. to 6.00p.m.
Saturdays	8.00a.m. to 4.00p.m.
Sundays & Public Holidays	No construction work to take place.

Reason

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

6. 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.*

7. 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*

8. This consent allows the removal of trees and other vegetation from the site of approved buildings, structures, permanent access ways and carparks. It also allows for the removal or lopping of trees within three (3) metres of approved buildings. No other trees or vegetation shall be removed or lopped except with prior written consent of Council.

Reason

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

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

Reason

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

10. Construction works associated with the development of the land in accordance with a development consent shall not be commenced until:-
- (a) detailed plans including design calculations have been endorsed with a construction certificate by:-
    - (i) the consent authority;
    - (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 person's intention to commence construction works.

Reason

*To ensure compliance with the provisions of the Environmental Planning and Assessment Act 1979 (as amended).*

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

Reason

*To ensure any potential archaeological sites are not destroyed.*

12. All vegetation cleared from the site is to be contained within the site unless otherwise approved by Council.

Reason

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

13. Representative water samples shall be taken of any overflow event from the on-site retention dam and analysed for:
- a. Suspended solids
  - b. Dissolved oxygen
  - c. BOD<sub>5</sub>
  - d. pH
  - e. Salt content (EC units)
  - f. Total nitrogen
  - g. Total phosphorus
  - h. Chemicals in use in the nursery at the time of the overflow.

Details shall be submitted to Council for approval on a six monthly basis.

Reason

*To reduce potential environmental impacts onto surrounding lands*

14. Sediments in the on-site retention dam shall be assessed annually for three years from the commencement of operations. This is to include:
- a. Sampling at six evenly distributed points in the dam area annually and analysis for:
    - i. pH
    - ii. Salt content (EC units)
    - iii. A redox potential profile of the sediment and overlying water column
    - iv. Total nitrogen
    - v. Total phosphorus
    - vi. Chemicals in use in the nursery at the time
  - b. An assessment of the capacity of the dam in terms of operating volume clear of sediment accumulation.

Details shall be submitted to Council for approval.

Reason

*To ensure potential environmental impacts onto surrounding lands is minimised and monitored.*

15. The results from all sampling of sediments and overflow shall be analysed at the end of the first three (3) years of operation and a report prepared and submitted to Council for approval addressing the following:
- a. The rate of accumulation of pollutants in the dam;
  - b. The risk to water quality and aquatic life resulting from an overflow of the dam or significant loss of sediments from the site;
  - c. The desirability of ongoing sampling of overflows and sediments on a possible five (5) year cycle;
  - d. The need for removal of accumulated sediments and pollutants in the dam and pollutants and salts in the recirculating water in terms of nursery operation and risk to receiving waters in the HEZ.

Reason

*To minimize impacts onto the surrounding environment*

16. Due care shall be exercised in maintaining the integrity of the liner installed under the plant-growing areas of the nursery and any breaches of the integrity shall be repaired as soon as possible and reported to Council for approval.

Reason

*To ensure that the environmental quality of adjoining lands is protected.*

17. The integrity of the synthetic liner shall be assessed and reported to Council for approval annually, indicating:
- a. Any known damage;
  - b. Known incidents likely to be causing or have caused damage;
  - c. Any evidence of deterioration of the liner; and
  - d. Any repairs carried out on the liner during the year.

Reason

*To ensure that the environmental quality of adjoining lands is protected.*

18. Due care shall be exercised in all operations to ensure that pollution of land does not occur on the site in accordance with section 142A of the *POEO Act*.

Reason

*To ensure that the environmental quality of adjoining lands is protected*

19. All chemicals used in the operation or held on site shall be stored and handled over secure, paved areas appropriately drained/bunded, except during application in the growing area. Any spillage or wastage in storage or handling shall be captured in a drainage system which can be secured by valve closure. Any spills shall be immediately recovered and/or disposed off in a manner acceptable under the *POEO Act* using licensed waste removal contractors as appropriate.

Reason

*To ensure that the environmental quality of adjoining lands is protected.*

20. The operator shall report annually to Council of any changes in the chemicals or polluting materials it handles on the site.

Reason

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

21. Any pollution incident shall be notified to Council as the Appropriate Regulatory Authority in accordance with section 148 of the *POEO Act*.

Reason

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

22. The plant handling protocol contained within the Flora and Fauna Assessment report prepared by Harper Somers O’Sullivan Pty Ltd dated October 2006 shall be adhered to during the operations of the nursery.

Reason

*To ensure the surrounding bushlands are protected from the spread of weeds, etc.*

23. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Reason

*To ensure that the development, when constructed, will comply with the provisions of the Building Code of Australia.*

24. The applicant is to advise Subdivision and Engineering Coordinator 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*

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

Reason

*To ensure ongoing protection of the environment.*

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

26. The registered proprietor of the land shall provide a geotechnical assessment of the proposed site and site works to determine appropriate road pavement thickness, batters and suitability of soils for the dam and dam embankment. Such assessment shall be included within the Construction Certificate documentation submitted to council for approval prior to the release of the Construction Certificate

Reason

*To ensure suitability of the site works.*

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

Reason

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

28. Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping. Details shall be submitted to and approved by Council prior to release of the Construction Certificate.

Reason

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

29. Details shall be provided with the Construction Certificate and be satisfactory to the Manager Development Services:
- a. All roof ventilators are to be screened with a mesh not greater than 2mm and have a flammability index five (5) or less to reduce the risk of ember entering during a surrounding bush fire;
  - b. The Asynite roof sheeting shall have a flammability index five (5) or less, and shall be screened to reduce the risk of failure during an ember attack from a surrounding bushfire;
  - c. All roller doors are to be sealed with material having a flammability index five (5) or less to prevent the entry of embers during a surrounding bush fire;
  - d. The site shall provide a safety refuge for both employees and visitors if a bush fire is to impact on the site. This may be the sales office. It is recommended that the level of construction for this building be as level 2 AS 3959 on the western elevations and level 1 AS 3959 on the northern, southern and eastern elevation;
  - e. Provide easy on site instructions as to the activation of the internal sprinkler/watering system if required during a bush fire situation; and
  - f. Provide a 65mm storz fitting and ball valve to tanks on site so as to allow access to water supplies during a fire emergency.

Reason

*To protect both life and property in the event of bushfire*

30. The applicant shall provide asset protection zones from the buildings to the woodland vegetation located on the property. Asset protection zones shall be provided in accordance with the Bushfire Threat Assessment report accompanying the application and the NSW Rural Fire Service Planning for Bushfire Protection Guidelines Section 4.2.2.:-

Asset protection zones shall be provided prior to occupation or use of the development and shall be maintained by the registered proprietor of the land in accordance with the above guidelines for the life of the development.

Reason

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

31. The applicant shall submit evidence that the proposed allotment has a legal right of access over the proposed means of physical access. This evidence shall be submitted to the Development Services Manager prior to release of the Construction Certificate.

Reason

*To ensure that the proposed development has a legal means of physical access*

32. The registered proprietors of the land shall construct the following 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 entry to the site.
- (a) Construct kerb and gutter
  - (b) Construct and gravel road shoulders
  - (c) Place two (2) coat hot bitumen seal on road shoulders or asphaltic concrete
  - (d) Topdress and turf footpath
  - (e) Construct concrete footpath 1.2 metres wide and 75 millimetres thick
  - (f) Construct drainage works

Reason

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

33. On-site car parking shall be provided for a minimum of thirteen (13) vehicles and such being set out generally in accordance with Council's Car Parking Code. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for the site works.

This brings the total requirements for on-site parking to fourteen (14) spaces.

Reason

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

34. All driveways, access corridors and carparking areas are to be designed in accordance with AS2890.1 & 2 - Parking Facilities. The carparking areas shall be constructed with a base course of adequate depth to suit design traffic loadings with an all weather surface treatment, graded and drained in accordance with Council's 'Engineering Requirements for Development'.
- (a) An engineering design plan of the required parking layout, including necessary drainage, shall be submitted to and approved by the Prescribed Certifying Authority or the Development Services Manager prior to release of a Construction Certificate for the site works.

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.*

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

Reason

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

36. The proposed development shall be provided with access and facilities for the disabled in accordance with AS 14281.1. Details of such access and facilities shall be submitted to the Prescribed Certifying Authority with the Application for a Construction Certificate for the buildings.

Reason

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

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

Reason

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

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

Reason

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

39. 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.*

40. 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 an approved drainage system in accordance with Council's 'Engineering Requirements for Development'.

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

41. Any landscaping within the proposed development being designed and positioned in such a manner as to ensure that the designated floodways, or overland flowpaths are not obstructed. Details shall be submitted to and approved by Council prior to the release of the Construction Certificate for the building/s.

Reason

*To ensure that landscaping works do not obstruct overland flows through the property.*

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

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

Reason

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

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

Reason

*To provide appropriate design and standards of engineering works.*

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

Based on a road length of approximately 160 metres. Final bond amounts will be levied on accurate dimensions contained within the engineering plans.

- (i) Road fees - engineering plan checking and supervision of \$3905.

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

The fees and bonds shall be payable prior to release of the Construction Certificate for the Civil Works and 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.*

45. 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 1896 per basin for basins less than 50m<sup>3</sup>. 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.*

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

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

Reason

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

47. The operator to cause an environmental risk assessment to be undertaken and an environmental risk management plan to be prepared and implemented generally in accordance with the Australian Standard for Risk Management (AS/NZS 4360:2004) to address the following aspect of environmental risk arising from the project:
- a. Identifying a comprehensive range of environmental risk scenarios in the transport, transfer and use of chemicals and other nursery materials to and on the nursery site;
  - b. Prioritising the identified risks;
  - c. Establishing treatment of identified risks at an appropriate level to ensure minimal impact on the ecology of the HEZ land and waters and surrounding areas and waters, including effective containment and cleanup measures in the event of any spill or unplanned release to the environment within the Cessnock City Council area;
  - d. Establishing a monitoring mechanism to ensure the risks and treatments are adequately tracked, maintained and periodically reviewed;
  - e. Ensuring the relevant elements of the plan are communicated to the appropriate parties likely to be involved in dealing with any unplanned event or situation presenting a risk (eg parties delivering chemicals to the nursery site); and
  - f. Addressing any other issues of environmental risk the operator considers relevant to environmental protection related to the operation.
  - g. The plan to be lodged with Council before operation commences and progress in its implementation reported to Council annually.

Reason

*To reduce any potential environmental impacts onto surrounding lands.*

48. The Construction Certificate will not be issued until the consent authority is provided with documentary evidence that the DNR has granted a permit under Part 3 A of the Rivers and Foreshores Improvement Act 1948.

Reason

*To ensure that the requirements of the Environmental Planning and Assessment Act have been satisfied.*

49. Details regarding fencing and lighting of the site shall be provided to Council with the Construction Certificate and comply with the requirements of Cessnock DCP 2006 – Chapter E6 HEZ and be satisfactory to the Development Services Manager.

Reason

*To protect fauna within the HEZ estate.*

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

Reason

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

51. The applicant shall provide Council with a certificate of structural adequacy, prepared by a Practising Structural Engineer, for the following components or works.
- a. reinforced concrete footings;
  - b. reinforced concrete slab;
  - c. 150mm pre-cast concrete wall panels; and
  - d. Structural steelwork.

The certificate shall detail the relevant rules, standards, codes of practice and publications used and shall be submitted to the Accredited Certifier for consideration and approval prior to issue of a Construction Certificate.

Reason

*To ensure that the proposed building, when constructed, will comply with the relevant Australian Standards and support all anticipated loads to be imposed on it.*

52. Any fencing proposed across the required floodway or overland flowpath shall be of an open mesh or rod style with an open area of not less than 80%. Details shall be submitted to and approved by Council prior to the release of the Construction Certificate for the buildings.

Reason

*To reduce the impact of the development on flood behaviour.*

## **DURING CONSTRUCTION**

53. All reasonable measures shall be taken to protect all other vegetation on the site from damage during construction. All useable trees and shrubs shall be salvaged for re-use, either in log form, or as woodchip mulch for erosion control or site rehabilitation.

Reason

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

54. 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.*

55. 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*

56. Air pollution during construction to be minimised, specifically by the following measures:
- a. Dust generation from roads, stockpiles, work areas and exposed soils to be controlled by regular onsite watering;
  - b. Dust generating activities to be avoided or minimised during dry and windy conditions;
  - c. Disturbed areas and stockpiles to be stabilised as soon as practicable to prevent windblown dust;
  - d. Wheels of trucks and earthmoving machinery leaving the site during construction to be washed; and
  - e. Cleared vegetation, garbage and other combustible waste not to be burned.

Reason

*To protect surrounding environment during the construction phase of the development.*

57. 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.*

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

Reason

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

59. 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.*

60. 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**

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

Reason

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

62. All fire fighting equipment and construction details to mitigate the impact of bushfires shall be completed or installed prior to use or occupation of the building and such measures shall be in accordance with the recommendations of the Bushfire Threat Assessment.

Reason

*To protect both life and property in the event of bushfire*

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

Reason

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

64. Proposed parking areas, service bays, truck docks, driveways and turning areas shall be maintained clear of obstructions and be used exclusively for purposes of car parking, loading/unloading, and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.

Reason

*To ensure that the proposed/required parking, loading/unloading facilities and associated driveways are able to function efficiently for their intended purposes.*

65. 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.*

66. The applicant shall widen the HEZ Spine Road accessing the site from CH 3950 to CH 4070 on the eastern side of the road in accordance with Fig.1 prepared by Parsons Brinkerhoff 13<sup>th</sup> October 2006. Such widening shall be carried out in accordance with all engineering requirements for development and shall be completed prior to use or occupation of the site or buildings.

Reason

*To provide adequate level of access to the subject site.*

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

Reason

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

68. All parking and loading bays shall be permanently marked out on the pavement surface, with loading bays and visitor parking facilities shall be clearly indicated by signs prior to occupation of the building and 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.*

69. 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 of the premises.

Reason

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

70. The operator of the nursery is to develop and implement a site specific Environmental Management Plan (EMP) generally in accordance with AS/NZS 14001. A copy of the plan shall be lodged with Council prior to commencing operations on site. A report on progress in implementing the EMP shall be lodged with Council annually.

Reason

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

**SCHEDULING OF INSPECTIONS**

71. Inspection of damp course level, antcapping and floor timbers is required before the flooring is laid.

Reason

*To ensure that building work is carried out in accordance with the building approval and relevant standards.*

**ADVICE**

1. Prior to further assessment of the Construction Certificate application you are requested to supply further information or amended plans as appropriate demonstrating compliance with the Building Code of Australia.

**SCHEDULE 2**

***DA008/2006/298/001 – Proposed Wholesale Plant Nursery  
Cessnock Road Weston (Lot 7 DP 1037092)  
Rivers and Foreshores Improvement Act 1948  
General Terms of Approval***

**ER6933A**

***Standard***

1. The general terms of approval (GTA) relate to development / works on protected land, defined by the *Rivers and Foreshores Improvement Act 1948* (RFIA) within the proposed development site.
2. The GTA do not constitute an approval under the RFIA.
3. If the consent authority determines to grant consent, the GTA are to form part of the development consent.
4. Any amendments to the development application may void these GTA.
5. The approval holder must submit, to the Department of Natural Resources (DNR), a completed application form for a permit under Part 3A of the RFIA prior to the commencement of any development / works on protected land.
6. The permit application is required to accord with the GTA.

**Permit Application**

7. The approval holder must provide the following with the permit application:
  - a) A copy of the development consent, including approved plans.

**Relevant Plans and Documents**

8. The approval holder must ensure that development /works are completed in accordance with the following drawings and / or documents:
  - a) **Architectural Drawings** (drawings DA01- DA12) dated 13 October 2006.
  - b) **Statement of Environmental Effects** prepared by Caladines Town Planning Pty Ltd dated October 2006.
  - c) **Vegetation Clearing Plan** prepared by Harper Somers O'Sullivan Pty Ltd dated October 2006.
  - d) **Statement on Soil and Water Management** prepared by Warren Smith and Partners Pty Ltd dated September 2006 – Revision E.
  - e) **Water Cycle Management Plan** prepared by Asquith and deWitt Pty Ltd dated October 2006.

**Works**

9. The approval holder must ensure that all works proposed are designed, constructed and operated to minimise:
  - sedimentation, erosion and scour of the banks or bed of the watercourse/foreshore, and
  - adverse impacts on aquatic and riparian environments.
10. The approval holder must ensure that works as executed survey plans, prepared to a professional standard are provided to DNR upon request.

**Site Rehabilitation**

11. The approval holder must ensure that following completion of the works, site rehabilitation protects any remnant local native riparian vegetation and restores riparian zones disturbed or otherwise affected by the development /work.
12. The approval holder must ensure that any restored riparian zones are made up of a diverse range of endemic native tree, shrub, groundcover and grass species, planted at appropriate densities to achieve an effective and full riparian vegetation structure to the satisfaction of DNR.
13. The approval holder must ensure that restored areas are maintained for successful native plant establishment to the satisfaction of DNR. Note: Maintenance may include watering, weed control, replacement of plant losses, disease and insect control, mulching, or any other action necessary for successful plant establishment.

**Stormwater**

14. The approval holder must ensure that stormwater outlets are designed, located and constructed to minimise any erosion or scour of riparian buffer zones and the bed or banks of protected water.

**Advisory**

1. For the purposes of the GTA, the term approval holder refers to the applicant for the integrated development application.
2. Retrospective approval cannot be granted under the RFIA.
3. A permit cannot apply to works that have already been undertaken.
4. A permit will not give the approval holder the right to use and occupy any land without the consent of the registered owner/s of the property.
5. A permit will not relieve the approval holder of any obligations or requirements of any other acts, regulations, planning instruments or Australian standards.
6. A permit will not apply to works on Crown land, authorised under the Crown Lands Act 1989 (CLA). *Note:* Use and occupation of Crown land requires approval from the Department of Lands.
7. A permit will not apply to development / works where there is a right lawfully exercisable or other right in force under any act relating to mining.

**Definitions under RFIA**

The meanings under the RFIA for the following are:

1. **Protected land** means:
  - a) Land that is the bank, shore or bed or protected waters, or
  - b) Land that is not more than forty (40) metres from the top of the bank or shore of protected waters (measured horizontally from the top of the bank or shore), or
  - c) Material at any time deposited, naturally or otherwise and whether or not in layers, on or under land referred to in paragraph (a) or (b).
2. **Protected waters** means:

A river, lake into or from which a river flows, coastal lake or lagoon (including any permanent or temporary channel a coastal lake or lagoon and the sea).
3. **River** means:

Any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel artificially improved, or in an artificial channel which has changed the course of the stream of water and any affluent, confluent, branch, or other stream into or from which the river flows and, in the case of a river running to the sea or into any coastal bay inlet or into a coastal lake, includes the estuary of such river and any arm or branch of same and any part of the river influenced by tidal waters.

To: **The General Manager**  
City Planning Committee –  
18 June 2008

**D FITZGERALD**  
**DIRECTOR CITY PLANNING**  
8 June 2008

## **DIRECTOR CITY PLANNING REPORT NO. 45/2008**

**SUBJECT: MINUTES OF THE PLANNING REVIEW COMMITTEE MEETING HELD 5 JUNE 2008**

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A meeting of the Planning Review Committee was held on 5 June 2008 and reports as follows:

Attendees at the meeting included His Worship the Mayor, Councillor J. Clarence OAM (in the Chair) and Councillors Davey, Pynsent, Scott, Maybury, Parsons, Besoff, Ryan, Main and Smith, the General Manager, Director City Planning, Planning Services Co-Ordinator, acting Director Corporate & Community and Director Infrastructure & Services

### **OFFICERS' REPORTS**

#### **DIRECTOR CITY PLANNING REPORT NO. 1/2008**

**DEVELOPMENT APPLICATION NO:** 8/2007/648/1  
**APPLICANT:** MOBARO PTY LTD T/AS JONES HOMES  
**OWNER:** MO CHURSLEY FAMILY TRUST  
**PROPERTY:** LOT 602 DP 1067861 NO. 39 O'SHEA  
CIRCUIT CESSNOCK  
**AREA:** 1002 SQUARE METRES  
**ZONING:** RESIDENTIAL 2(A)  
**PROPOSAL:** SECTION 82A REVIEW - ATTACHED DUAL  
OCCUPANCY

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**MOTION Moved:** Councillor Maybury **Seconded:** Councillor Smith

that the 82A review of determination of DA 8/2007/648/1 for a dual occupancy on Lot 602 DP 1067861, 39 O'Shea Circuit, Cessnock, be approved subject to the following conditions:-

#### **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 Plans numbered;

**131-01, Sheet no. S01, Issue 2**  
**131-02, Sheet no. S02, Issue 2**  
**131-03, Sheet no. S03, Issue 2**  
**131-04, Sheet no. S04, Issue 2**  
**131-05, Sheet no. S05, Issue 2**  
**131-06, Sheet no. S06, Issue 2;**

the Statement of Environmental Effects 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. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Reason

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

3. Building work that involves 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 to be done by a licensee under that Act:
    - (i) has been informed in writing of the licensee's name and the contract licence number, and
    - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or
  - (B) in the case of work to be done by any other person:
    - (i) has been informed in writing of the persons name and the owner-builder permit number, or
    - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purpose of the definition of owner- builder work in section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Reason

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

Building Construction

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

Reason

*To reduce the risk of damage to adjoining properties*

5. 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

6. 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*

Site Works

7. This consent allows the removal of trees and other vegetation from the site of approved buildings, structures, permanent access ways and car parks. It also allows for the removal or lopping of trees within three (3) metres of approved buildings. No other trees or vegetation shall be removed or lopped except with prior written consent of Council.

Reason

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

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

Access, Car parking and Loading Arrangements

8. Reinforced concrete access crossings 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. The crossings are to be located a minimum of 1.5 metres from the side boundary. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for the crossing.

Reason

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

9. On-site car parking shall be provided in accordance with the approved plans and such being set out generally in accordance with Part C.1 Parking and Access of the Cessnock Development Control Plan 2006. Full details shall be submitted to and approved by Council or by a private certifying authority prior to release of the Construction Certificate for the buildings.

Reason

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

10. 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.*

Drainage and Flooding

11. 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 or by a private certifying authority 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.*

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

Reason

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

Development Contributions, Monetary Bonds and Dedication of Land

13. 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.

<b>CONTRIBUTION TYPE</b>	<b>\$</b>
District Open Space	\$1121
District Community Facilities (Halls)	\$ 686
District Community Facilities (Libraries)	\$ 184
District Community Facilities (Bushfire)	\$ 52
District Roads – Urban Areas	\$ 854
Studies (Plan Preparation)	\$ 64
Plan Administration	\$ 245
<b>TOTAL</b>	<b>\$3206</b>

At this time the total contribution required for the development is \$3206 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](http://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

14. 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.*

15. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:-
- (a) stating that unauthorised entry to the work site is prohibited, and
  - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- (a) building work carried out inside an existing building, or
- (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

Reason

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

16. 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.*

17. 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.*

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

Reason

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

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

Reason

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

20. 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.*

21. 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 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

22. 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.*

23. 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.*

Access, Car Parking and Loading Arrangements

24. The Registered Proprietors shall construct in accordance with Condition 10 a reinforced concrete access crossings from the kerb and gutter to the property boundary, including a layback in the kerb. The crossings are to be located a minimum of 1.5 metres from the side boundary. The works shall be completed prior to the use or occupation of the building.

Reason

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

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", 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.*

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.*

**PRIOR TO OCCUPATION**

General

27. The applicant shall submit to Council evidence that the requirements of Energy Supplier, the Hunter Water Corporation and telecommunications authorities have been met in regard to the provision of services provided by those authorities to the development. Such evidence shall be submitted to and approved by Council prior to release of the Occupation Certificate.

Reason

*To ensure that adequate services are provided to each new dwelling created.*

28. 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 (Corporation) 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.*

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

Reason

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

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

Reason

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

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.*

Drainage and Flooding

32. All roof water shall be conducted to the street gutter by means of a sealed pipeline having a minimum diameter of 90mm prior to use or occupation of the development.

Reason

*To ensure that roof water from the building does not affect the structural integrity of the building or inundate adjacent land.*

33. All drainage works required to be undertaken in accordance with this consent shall be completed prior to use or occupation of the development.

Reason

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

Site Works

34. All retaining walls and associated drainage shall be installed and completed prior to use or occupation of the building.

Reason

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

Landscaping

35. The site landscaping shall be undertaken on the site in accordance with the approved landscaping plan. The landscaping is to be completed in accordance with the approved plans prior to the release of the occupation certificate.

Reason

To ensure that the landscaping for the proposal meets the objectives of its design and provides relief to the proposal.

ADVICE

1. Where Council is the Principal Certifying Authority, the applicant shall pay engineering site supervision fees in accordance with Council's current fees and charges with the application for a Construction Certificate for the site. Initially, one (1) site visit only is expected for the proposal, however should further inspections become necessary as a result of incomplete works, then those site supervision fees will be separately invoiced. Council's current engineering site supervision fee is \$187.00.

Reason

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

Scheduling Of Inspections

1. 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

**AMENDMENT:**    **Moved:**        Councillor Ryan                    **Seconded:**        Councillor Main

that Council refuse the 82A review on the basis that the information provided to the Council regarding the cumulative effects of parking in Traminer Close result in a safety issue for pedestrians and young children and that grounds have been provided to Council in the submission by the objector.

The Amendment was Put and **LOST**.

The Motion was then Put and **CARRIED**.

**Councillors Ryan & Main wished their names be recorded as having voted against the Motion.**

## **MATTERS ARISING**

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

The matter of the traffic conditions in Traminer Grove be referred to the Traffic Committee for investigation, with regard to the conditioning of parking in the Section between Lot 604 and 605.

**CARRIED**

**RECOMMENDATION** that Council endorse the report of the Planning Review Committee meeting held 5 June 2008.

To:    **The General Manager**  
City Planning Committee –  
18 June 2008

**D FITZGERALD**  
**DIRECTOR CITY PLANNING**  
10 June 2008