



Vincent Street
CESSNOCK 2325.

4 December 2008

To All Councillors

You are hereby notified that the next Ordinary Council Meeting of the Council will be held in the Council Chambers, on Wednesday, 10 December 2008, commencing at 6.30pm for the purpose of transacting the undermentioned business.

**B R MORTOMORE
GENERAL MANAGER**

AGENDA:

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(1) APOLOGIES.

(2) CONFIRMATION OF MINUTES.

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19 November 2008

(3) DECLARATIONS OF INTEREST.

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DECLARATIONS OF INTEREST

GENERAL MANAGER'S REPORT NO. 58/2008

SUBJECT: DISCLOSURES OF INTEREST

The provisions of chapter 14 of the Local Government Act, 1993 regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

RECOMMENDATION that Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

To: **Ordinary Council Meeting**
10 December 2008

B R MORTOMORE
GENERAL MANAGER
1 December 2008

NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION

GENERAL MANAGER'S REPORT NO. 59/2008

**SUBJECT: NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL
SESSION**

SUMMARY

It is necessary for the council to adopt a resolution to formalise its intention to deal with certain matters in Confidential Session. The reports are incorporated in the "Confidential" business paper which has been circulated to Councillors.

The Local Government Act, 1993 requires the General Manager to identify those matters listed on the business paper which may be categorised as confidential in terms of Section 10A of the Local Government Act, 1993.

RECOMMENDATION that

1. Council consider in Confidential Session the following matters in accordance with Section 10A(2)(a), Section 10A(2)(g) and Section 10A(2)(d)(i) of the Local Government Act 1993:-

MM16/2008 – Australia Day Awards.
CP1/2008 – DA8/2006/455/2
I&S1/2008 - Tender
2. Council consider Mayoral Minute No. 16/2008 – Australia Day Awards confidentially for the reason that it is information pertaining to personnel matters concerning particular individuals.
3. Council consider Director City Planning Report No. 1/2008 – DA 8/2006/455/2 confidentially for the reason that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
4. Council consider Director Infrastructure & Services Report No. 1/2008 – Tender Design and Construct Replacement Bridge over Wallis Creek on Whitebridge Road, Mulbring for the reason that commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.
5. Council request the General Manager in accordance with Section 253 of the Local Government Regulations 2005 report on this matter to the meeting in Open Session.

To: **Ordinary Council Meeting**
10 December 2008

B R MORTOMORE
GENERAL MANAGER
1 December 2008

BUSINESS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

NOTICE OF MOTION

It is my intention to move at the meeting of 10 December 2008 the following:

Motion

That Cessnock City Council calls tenders for its Legal Services for the next 5 years, within the next three months.

Further that the tender process be subject to the following conditions:

- (1) All legal firms used by Cessnock City Council since 2004 be requested to submit a tender for the legal services.
- (2) All legal firms in the Cessnock LGA be requested to submit a tender.
- (3) There is to be no retainer paid to any legal providers under any circumstances.
- (4) The tender is to call for legal providers to sit on a panel of up to 5 legal providers.

Rationale

Cessnock City Council does not currently tender for its Legal Services. It has been suggested by the Department of Local Government that Cessnock City Council should tender for its legal services.

It is considered worthwhile to offer a 5 year contract in order to build up rapport and trust with the legal providers.

A panel is suggested in order to allow Council Officers the flexibility of using certain legal providers for certain jobs. Some legal providers are better for some jobs and some are better for others.

Sgd: Clr Neil Gorman

Date: 25 November 2008

DEFERRED BUSINESS

DIRECTOR CITY PLANNING REPORT NO. 7/2008

DEVELOPMENT APPLICATION NO: 8/2008/537/1
APPLICANT: GOLDEN OCEANS (NSW) PTY LTD
OWNER: EVEWALL PTY LTD
PROPERTY: LOT 100 DP 729976 & LOT 26 DP 786287 NO.
6 WINE COUNTRY DRIVE NULKABA & 6
DOVER STREET, CESSNOCK
AREA: 89,867 SQUARE METRES
ZONING: RURAL 1(A) AND RESIDENTIAL 2(A)
PROPOSAL: ESTABLISHMENT OF SENIOR LIVING
DEVELOPMENT COMPRISING 177
SERVICES DWELLINGS AND
MULTIPURPOSE COMMUNITY CENTRE

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

SUMMARY:

Application has been received for the establishment of a seniors living development on the subject land comprising 177 self serviced dwellings and a multi-purpose centre. The proposal was advertised and notified to adjoining owner/occupiers in accordance with Council policy and a total of fifty (50) submissions were received with the majority of these being opposed to the development.

The proposed development constitutes "Integrated Development" under the provisions of the Environmental Planning and Assessment Act, 1979, as amended, as approvals are also required from the Roads and Traffic Authority (Section 138 of the Roads Act 1993), the NSW Rural Fire Service (Section 100B of the Rural Fires Act 1997), the Department of Environment & Climate Change (Section 90 National Parks and Wildlife Act 1974 and NSW Department of Water and Energy (Water Management Act 2000).

The application has been assessed under the provisions of State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004 and the Cessnock Development Control Plan 2006 and is recommended for approval.

PROPOSAL:

The proposed development involves the establishment of a retirement village comprising one hundred and seventy seven (177) single storey dwellings, and the provision of a large community centre. The existing dwelling house and ancillary buildings are to be demolished.

The proposed dwellings comprise a small number of detached dwellings, the majority of the larger dwellings as attached dual occupancy dwellings and a large number of the smaller units as attached dwellings in groups of three (3) to six (6) units. The proposed dwellings will be arranged in a similar "grid" pattern to a standard subdivision but with narrower internal road widths. The majority of dwellings proposed are to be attached by common walls and using slab on ground construction and brick veneer and metal clad walls and metal roofs. Five (5) different floor plan types are proposed as detailed in the table below:-

TABLE DWELLING NUMBERS/SIZE/TYPE

| Type | No. Bedrooms | Size (sqm g.f.a.) | Dwelling Number |
|-------------|---------------------|--------------------------|------------------------|
| A | 1 | 55 | 35 |
| B | 1 | 71 | 36 |
| C | 2 | 97 | 36 |
| D | 2 | 125 | 36 |
| E | 3 | 148 | 34 |
| | | Total | 177 |

The proposed development includes a community centre and workshop. The community centre will be housed in a single storey building 920 square metres in area and containing a large dining area and self serve kitchen, lounge and self serve bar, library, medical consulting room, hairdresser, gymnasium, hydrotherapy and lap pool, bar-b-que terrace, meeting room, theatre, reception facilities and administration facilities associated with the running of the retirement village and co-ordination of the provision of care services to residents.

The services available to residents of the village will be provided on a "user pays" basis in addition to services they may already be receiving (i.e. Home and Community Care (HACC) program administered by the Commonwealth and State and the Community Aged Care (CACAP) programs administered by the Commonwealth.) Residents will be provided with a range of personal services such as nursing, personal care, domestic assistance, attendant care and meal provision. Such services will be directly contracted between the service provider and the resident or their family.

It is envisaged that a couple will be accommodated on the site to be responsible for meal preparation and the day to day management of the village including supervision of garden and grounds maintenance. It is also intended that an accredited aged carer be available on site and/or on call 24 hours per day and a registered nurse on site during business hours. It is intended that the provision of nursing care will increase as the demand and the population of the village increases over time.

Access to the site is proposed via Wine Country Drive and from Dover Street. The access from Wine Country Drive is intended as the main access to the site and is proposed as a left in left out access. The access driveway will consist of two (2) driveways each 3.5 metres wide and separated by a one (1) metre median. Access into the site from Dover Street is intended to provide a secondary access only to the site in case of emergencies. The proposed roadways within the development site will be maintained as private roads and their widths reduced to six (6) metres.

The proposed development will rely on the amplification of the reticulated water and sewage service available in Wine Country Drive to service the development. Electricity and telephone services are also available in the locality for connection. The development will have to rely on a private contractor to provide a garbage service to the development site as Council's garbage service is not available on private roads. The postal service may also be restricted in the same way.

SITE DESCRIPTION:

The subject site is located approximately 1.5 kilometres north-west of the Cessnock town centre on the eastern side of Wine Country drive and on the northern edge of the Cessnock residential area. The land consists of two (2) parcels of land. The principal lot is a rural lot with a frontage of approximately 260 metres to Wine Country Drive and an area of 8.1 hectares. The land has been cleared and is occupied by an existing two (2) storey brick rural dwelling and large shed located in the southern portion of the lot and two (2) small dams.

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The land is relatively flat and low lying and slopes gently towards natural watercourses in the north-western corner of the site and to the east of the site.

The second lot is a residential lot with a frontage of approximately 17.4 metres to Dover Street and an area of 850 square metres. The lot is occupied by an existing dwelling and several outbuildings and slopes gently from Dover Street which has no kerb and gutter to the rear of the lot.

PUBLIC EXHIBITION:

The proposal was advertised and notified to adjoining owner/occupiers in accordance with Council policy and a total of fifty (50) submissions were received. The proposal was advertised and notified for an initial period of fifteen (15) days from 16 July 2008 till 30 July 2008 and then notified for a further fifteen (15) day period from 8 October 2008 till 22 October 2008 following the submission of additional information by the applicant.

Of the fifty (50) submissions received one (1) submission was in support of the proposal and the remaining objections were received from a total of thirty five (35) households within the local area.

Local residents have cited the following matters as grounds for objection against the proposal:-

- a) The Dover Street point of access will become the main entry to and exit from the retirement village due to the restriction of a right turn in and right turn out access to the site on Wine Country Drive. This will result in a substantial increase in the volume of traffic along Church Street and those streets which provide access from Church Street to Wine Country Drive/Allandale Road i.e. Jurd, McGrane, Ferguson and Doyle Streets. Increased traffic along these otherwise relatively quiet residential streets will have an adverse impact on the amenity of the local area by creating additional noise and air pollution, lead to a deterioration of the road surface and present a danger to school children travelling to and from school.

Comment: A Traffic Assessment Report has been undertaken by the proponent for the proposed development. The report focused on Church Street traffic volumes and found an existing peak hour volume of 18 vehicles per hour. The report recognises that with a left turn in and left turn out access at Wine Country Drive traffic to and from the site will be concentrated at the Dover Street access.

The Traffic Assessment Report has predicted that the proposed development will generate a further 30 peak hour trips making a total of 48 peak hour trips for Church Street. The Roads and Traffic Authority Guide to Traffic Generating Developments, Section 4, Interpretation of Traffic Impacts – presents general principles of environmental traffic capacity to consider and evaluate in order to maintain the amenity of a residential precinct. The environmental capacity of an area is determined by the impact of traffic characteristics, road characteristics and local characteristics of the location. Church Street is a local street and it is evident that the proposed development will not generate traffic volumes to the extent which would cause maximum peak hour volumes to exceed the local road functional classification of 200 peak hour trips i.e. the environmental goal.

- b) The proposed development will involve filling of the subject land as it is flood prone. Such filling will cause localised flooding particularly at the rear of dwellings in Dover Street where water collects after heavy rainfall.

Comment: Information submitted with the application indicates filling of the land is to occur between 0.5 metre to 1.5 metres with some filling in close proximity to the Dover Street residences. In order to mitigate against the impact of localised flooding on residences in Dover Street and generally control the volume of stormwater runoff from the site several strategies are proposed. These include the provision of water tanks for the majority of dwellings, the use of on-site detention facilities and the provision of inter allotment drainage adjacent those properties in Dover Street to collect and drain stormwater away from the rear yards of residential properties.

- c) The proposed development will result in the creation of a dangerous intersection at Church/Dover Street with local residents being unable to enter and leave their driveways in a safe manner.

Comment: The proposed intersection at Church/Dover Street was considered by the Hunter Regional Development Committee (Traffic) and advised that for access on Dover Street an appropriate traffic facility including on-site and intersection lighting to Australian Standards should be provided to improve safety at this location.

- d) Construction of the proposed development will take a number of months and local residents and their families will be inconvenienced and placed in danger with large construction vehicles travelling up and down Church/Dover Street delivering fill and creating a dust and noise nuisance.

Comment: Construction traffic is restricted in terms of its hours of operation with work on Saturdays being limited to between 8.00am and 1.00pm and no work on Sundays and Public holidays. In addition, a Construction Management Plan will be required prior to the commencement of work to further restrict the impact of the construction of the proposed development on the amenity of the adjoining residential area.

- e) The proposed development of one hundred and seventy seven (177) units on the subject site is excessive and inadequate car parking and open space have been provided in association with the development.

Comment: The provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 sets development standards for seniors housing in terms of car parking, open space and landscaped areas and residential densities. The development standards are complied with in relation to the proposed development and are therefore unable to be used as a ground for a rejection of the proposal.

- f) The development of an access road from Wine Country Road through to Dover Street will result in its use as a thoroughfare when south bound traffic find Wine Country Drive/Allandale Road congested.

Comment: The internal road network within the retirement village provides for significantly narrower road widths (6 metres) compared to those available (approximately 13 metres) on a standard road. This will effectively reduce traffic speed within the village and together with other traffic calming methods eg speed humps etc will make access through the site as a short cut impractical.

- g) The existing water and sewage services will be unable to cope with a development of the scale proposed.

Comment: The applicant has submitted correspondence from the Hunter Water Corporation indicating that there is sufficient capacity within its system to service the proposed development with a reticulated water and sewage supply.

- h) The impact of the proposed development on fauna and flora has not been adequately addressed.

Comment: The initial Flora and Fauna and Threatened Species Assessment undertaken in February 2005 for the site was considered inadequate as it was shown to be out of date and did not take into consideration several Endangered Ecological Communities known to occur in the locality. An updated assessment was submitted, concluding that the proposed development would have minimal impact upon threatened species subject to the recommended ameliorative measures and management actions. The latter have been incorporated in the recommended conditions of consent.

- i) The proposed development will result in a loss of privacy and amenity for those residents of Dover Street whose properties have been developed to take advantage of the northerly aspect of their rear yards and the rural views. In this regard the applicant should provide a landscape buffer between the boundary of Dover Street properties and the proposed units.

Comment: Development plans submitted with the application indicate that a 1.8 metre high colorbond fence is to be erected along the southern boundary of the site on the common boundary with those residential properties facing Dover Street. The plans also indicate that the closest dwelling unit will be 6 metres from the boundary. No plantings have been proposed as a buffer along this boundary. As the development may result in the erection of dwellings at marginally higher floor levels above existing dwellings it is considered appropriate to require additional landscaping be provided as a condition of any consent to be issued for the development.

- j) The proposed colorbond fence to be erected along the southern boundary of the site on the common boundary with those residential properties facing Dover Street will overshadow residents' rear yards.

Comment: The proposed colorbond fence is seen in preference to an open style fence as it provides privacy. The overshadowing effect is not considered significant and the use of an inter allotment drainage system will ensure that excess surface water is removed as quickly as practical.

- k) The proposed colorbond fence will obstruct site distance on properties that have access to Wine Country Drive.

Comment: This matter has been reviewed by the applicant and an open style rural fence will now be provided along the last seven (7) metres of this boundary to facilitate site distance for vehicles exiting the last two (2) residential properties on Wine Country Drive.

- l) The exhibition period for the proposed development did not allow adequate time to comment on the proposal.

Comment: As indicated above the application was advertised and notified for an initial period of fifteen (15) days and following the submission of additional information for a further fifteen (15) day period making a total of thirty (30) days. This is consistent with the provisions of Council's Development Control Plan 2006.

- m) Lot 26 DP 786287 is owned by a Council employee and is subject to an option to purchase by the developer. As it is understood that the option is contingent upon approval of the Development Application by Council a conflict of interest arises.

Comment:

The Council employee informed the General Manager of the potential pecuniary interest upon lodgement of the development application. The employee has had no direct or indirect involvement in the assessment and processing of the development application.

- n) The proposed development will reduce the value of properties in close proximity to the development due to increased traffic movements and the residential density of the proposal.

Comment: The proposed development of the subject site as a retirement village is a large scale development and involves a significant investment by the proponent. The proposed use is not a high traffic generating land use and when completed will be compatible with the existing residential neighbourhood. There is no substantial evidence to conclude that the proposal will reduce property values within the area.

STATUTORY SITUATION (S79C.a):

The proposed development is located predominantly within the Rural 1(a) zone and partly within the Residential 2(a) zone. The proposal is permissible with Council's consent within the Residential 2(a) zone under the provisions of the Cessnock Local Environmental Plan 1989. The development may be considered by Council within the Rural 1(a) zone under the provisions of State Environmental Planning Policy (SEPP) (Housing for Seniors or People with a Disability) 2004 as it adjoins an urban area. The land use also falls within the definition of 'Seniors Housing' under the Policy 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) for any additional requirements.

PLANNING ASSESSMENT:

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

a) The Provisions of Any Environmental Planning Instruments

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

Part 1A - Site Compatibility Certificate

Under the provisions of the Policy a Site Compatibility Certificate is required to be issued by the Director-General of the Department of Planning. In this case the Certificate was required as the land to be used for the purposes of seniors housing adjoins land zoned primarily for urban purposes. A Certificate was issued for the subject site by the Office of the Director-General on 30 November 2007.

Clause 24(2) of the Policy states:-

(2) A consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that, in the Director-General's opinion:

- a) the site of the proposed development is suitable for more intensive development, and

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- b) development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b).

Clause 25 (5) (b) of the Policy states:-

(5) The Director-General must not issue a site compatibility certificate unless the Director-General:

- (b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:
 - i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,
 - ii) the impact that the proposed development is likely to have on the uses that, in the opinion of the Director-General, are likely to be the future uses of that land,
 - iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in Clause 26 and any proposed financial arrangements for infrastructure provision,
 - iv) in the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development,
 - v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of the land in the vicinity of the development.

General Terms of the Policy

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 all of the dwellings will be wheelchair accessible dwellings with all being disabled/adaptable dwellings.

Part 2 – Site Related Requirements (Clause 26)

- 1) Location and Access to Facilities – 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 is assessed as satisfying these requirements. In addition to the community services and recreation facilities that are to be provided on the site Rover Coaches operates a local bus service with regular scheduled bus services (Nulkaba Hoppa Route 167) along Wine Country Drive. This service operates twice a day during weekdays with pick up points opposite the entrance to the Calvary Retirement Centre and the other adjacent the intersection of Wine Country Drive with the closed section of Dover Street. This service provides access to Cessnock city centre and to the hospital. In addition Cessnock Community Transport Inc also provides alternative transport arrangements and activities for residents and Rover Coaches also operates an extensive school bus service which is also available to local residents.

Bush fire prone land

The subject site is recognised as bush fire prone land – vegetation category 2 and Council is obliged to consider under Clause 27 of the Policy the general location of the proposed development, the means of access to and egress from the general location and a number of other relevant matters in this regard. These matters have been considered and the NSW Rural Fire Service has been consulted and its requirements included in any consent to be issued for the development.

Water and Sewer

Clause 28 of the Policy states that Council must not consent to a development application unless it is satisfied, by written evidence, that the proposed housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage. Where the water and sewerage services are not provided by Council it is required to consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.

The reticulated water service is available in Wine Country Drive adjacent the site and the adjoining urban area is serviced by the reticulated sewerage infrastructure. The applicant has provided correspondence from the Hunter Water Corporation indicating that there is sufficient capacity within its system to service the proposed development with a reticulated water and sewage supply.

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 subject site is located at the northern end of the Cessnock urban area adjacent relatively quiet residential streets. Access to and egress from the site is proposed off Dover Street through an existing residential property. The existing dwelling and associated structures on this lot will be demolished leaving the access between existing dwellings on adjoining lots. The applicant intends to provide landscaping treatment on either side of a central driveway approximately six (6) metres in width to reduce the impact of vehicles entering and leaving the retirement village.

All buildings within the proposed retirement village have been designed as single storey buildings. The dwelling units that adjoin residential properties in Dover Street will be set back a minimum of 6 metres from their common boundary leaving opportunity for a vegetation buffer to improve amenity between dwellings.

On the Wine Country Drive frontage no development is to occur on the northern side of Mavis Channel. On the south side of the Channel one grouping of units will be located approximately 40 metres from the road providing adequate opportunity to screen the development from the road.

The remaining frontage for the development will be located to the south of the main entrance to Wine Country Drive and the applicant has redesigned the fencing and landscaping treatment of the Wine Country Drive frontage to provide an improvement to the streetscape for the entrance to the site.

b) **Visual and Acoustic privacy** – the proposed development will impact on the visual and acoustic privacy of those residents with properties backing onto the site in Dover Street. Design solutions include appropriate building setbacks and heights, dwelling layouts, placement and sizes of window openings, fencing heights and location of landscaping. The provision of a 1.8 metre high colorbond fence along the common boundary and the provision of additional landscaping will reduce any adverse impact.

c) **Solar access and design for climate** – the design and siting of the proposed development will ensure that the majority of units have adequate access for sunlight into dwelling living areas and private open space areas. The single storey nature of the proposal and building setbacks will also ensure that dwellings on adjoining properties in Dover Street will not be overshadowed.

d) **Stormwater** – the applicant has submitted stormwater details incorporating the provision of a 3,000 litre water tank for the majority of dwelling units and stormwater detention in accordance with Council requirements. In addition, inter allotment drainage is to be provided adjacent the common boundary with those properties in Dover Street to prevent stormwater flowing onto those properties and to ensure that any heavy rainfall that occurs in the area can be drained away into the natural drainage system.

- 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 community centre.
- f) **Accessibility** – the development proposes a shared pedestrian movement system using private roads other than a bus route central through the site in addition to independent walkways. These 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) to cover the demolition stage involving the demolition of the existing dwelling house and the construction stage 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 the prescribed criteria, which are:-

- a) building height where buildings are 8 metres or less in height.
- b) density and scale where expressed as a floor space ratio. The standard requires 0.5:1 or less and the proposed floor space ratio with only single storey buildings proposed is less than 0.25:1.
- c) landscaped area where a minimum of 30% of the area of the site is to be landscaped. This had been achieved.
- 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 and where there is soil of sufficient depth to support the

growth of trees and shrubs. The proposal sets aside approximately 30% 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 15m² per dwelling and for one area minimum dimension of 3m x 3m accessible from living area and this has been achieved.
- g) car parking – requirement is for a minimum of 0.5 car spaces for each bedroom. The total car parking requirement for the one hundred and seventy seven (177) units is one hundred and fifty nine (159) spaces. Each unit will have its own car port or garage with the largest units being provided with a double garage. A total of three hundred and fifty one (351) car parking spaces have been provided which exceeds the requirement.

PART 5 – Development on land adjoining land zoned primarily for urban purposes

42 Serviced self-care housing

Under this clause Council must not consent to development for serviced self-care housing unless it is satisfied by written evidence that residents will have access to :-

- a) home delivered meals, and
- b) personal care and home nursing, and
- c) assistance with housework.

Under the clause residents of a development do not have reasonable access to such services if they are limited to services provided under Government provided or funded community based care programs such as HACC or CACP.

The applicant has provided details of a range of services including those referred to above that will be available to residents to satisfy this requirement.

43 Transport Services

Under this clause Council must not consent to development for serviced self-care housing unless it is satisfied that a bus capable of carrying at least 10 passengers will be provided to the residents of the proposed development:

- a) that will drop off and pick up passengers at a local centre that provides residents with access to the following:
 - i) shops, bank service providers and other retail and commercial services that residents may reasonably require,
 - ii) community services and recreation facilities,
 - iii) the practice of a general medical practitioner, and
- b) that is available both to and from the proposed development to any such local centre at least once between 8am and 12 pm each day and at least once between 12 pm and 6pm each day.

The Rover Bus and Coach company conduct a bus service (Nulkaba Hoppa 167) along Wine Country Drive from Monday to Friday which will provide residents of the village with access to the Cessnock commercial centre twice a day with services leaving the depot in Vincent Street at 9.30 am and 3.15pm.

44 Availability of facilities and services

Under this clause Council must be satisfied that any facility or service provided as part of a proposed development will be available to residents when the housing is available for occupation. Should a future application for a staging of the proposed development be considered the facilities and services to be provided are required to be undertaken proportionately with the number of residents in each stage.

b) The Provisions of any Local Environmental Plan

Cessnock Local Environmental Plan, 1989

The subject land is zoned part Residential 2(a) and part Rural 1(a). Under the provisions of the Cessnock Local Environmental Plan 1989 the proposed development is defined as a residential flat building.

The proposed retirement village may be considered within the Rural 1(a) zone under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. While residential flat buildings are not permissible in this zone under the Cessnock LEP 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 Council's LEP.

The proposed development is permissible only with the consent of Council within the Residential 2(a) zone. 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.

c) The Provisions of any Development Control Plan

The proposal is required to comply with the provisions of the Cessnock Development Control Plan 2006 (Part D – Specific Development, Chapter D.2 – Urban Housing) unless otherwise covered by the SEPP. The proposed development satisfies the relevant provisions of the Cessnock Development Control Plan 2006 – Urban Housing.

The Likely Impact of that Development

Context and Setting – the proposed development consists of a large scale residential development in the form of a retirement village for people over 55 years of age or people with a disability. The Cessnock Local Government area supports a number of similar developments which are in character and compatible with other forms of urban housing. When completed it is considered that the proposed development will be unlikely to have significant adverse impact upon the amenity of the surrounding residential neighbourhood.

The proposed development will however have a significant impact due to the substantial increase in the volume of traffic that will access the subject site from Dover Street. The Traffic Assessment Report undertaken for the applicant indicates that this increase from a measured peak hour of 18 vehicles to 48 peak hour trips represents an overall increase of 166% in the volume of traffic that will be likely to travel along Church Street to access the proposed development site.

It must be recognised that the existing traffic volumes presently experienced in Church Street are low relative to the capacity of the local road system. The application was referred to the Hunter Regional Development Committee which acknowledged that the existing local road network has the capacity to accommodate the additional traffic movements that will be generated by the development. Given the capacity of the local road network to accommodate additional traffic, it is concluded that, from a traffic management perspective, the additional traffic from the proposed development will not have a significant impact upon the amenity of existing residents within the local area.

Mitigation of traffic impacts can be addressed through the preparation of traffic management plans and intersection treatments, for which the requirements have been incorporated in the recommended conditions of consent.

Water Management - the stormwater management strategy for the proposed development consists of the provision of rainwater tanks, gross pollutant traps and sedimentation basins. Several sedimentation basins have been proposed for the site and are to be constructed as grassed lined basins to remove pollutants and detain runoff in storm events. An outlet control structure has been designed to discharge excess stormwater into the natural watercourses. The legal point of discharge for stormwater from the proposed development will be Mavis Channel in the north-western corner of the site. A small area of development in the south-eastern corner of the site is intended to be drained to the east. This will require the provision of an easement over land owned by Council in order to access the watercourse adjacent to Cessnock Park.

Access and Traffic – the application for the proposed development was accompanied by a Traffic Assessment report which was considered by the Hunter Regional Development Committee (Traffic) and Roads and Traffic Authority (RTA).

In accordance with the Roads Act 1993, the RTA has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. Wine Country Drive (MR220) is a classified (State) road and RTA concurrence is required for connections to the road with Council consent, under section 138 of the Act. The RTA has reviewed the information contained in the application and has raised no objection to the proposed development subject to the inclusion of a number of conditions in any consent to be granted including the restriction of a left in and left out only access to Wine Country Drive.

Car parking provided for the proposal exceeds the requirements of SEPP (Housing for Seniors or People with a Disability) 2004. 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.

Social Impact in the Locality – the proposal will result in a number of positive social benefits in that it improves both the quantity and quality of housing stock available to meet the needs of an ageing population by providing purpose built accommodation for aged people and people with a disability. In addition the new housing will also meet current accessibility standards and sustainable housing standards having regard to energy and water consumption.

Economic Impact in the Locality – the proposed development will have a positive short-term economic impact on the local economy through the employment of personnel for the demolition and construction of the development and the potential for local sourcing of construction materials. Longer term benefits arise from the ongoing consumption associated with new additional households and the more efficient use of land resources and existing infrastructure and services.

Suitability of the Site for the Development – the subject site is suitable for the proposed development given the zoning of the land and its proximity to public transport infrastructure which provides access to the commercial centre of Cessnock. The site is also in close proximity to Cessnock Hospital.

CONSULTATION

The proposed development constitutes “Integrated Development” under the provisions of the Environmental Planning and Assessment Act, 1979, as amended, as approvals are also required from the Roads and Traffic Authority (Section 138 of the Roads Act 1993), the NSW Rural Fire Service (Section 100B of the Rural Fires Act 1997), the Department of Environment & Climate Change (Section 90 National Parks and Wildlife Act 1974 and NSW Department of Water and Energy (Water Management Act 2000). Consultation as taken place with these authorities and their requirements have been included in a draft consent should consent be granted to the proposed development.

CONCLUSION:

The proposed development has been assessed under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and Cessnock Development Control Plan 2006 and having regard to all of the relevant issues it is recommended that the development be granted conditional approval.

RECOMMENDATION that Development Application No. 8/2008/537/1 for the establishment of a Seniors Living Development comprising one hundred and seventy seven (177) self serviced dwellings and a multi-purpose community centre on Lot 100 DP 729976 No. 6 Wine Country Drive and Lot 26 DP 786287 No. 16 Dover Street Cessnock be approved subject to compliance with the attached conditions of consent:-

SCHEDULE 1

TERMS OF CONSENT

General

1. The erection of a building in accordance with this development consent shall **not** be commenced until:-
 - (a) detailed plans and specifications of the building verifying compliance with the Building Code of Australia have been endorsed with a **construction certificate** by:-
 - (i) the Cessnock City Council; or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:-
 - (i) has **appointed a principal certifying authority**, (being Cessnock City Council or an accredited certifier) 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 their intention to commence erection of the building.

Reason

To clarify and advise the applicant that a Construction Certificate must be issued prior to works commencing as required by the Environmental Planning and Assessment Act 1979 (as amended).

2. The proposed development shall be carried out strictly in accordance with the details set out on the application form, the Statement of Environmental Effects from ADW Johnson, the Plans from EJE Architecture numbered (Project No. 7561, Drawing Nos A.02 Rev G, A.03 & A.04 Rev B, A.05 & A.06 Rev C, the revised Flora and Fauna and Threatened Species Assessment from Ecobiological dated September 2008, the landscape plans submitted by Terras landscape architects and dated September 2008 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.

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

Reason

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

4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates:-

(A) in the case of work for which a principal contractor has been appointed:

- (i) has been informed in writing of the name and licence number of the principal contractor, and
- (ii) where required has submitted an insurance certificate with the name of the insurer by which the work is insured under Part 6 of that Act,

(B) in the case of work to be done by an owner-builder:

- (i) has been informed in writing of the name of the owner-builder, and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, has submitted a copy of the owner builder permit.

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

Reason

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

5. The 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.

Design Considerations/Building Setbacks

6. Building materials and painting or other external finishes shall be of dark natural tones with low reflective quality, or such other treatment as may be appropriate to ensure that the buildings are not intrusive in the rural setting.

Reason

To minimise the visual impact of building and structures in the landscape

7. The development being designed such that the road traffic noise from Wine Country Drive is mitigated by durable materials in accordance with EPA criteria for new residential developments (The Environmental Criteria for Road Traffic Noise, May 1999). The RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments. Where the EPA external noise criteria is unable to be feasibly or reasonably met, the following internal noise objectives for all habitable rooms under ventilated conditions complying with the requirements of the Building Code of Australia shall be attained:

- * All habitable rooms other than sleeping rooms – 45 dB(A) Leq(15hr) and 40 dB(A) Leq (9hr); and
- * Sleeping rooms – 35 dB(A) Leq (9hr)

Reason

To ensure that the proposed units are designed to an acceptable standard in relation to known external noise sources.

Building Construction

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

Reason

To reduce the risk of damage to adjoining properties

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

10. 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.

Site Works

11. 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.

Swimming Pools

12. The swimming pool and safety fences and gates shall be installed in accordance with the approved plans and specifications and the Swimming Pools Act 1992, as amended.

Reason

To restrict access to the Swimming Pool by unsupervised young children.

13. The swimming pool shall at all times be surrounded by a child resistant barrier:
- a) that separates the swimming pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises; and
 - b) that is designed, constructed, installed and maintained in accordance with the standards prescribed by the Swimming Pools Regulation and AS1926 - 1986 titled "Fences and Gates for Private Swimming Pools".

Reason

To restrict access to the Swimming Pool by unsupervised young children.

14. Waste water from the swimming pool shall be disposed of so as not to create a nuisance to surrounding properties or to pollute the environment. Where the Hunter Water Corporations sewer is available wastewater shall be drained or pumped to the sewer.

Reason

To ensure that water from the swimming pool is disposed of in a manner which does not create a nuisance.

Food Surveillance

14. Premises which are used for the sale, storage and preparation for sale of food for human consumption shall comply fully with the provisions of the "Food Act, 2003", the "Regulations" thereunder, the Food Standards Code and Australian Standard 4674-2004, "Design, construction and fit-out of food premises"

Reason

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

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15. All walls of the food premises shall be of solid construction.

Reason

To prevent access and harbourage of vermin in voids or cavities within the wall frame.

16. Hand washing facilities - Hand washing basins shall be provided in sufficient number in close proximity to where food is prepared; with a permanent supply of warm running potable delivered through a single outlet provided to each, together with a sufficient supply of soap and hand drying facilities.

Reason

To ensure adequate hand washing facilities are available for food handlers to wash hands.

17. A designated cupboard or locker is to be provided for the storage of staff clothing and personal belongings.

Reason

To prevent the risk of cross contamination of food products and food preparation areas.

18. Any refrigerated or cooling chamber which is of sufficient size for a person to enter, is required to meet the requirements of the Building Code of Australia and must have: -

- i. a door which is capable of being opened by hand from inside without a key; and
- ii. internal lighting controlled only by a switch which is located adjacent to the entrance doorway inside the chamber; and
- iii. an indicator lamp positioned outside the chamber which is illuminated when the interior light is switched on; and
- iv. an alarm that is –
 - a. located outside but controllable only from within the chamber; and
 - b. able to achieve a sound pressure level outside the chamber of 90 dB(A) when measured 3m from the sounding device.

The door required by (i) above must have a doorway with a clear width of not less than 600mm and a clear height not less than 1.5m.

Reason

To protect the safety of persons and to ensure the chamber complies with the requirements of the Building Code of Australia.

19. Where any proposed cooking or heating equipment being considered for installation, has a combined capacity exceeding 8 kilowatts or 29 megajoules/hour, then an approved mechanical exhaust ventilation (M.E.V.) system will be required.

Such equipment which is specifically designed to cater for the removal of odours, vapours or emissions from such area and equipment, shall comply with the requirements of the relevant Australian Standard No. 1668 Part 2. Detailed plans and specifications of the equipment as proposed are to be submitted to the Principal Certifying Authority (PCA) for approval with the Construction Certificate.

Reason

The equipment upon installed in such a manner as not to cause danger or a nuisance to occupants of the building or the surrounding residential area must fully meet and perform to the requirements of Australian Standard No. 1668. Part 2.

20. Suitable hand drying facilities are to be provided within all work and amenities areas. These may include single use paper towels, air dryers or other approved hand drying facilities.

Reason

To promote good hygiene practices, and reduce the risk of cross infection.

21. The routine cleaning and sanitising of all common areas and facilities, and the laundering of all linen is to be carried out strictly in accordance with recommended industry guidelines using approved occupational health and safety practices.

Reason

To minimise the health and safety risks from possible cross contamination sources for patrons and staff alike.

22. Upon commencement of trading, as part of Council's Regulated Premises audit program, all business involved in the sale of food at this site are required to be listed on Council's Regulated Premises Register and will be subject to an annual registration/renewal fee each financial year. The annual fee includes random operational inspections where required by Council's Regulatory Services officer, at no additional charge.

Reason

To ensure compliance with the provisions of the Public Health Act of 1991, Food Act 2003 and Food Regulation 2004, Food Standards Code and broadly that all public health, food handling and safety practices, and environmental issues are being addressed.

Environmental Considerations

23. 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.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

General

24. The applicant shall submit to the Principal Certifying Authority 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 proposed development. Such evidence shall be submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason

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

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

Reason

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

Food Surveillance

26. "All premises which are used for the storage, preparation and serving of food for human consumption shall comply with the provisions of the "Food Act, 2003", the "Regulations" thereunder and Australian Standard 4674-2004, "Design, construction and fit-out of food premises".

Please note: A detailed plan of the layout and a schedule of equipment to be installed for the kitchen/bar/restaurant area shall be submitted to the Principal Certifying Authority (PCA) for consideration and approval prior to issue of the Construction Certificate.

The plan is also to detail all floor, wall, ceiling and bench/counter/servery surface types and finishes. Such plans should also detail all equipment and the provision of the required hand washing facilities associated with each operation.

Reason

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

27. A separate cleaning sink is to be provided and located outside of areas where open food is handled and shall be shown on the floor plan prior to the issue of the Construction Certificate.

Reason

To ensure adequate facilities for the cleaning of equipment and reduce the potential for the transfer of micro-organisms and to ensure compliance with the requirements of Australian Standard 4674-2004 'Design, construction and fit-out of food premises'.

Design Considerations/Building Setbacks

28. Lighting of the development shall not project glare onto adjoining properties or roadways. Full details of the lighting illustrating compliance with this requirement shall be submitted to and approved by the Principal Certifying Authority prior to release of the Construction Certificate for the building/s.

Reason

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

29. Clothes drying facilities shall be provided to Council's satisfaction either by way of external clothes lines or fixed internal clothes dryers. If external drying facilities are to be provided, such areas must be suitably screened from public areas. Full details shall be submitted to and approved by the Principal Certifying Authority prior to release of the Construction Certificate for the building/s.

Reason

To ensure adequate provision of facilities for occupants while protecting the scenic quality and character of the locality.

30. The collection of domestic garbage and its storage on the site and removal from the site shall be undertaken by private contractor. All receptacles used for the collection and storage of domestic waste on the site shall be screened from public view. Details of such storage facilities shall be submitted to and approved by the Development Services Manager prior to release of the Construction Certificate for the development.

Reason

To clarify the terms of Council's approval.

31. A single mailbox shall be provided at the street frontage within the property boundaries in accordance with the requirements of Australia Post for the receipt of mail for distribution to residents within the retirement village. Full details shall be submitted to and approved by the Development Services Manager prior to release of the Construction Certificate for the building/s.

Reason

To ensure appropriate and suitably located letterboxes are provided.

32. The submission of a detailed landscape treatment plan for the proposed development site. Such plan is to provide for additional landscape treatment between the proposed retirement units and the rear of those residential properties with frontage to Dover Street. The detailed landscape treatment plan is to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

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.

33. Access for the disabled is to be provided to all publicly accessible areas of the proposed community buildings in accordance with *State Environmental Planning Policy (Housing for Seniors or People living with a Disability) 2004* and the *BCA*. Full details, plans and specifications are to form part of the Construction Certificate documentation.

Reason

To ensure that equitable access is provided for disabled persons using the building as required by the State Environmental Planning Policy (Housing for Seniors or People living with a Disability) 2004, the BCA and the Disability discrimination Act. To ensure compliance with, and to enable the builders to be sufficiently informed to build, the development in accordance with the State Environmental Planning Policy (Housing for Seniors or People living with a Disability) 2004, the BCA and the Disability discrimination Act.

34. Access for the disabled is to be provided to all civil works/publicly accessible areas outside of the buildings in accordance with *State Environmental Planning Policy (Housing for Seniors or People living with a Disability) 2004 and the BCA*. Full details, plans and specifications are to form part of the Construction Certificate documentation.

Reason

To ensure that equitable access is provided for disabled persons using the building as required by the State Environmental Planning Policy (Housing for Seniors or People living with a Disability) 2004, the BCA and the Disability discrimination Act. To ensure compliance with, and to enable the builders to be sufficiently informed to build, the development in accordance with the State Environmental Planning Policy (Housing for Seniors or People living with a Disability) 2004, the BCA and the Disability discrimination Act.

35. The proposed community centre and workshop 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 the Principal Certifying Authority prior to release of the Construction Certificate for the building/s.

Reason

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

Building Construction

36. 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 the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason

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

37. The excavation/fill is to be retained by a retaining wall designed by a Practising Structural Engineer. The structural engineer's design shall be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason

To ensure adequate provision is made to retain excavations and fill.

Access, Carparking and Loading Arrangements

38. The design of an appropriate traffic facility) for the Dover Street/Church Street intersection to improve traffic safety at this location is to be submitted for approval by Council's Manager Infrastructure Maintenance. Such design shall include lighting of the intersection and the provision of pedestrian access to the site from Dover Street. The design of the traffic facility shall be completed prior to the issue of the Construction Certificate.

All works associated with the traffic facility shall be completed prior to the issue of an Occupation Certificate.

Reason

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

39. The Registered Proprietors shall construct a reinforced concrete access crossing from the kerb and gutter to the property boundary at the Dover Street access, 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. Full details shall be submitted to and approved by the Principal Certifying Authority prior to release of the Construction Certificate for the buildings.

Reason

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

40. On-site car parking shall be provided as shown on the approved plans and such being set out generally in accordance with Council's Car Parking Code. Full details shall be submitted to and approved by the Principal 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.

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

An engineering design plan of the required parking layout, including necessary drainage, shall be submitted to and approved by the Principal Certifying Authority prior to release of a Construction Certificate for the buildings.

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.

42. 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 Principal Certifying Authority prior to release of the Construction Certificate for the building/s.

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.

Drainage and Flooding

43. 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.

44. 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 shall be 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 for the buildings.

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.

45. The applicant shall obtain all necessary easements to drain all stormwater discharging from the site, including a minimum 2.0m wide easement over the proposed drainage outlet to Church Street Channel. Construction of the drainage lines and associated outlet works shall be carried out in accordance with Council's 'Engineering Requirements for Development' - full details shall be submitted to and approved by Council prior to release of the Subdivision Certificate.

Note:

- (a) The Section 88B Instrument creating the easements shall be submitted to Council with all relevant signatures and company seals (where applicable) prior to issue of a Construction Certificate. Alternatively, Council will accept, at the discretion of the Development Services Manager, a copy of the Section 88B Instrument with an accompanying letter from the acting Solicitor or Surveyor giving an undertaking that the section 88B Instrument will be signed and submitted as presented to Council, unaltered, to the Property Information Officer for registration prior to issue of an Occupation Certificate.
- (b) Construction shall be completed prior to issue of an Occupation Certificate.

Reason

To provide the necessary legal right to drain through adjoining lots where necessary.

46. The applicant shall ensure that the floor level of all proposed buildings are at least 500mm above the 1 in 100 year flood level or the top water level of the on-site detention system and associated overland flow paths during the 1 in 100 year event (which ever is higher). Evidence to support the determination of the on-site detention top water/overland flow level shall be supplied by a suitably qualified professional. Details of the required floor levels shall be submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate for the building/s.

Reason

To ensure that risk to life and property from inundation by flooding is minimised.

47. *Any fencing proposed across the required overland flow paths 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 building/s.*

Reason

To reduce the impact of the development on flood behaviour.

48. Any landscaping within the proposed development being designed and positioned in such a manner as to ensure that the designated floodways, or overland flow paths are not obstructed. Details shall be submitted to and approved by the Principal Certifying Authority 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.

49. 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 issue of an Occupation Certificate for the buildings.

Reason

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

Site Works

50. 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.

Subdivision

51. A plan of consolidation of all lots included within the bounds of the development shall be submitted to Council prior to release of the Construction Certificate. The final plan of consolidation shall be approved by Council prior to the issue of a Subdivision Certificate, and shall be registered at the Land Titles office, Sydney, prior to commencement of occupation or use of the premises.

Reason

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

Fees, Development Contributions, Monetary Bonds, Dedication of Land

52. The registered proprietors of the whole of the land contained in the plan of subdivision shall, prior to endorsement and release of the final plan of survey at their costs and expense, enter a positive covenant over all of the land comprised in the development providing as follows:-

- a) *Covenanting with the Council (the prescribed Authority) to at all times at their costs maintain, repair and keep the on-site stormwater detention facilities in a good and safe condition and state of repair in accordance with the approved design to the reasonable satisfaction at all times of the said Council having due regard to the Plan of Management for the operation and maintenance of the on-site stormwater detention facilities in accordance with Condition No (), 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.

DURING CONSTRUCTION

General

53. 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.

Director City Planning Report No. 7/2008

54. If the work involved in the erection or demolition of a building:-

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (b) building involves the enclosure of a public place,

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

Reason

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

55. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

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

Reason

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

56. 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.

57. 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.

58. 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.

59. 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.

60. 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.

Design Considerations/Building Setbacks

61. The floor level of the proposed buildings shall be certified by a registered surveyor as being not less than those approved by Construction Certificate plans (being at least 500mm above the 1 in 100 year flood level or the top water level of the on-site detention system and associated overland flow paths during the 1 in 100 year event, whichever is higher). The evidence shall be submitted to the Principal Certifying Authority prior to pouring the slab or placement of flooring materials for the proposed development.

Reason

To minimise the extent of property damage and the risk of injury in the event of flooding of the site.

Building Construction

62. All demolition works are to be carried out in accordance with Australian Standard AS 2601-2001 "Demolition of Structures", with all waste being removed from the site. Hazardous waste such as asbestos cement sheeting etc, being handled, conveyed and disposed of in accordance with guidelines and requirements from NSW Workcover Authority. Disposal of asbestos material at Council's Waste Depot requires prior arrangement for immediate landfilling.

Reason

To ensure that all wastes including asbestos waste is handled and disposed of safely and in an appropriate manner.

Site Works

63. 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.

64. 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.

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

Reason

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

Scheduling of Inspections

66. The applicant is to advise Council's Development Engineer 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 the orderly scheduling of inspections.

Scheduling of Inspections Access

67. Prior to commencement of any works within the Dover Street road reserve, the applicant or their nominated contractor shall obtain a Roads Act approval (S138) from Council's Development Services Section. Reinstatement of the road shall be to the satisfaction of Council's Development Services Manager prior to the issue of the Occupation Certificate.

Reason

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

PRIOR TO OCCUPATION

General

68. 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.

Building Construction

69. 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

70. 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.

71. The design of the proposed internal road network is to provide for additional traffic calming measures to the satisfaction of the Hunter Regional Development Committee (Traffic) to discourage access through the site by vehicles not associated with the retirement village.

Reason

To ensure that appropriate traffic management measures are put in place to ensure the safety and efficiency of the local road network.

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

Reason

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

73. 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.

74. Access to the site from Wine Country shall be limited to left in / left out. The intersection shall be designed and constructed in accordance with RTA and Council requirements and shall include (but not necessarily limited to):

Turning restriction shall be enforced through the use of a raised concrete median island within the access road.

A deceleration lane shall be provided for the left turn into the site.

Location of the access shall be determined by its proximity to the Calvary access such that there is sufficient distance to accommodate both the auxiliary passing lane at the Calvary access and the deceleration lane for access to the proposed development in accordance with the RTA's Road Design Guide.

Street lighting shall be provided at the intersection in accordance with the relevant Australian Standard

Prior to commencement of any works within the Wine Country Drive road reserve, the developer will be required to enter into a Works Authorisation Deed with the RTA. To this regard the developer shall submit detailed design plans to the RTA along with all relevant additional information as may be required in the Work Authorisation Deed documentation.

All works shall be complete prior to issue of an Occupation Certificate.

Reason

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

75. An indented bus bay shall be provided on the eastern side of Wine Country Drive to Council and Bus Company requirements.

Prior to commencement of any works within the Wine Country Drive road reserve, the developer will be required to enter into a Works Authorisation Deed with the RTA. To this regard the developer shall submit detailed design plans to the RTA along with all relevant additional information as may be required in the Work Authorisation Deed documentation.

All works shall be complete prior to issue of an Occupation Certificate.

Reason

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

76. The registered proprietors of the land shall construct the following works along the full Wine Country Drive frontage of the development:

- (a) Construct kerb and gutter
- (b) Construct and gravel road shoulders
- (c) Place asphaltic concrete seal on road shoulders
- (d) Top-dress and turf footpath
- (e) Construct concrete cycleway 2.5 metres wide
- (f) Construct drainage works as required

All works shall be in accordance with Council's Engineering Requirements for Development and RTA requirements.

Prior to commencement of any works within the Wine Country Drive road reserve, the developer will be required to enter into a Works Authorisation Deed with the RTA. To this regard the developer shall submit detailed design plans to the RTA along with all relevant additional information as may be required in the Work Authorisation Deed documentation.

All works shall be complete prior to issue of an Occupation Certificate.

Reason

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

77. The applicant shall prepare a flood emergency evacuation and management plan for the proposed development. The plan should advise occupants of flood evacuation procedures and emergency contact telephone numbers. The management plan should avoid the letting of the premises during periods of flood emergency or when flood warnings are issued. The applicant should contact Council and the State Emergency Service for advice in the preparation of the management plan.

The evacuation procedures should be permanently fixed to the community centre building in a prominent location and kept up to date at all times.

The management Plan shall be submitted to and approved by Council prior to use or occupation of the development.

Reason

To ensure temporary occupants of the accommodation units are aware of the flood hazard and emergency procedures in the event of flood.

Site Works

78. 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.

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 \$194.00.

Reason

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

2. The applicant shall pay Detention Basin(s) engineering checking and site supervision fees in accordance with Council's adopted fees and charges prior to release of a Construction Certificate for the site. Council's current fee is \$1,005.00. per basin for basins less than 500m³. 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.

SCHEDULE 2

Integrated Approvals

NSW Rural Fire Service

Bush Fire Safety Authority Under Section 100b Of The Rural Fires Act 1997

Asset Protection Zones (APZ)

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants.

1. At the commencement of building works a 10 metre APZ shall be provided along the northern and eastern boundaries of the site and shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and appendix 5 of *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service's document '*Standards for asset protection zones*'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

2. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of *Planning for Bush Fire Protection 2006*.

Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area.

3. All provisions for internal roads, other than where modified below shall comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*.
An internal perimeter road is not required.

The intent of measures for fire tails is to provide suitable access for fire management purposes and maintenance of Asset Protection Zones.

4. The Fire trail proposed along the eastern boundary shall comply with section 4.1.3 (3) of *Planning for Bush Fire Protection 2006*.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments.

5. Arrangements for emergency and evacuation are to comply with acceptable solutions of section 4.2.7 of *Planning for Bush Fire Protection 2006*.

Landscaping

6. Landscaping to the site, including the riparian zone, is to comply with the principles of appendix 5 of *Planning for Bush Fire Protection 2006*.
7. No brushwood (or the like) fencing shall be used.
8. A minimum 1.8 meter high radiant heat shield (e.g. fence) made of non-combustible materials shall be constructed along the northern and eastern boundaries. All posts and rails shall be constructed of steel. The bottom of the fence is to be in direct contact with the finished ground level of plinth.

Department of Environment and Conservation NSW

The following GTA's are provided in accordance with section 91A (2) of the *Environmental Planning & Assessment Act 1997* and section 70 (1)(a) of the *Environmental Planning and assessment regulation 2000*.

1. The applicant must apply for an Aboriginal heritage Impact Permit in accordance with the National Parks & Wildlife Act 1974 (NPW Act), prior to disturbing, damaging or destroying Aboriginal objects that occur on the land which is the subject of the development application.

2. An application for an AHIMS Care & Control Permit must be lodged along with any application for an Aboriginal heritage Impact permit (issued under NPW Act). The applicant must provide evidence of the support or otherwise of all registered Aboriginal stakeholder groups with any application for a care and control agreement.
3. If human remain are located during the project, all work must halt in the immediate area to prevent any further impact to the find or finds. The local police, the Aboriginal community and DECC are to be notified. If the remains are found to be of Aboriginal origin and the police consider the site not an investigation site for criminal activities, DECC should be contacted and notified of the situation and works are not to resume in the designated area until approval in writing is provided by DECC. In the event that a criminal investigation ensues works are not to resume in the designated area until approval in writing from the Police and DECC.
4. If Aboriginal cultural objects are uncovered due to the development activities, all works must halt in the immediate area to prevent any further impact to the find or finds. A suitably qualified archaeologist and Aboriginal community representatives must be contacted to determine the significance of the find(s). The site is to be registered in the AHIMS (managed by DECC) and the management outcome for the site included in the information provided to the AHIMS. It is recommended that the Aboriginal community representatives are consulted in developing and implementing management strategies for all sites, with all information required for informed consent being given to the representatives for this purpose.
5. All reasonable effort must be made to avoid impacts to Aboriginal cultural heritage values at all stages of the development works.
6. An Aboriginal Cultural Education Program must be developed for the induction of personnel and contractors involved in the construction activities on site. The program should be developed in collaboration with the Aboriginal community.

Department of Water & Energy

General Terms of Approval – for works requiring a Controlled Activity Approval under the Water Management Act 2000

| Number | Condition |
|--|--|
| Plans, Standards and guidelines | |
| 1 | <p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA8/2008/537/1 and provided by Council</p> <ul style="list-style-type: none"> (i). Site plan, map and/or surveys (ii). Soil and Water Management Plan <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the Department of Water & Energy must be notified to determine if any variations to these GTA will be required</p> |

| | |
|---|---|
| 2 | Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the Department of Water & Energy. Waterfront land for the purposes of these DA is land and material in or within 40 metres of the top of the bank or shore of the river identified. |
| 3 | The consent holder must prepare to commission the preparation of: <ul style="list-style-type: none"> (i). Rehabilitation Plan (ii). Works Schedule (iii). Erosion and Sediment Control Plan (iv). Soil and Water Management Plan |
| 4 | All Plans must be prepared by a suitably qualified person and submitted to the Department of Water & Energy for approval prior to any controlled activity commencing. The plans must be prepared in accordance with Department of Water & Energy guidelines. <ul style="list-style-type: none"> (i). Vegetation Management Plans (ii). Laying pipes and cables in watercourses (iii). Riparian Corridors (iv). In-stream works (v). Outlet structures (vi). Watercourse crossing plans. |
| 5 | The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and /or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the Department of Water & Energy, |
| Rehabilitation and maintenance | |
| 6 | The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the Department of Water & Energy. |
| 7 | The Consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the Department of Water & Energy. |
| Reporting requirements | |
| 8 | The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the Department of Water & Energy as required. |
| Security deposits | |
| 9 | N/A |
| Access-ways | |
| 10 | N/A |
| 11 | N/A |
| Bridge, causeway, culverts, and crossing | |
| 12 | N/A |
| 13 | N/A |

| | |
|--|---|
| Culvert | |
| 14 | The consent holder must ensure that no materials or cleared vegetation that may obstruct flow, wash into the water body or cause damage to river banks are left on waterfront land other than in accordance with a plan approved by the Department of Water & Energy. |
| Disposal | |
| 15 | The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the Department of Water & Energy; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the Department of Water & Energy. |
| 16 | The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the Department of Water & Energy |
| 17 | The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the Department of Water & Energy. These works and structures must not be removed until the site has been fully stabilised. |
| Erosion control | |
| 18 | The consent holder must ensure that no excavation is undertaken on water front land other than in accordance with a plan approved by the Department of Water & Energy. |
| 19 | The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the Department of Water & Energy. |
| Excavation | |
| 20 | The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the Department of Water & Energy. |
| Maintaining river | |
| 21 | N/A |
| River bed and bank protection | |
| 22 | N/A |
| 23 | The consent holder must establish a riparian corridor along the watercourse in accordance with a plan approved by the Department of Water & Energy. |
| Plans, standards and guidelines | |
| 24 | N/A |
| 25 | N/A |
| 26 | N/A |
| 27 | N/A |
| END OF CONDITIONS | |

To: **Ordinary Council Meeting**
5 November 2008

D FITZGERALD
DIRECTOR CITY PLANNING
13 October 2008

MOTION **Moved:** Councillor Ryan **Seconded:** Councillor Parker
77 (19/11/2008)

RESOLVED that DA 8/2008/537/1 be **DEFERRED** to enable a site inspection and further discussion around the information regarding the locked gate and RTA requirements to occur between now and the next meeting on 10 December 2008 and Council expressly invite the RTA to be present at the site inspection to inform Councillors of their view.

CARRIED UNANIMOUSLY

| FOR | AGAINST |
|---------------------|----------------|
| Councillor Davey | |
| Councillor Troy | |
| Councillor Burcham | |
| Councillor Parker | |
| Councillor Ryan | |
| Councillor Gorman | |
| Councillor McCudden | |
| Councillor Olsen | |
| Councillor Main | |
| Councillor Hawkins | |
| Councillor Smith | |
| Councillor Pynsent | |
| Councillor Maybury | |

OFFICER'S REPORTS

DIRECTOR CITY PLANNING REPORT NO. 8/2008

SUBJECT: **DEVELOPMENT APPLICATION NO. 8/2003/518/2 FOR SECTION 96 MODIFICATION TO DELETE CONDITION 31 (UNFORMED ROADS CONTRIBUTION)**

Senior Planning Assessment Officer, Ms T Sharp, reports:-

REASON FOR REPORT The application has been recommended for refusal.

APPLICANT Mr & Mrs LC&PM Vogt

OWNER Mr & Mrs LC&PM Vogt

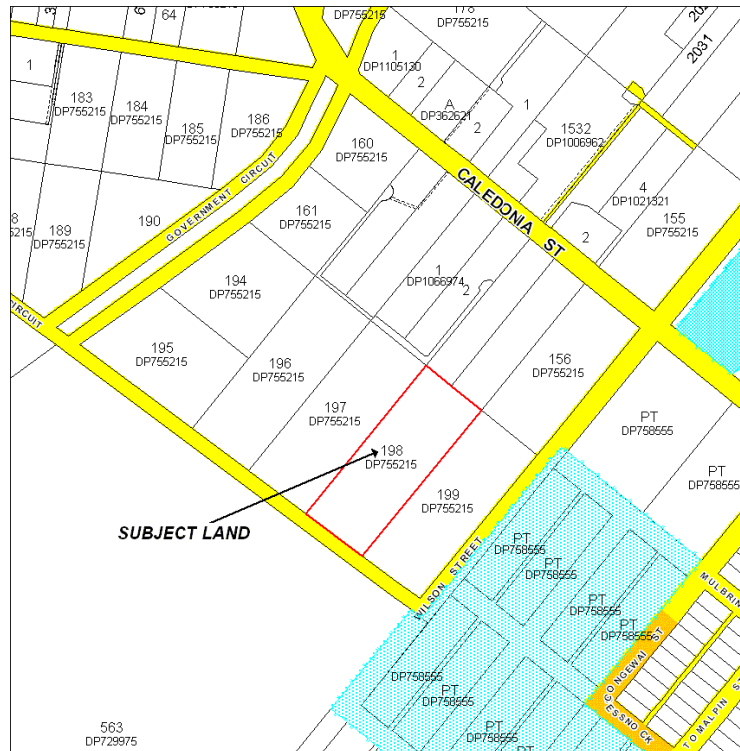
APPLICATION LODGED 13 May 2008

PROPERTY ADDRESS 66 Wilson Street KEARSLEY
Lot 198 DP 755215
PIN 23444

AREA 2.69 Hectares

ZONING 1(c) Rural Small Holdings

MAP



PROPOSAL

The applicant proposes a Section 96 modification of an approved consent (DA8/2003/518/2) for a dwelling-house and garage which was approved on 19.6.2003 subject to 31 conditions. The proposed modification seeks the deletion of condition 31, a monetary contribution for unformed roads, \$9,500. Condition 31 currently reads as follows: -

“The applicant shall make a monetary contribution pursuant to Council’s Unformed Roads Policy for drainage and road construction. In this regard the required contribution has been assessed at \$9,500, and comprises the following: -

| | |
|-------------------------------|----------------|
| <i>Drainage Component</i> | <i>\$1,500</i> |
| <i>Road Construction.....</i> | <i>\$8,000</i> |
| <i>TOTAL.....</i> | <i>\$9,500</i> |

Reason

To ensure the applicant contributes to the road infrastructure in accordance with Council policy”.

BACKGROUND

Mr LC & Mrs PM Vogt have owned the subject property since 14.2.2003.

Mr & Mrs Vogt are the applicant for this application and have been informed of the unformed road contribution since the original development application and construction certificate were approved on 19.6.2003.

The dwelling-house has been constructed but the Occupation Certificate has not been issued as Condition 31 has not been complied with. Mr & Mrs Vogt have been informed of the non-compliance with condition 31 (non-payment of unformed road contributions) on their various inspections of the dwelling-house and a letter was sent on 5.12.05 informing them that the monies need to be paid prior to release of the Occupation Certificate.

Mr & Mrs Vogt wrote a letter to Council indicating the following: -

- Searches undertaken with Council did not reveal an Unformed Road Contribution was applicable with the construction of a dwelling.
- The Unformed Road Contribution of \$9,500 was not revealed until the consent was issued.
- The prior owner and existing neighbour paid for the road to be constructed.
- Council does not maintain the road.
- The residents of Wilson Street maintain the road.
- It is considered that the current condition of Wilson Street is adequate as there are only 3 houses utilising this road.
- None of the other residents on Wilson Street have had to pay an unformed road contribution.

Assessment Officer's Comments

Council has approved dwelling-houses on adjoining lots 195, 196, 197 and 199. All such applicants were required to construct the road or pay a contribution. The details are as follows: -

DA5/1998/80046 - – Dwelling-House – Lot 199 Caledonia Street Kearsley

Approved 27.4.1998. Section 96 Issued 6.4.2001 to change the development from bearers and joists to slab. Construction Certificate Issued 6.4.2001. Occupation Certificate Issued 22.8.2001.

The applicant was required to pay a contribution of \$22,300 towards road works and drainage to service the property or construct the unformed road from Caledonia Street to the proposed access point to Lot 199.

Comment

Documentation on the file indicates that the road along Wilson Street was constructed.

DA8/2000/767 – Dwelling-House – Lot 197 Caledonia Street Kearsley

Approved 26.10.2000. Construction Certificate Issued 26.10.2000. Occupation Certificate was issued on 24.10.2001.

The applicant was required to construct a Category A standard road from the end of the existing formation in Wilson Street to the entrance to the subject property, a distance of approximately 440m. (At the time a category A road comprised an all weather construction with 100mm compacted thickness of approved gravel, with a width of 3m)

Comment

There is documentation on file indicating that the Construction Certificate was satisfactory for release on the basis of the road being opened by the Department of Land and Water Conservation which was scheduled to appear in the Government Gazette on 1 March 2002. On this advice from the Department, the officer released the Construction Certificate.

Unfortunately this road opening was not undertaken at the time. As a result of investigations with the current application, this road has been transferred from the Crown to Council in the Government Gazette on 12th September 2008.

Documentation on the file indicates that an engineering site supervision fee of \$154 was paid, however, there are no details provided on file as to whether the road was constructed.

Inspection of Wilson Street as part of the proposed modification for DA8/2003/518/2, revealed that the road was in poor condition.

DA8/2002/892 – Dwelling-House – Lot 196 Caledonia Street Kearsley

Approved 30.10.2002. Construction Certificate Issued 25.11.2002. Occupation Certificate Issued 4.2.2004.

The applicant was required to pay a monetary contribution of \$2,300 pursuant to Council's Unformed Roads Policy for drainage and road contribution.

Comment

There is documentation on file indicating that the applicant constructed a category A standard road which cost \$4,176 and therefore, payment of the contribution was not required.

Even though applications on adjoining properties indicate that a category A road was constructed, it is evident that the road is in poor condition and requires upgrading.

SITE DESCRIPTION

The site contains a dwelling-house, in-ground pool and large shed. The rear two-thirds of the site is densely vegetated.

STRATEGIC LINKS

a. Management Plan

The assessment of this application supports Council's Second Goal – To protect, enhance and promote our natural, developed and cultural environment.

b. Other Plans

N/A

**ENVIRONMENTAL
PLANNING
INSTRUMENTS**

Sections 94 & 96 of the Environmental Planning and Assessment Act 1979
Sections 71 and 151 of the Roads Act

CONSULTATION

Development Engineer
Roads, Bridges & Drainage Manager
Engineering Survey Officer
Civil Maintenance Manager
Department of Lands

**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 relevant matters identified:

a. The Provisions of any Environmental Planning Instrument

State Environmental Planning Policies

N/A

Regional Environmental Planning Policies

N/A

Cessnock Local Environmental Plan, 1989

N/A

Any Draft Local Environmental Plan

N/A

Development Control Plan 2006

N/A

Any Planning Agreement

N/A

b. The Likely Impacts of That Development

Environmental Impacts(natural and built)

As the road is not sealed the dwelling-house maybe affected by noise.

Suitability of the Site for the Development

N/A

Access, Transport and Traffic

Department of Lands

Part of Wilson Street was expected to be transferred to Council in March 2002 as indicated in the background section of this report. Unfortunately this road opening was not gazetted at that time. As a result of investigations with the current application, this road has been opened and transferred from the Crown to Council as indicated in the Government Gazette on 12th September 2008.

Under Section 71 of the Roads Act 1993, "A roads authority may carry out road work on any public road for which it is the roads authority and on any other land under its control". This does not mean that Council must construct the road when it has been transferred to Council.

Noise, Dust and Vibration

The current dwelling is less than 60m from the road and may be impacted by dust from vehicles traversing the unformed road.

Aboriginal Archaeology

N/A

Economic Impact

The construction of the road may increase the value of the subject property.

Cumulative Impacts

N/A

**STATUTORY
IMPLICATIONS**

a. Policy and Procedural Implications

Section 94 – Unformed Road Contributions

The following is an excerpt from the Residential Section 94 Contributions Plan Dated June 2008: -

“Since 1982 Council has required the applicant for a dwelling on a lot fronting an unformed road to pay an unformed road contribution. This policy originally related to all additional dwellings within seventeen (17) nominated villages or districts within the Cessnock City Local Government Area, however currently it relates to the thirteen (13) villages or districts as listed in the summary on page 6 of this Plan. The Contribution Area maps were originally adopted by Council on 25 August 1982 & were updated in 2006 for this plan. Maps of the nominated areas/contributable roads are held in Council’s office and are also available on the Geographic Information System on Council’s internet site.

The development of new dwellings creates a demand for new and up-graded roads to provide access to the respective properties for the traffic generated. The contribution required is calculated by multiplying the length of the required road work by the linear metre cost of \$432.15 as derived from the ACM Landmark Report 2005 and indexed to the current cost.

Existing residents have contributed toward the cost of establishing and upgrading roads as a result of new development. Where roads exist as partly formed, it is assumed that 60% of the costs have been previously covered. As such only 40% of the total costs of the road works are required”.

Prior to June 2006, unformed road contributions were required as part of Council’s Policy B30.1 Determination of Building Approval for Buildings Fronting Unmade Roads as well as being included in Council’s fees and charges. (Refer to Attachment) Council’s Development Engineer determined whether a contribution or the construction of the road was required upon the assessment of the application and a site inspection of the road. From June 2006 unformed road contributions were moved to the Residential Contributions Plan.

When DA8/2003/518/1 and this Section 96 Application were lodged with Council, Wilson Street was not identified in Council’s Section 94 contribution plan for unformed or partially formed roads as Wilson Street was a Crown Road.

If an application was received today for a dwelling-house on the subject lot, as the lot fronts an unformed road, the applicant would be required to construct the road as it has not been identified as an unformed road under Council Section 94 plan. Council's Infrastructure Section has indicated that it would cost approximately \$200 per metre to construct the road.

b. Financial Implications

At present there are no funds available to construct Wilson Street. Council's Infrastructure Section have estimated that it will cost Council \$200/m which is approximately \$97,000 to construct Wilson Street. It should be noted that only three (3) residences utilise this section of Wilson Street. By enabling Condition 31 to remain on the consent, money will be contained in the budget to partially fund its construction.

c. Legislative Implications

Under Section 71 of the Roads Act 1993, *"A roads authority may carry out road work on any public road for which it is the roads authority and on any other land under its control"*.

Even though Wilson Street is now a Council road, under Section 71 of the Roads Act 1993, Council does not necessarily have to construct the road. However, Council is likely to consider a timeframe for the appropriate construction of Wilson Street.

d. Risk Implications

If the road is not constructed and there is an accident, Council may be held liable.

e. Other Implications

Nil

**DISCLOSURES OF
POLITICAL
DONATIONS & GIFTS**

Political donations or gifts are not relevant to the determination of any planning application, and the making of political donations or gifts does not provide grounds for challenging the determination of any planning application.

Council has received Declarations of Political Donations & Gifts related to this application from the following:

Nil

OPTIONS

1. Refuse the deletion of Condition 31. This will enable monies to be available to partially fund the construction of the road, so that Council does not bear all the cost.
2. Approve the deletion of Condition 31. If this option is selected, Council will be required to fully fund the construction of the road.

3. Approve the deletion of Condition 31 and require the construction of the road.

CONCLUSION

The subject lot fronts an unformed Council road that is not identified in Council's Section 94 contribution plan for unformed or partially formed roads.

All of the properties on Wilson Street that have been subject to development approvals for dwelling-houses have all had conditions requiring either road construction or the payment of road contributions.

In the interests of consistency and equity it is recommended that the condition remain.

RECOMMENDATION that Development Application No 8/2003/518 – Proposed Section 96(2) to Delete Condition 31 for a Dwelling and Garage on Lot 198 DP 755215 No. 66 Wilson Street KEARSLEY, be refused for the following reasons:-

1. The proposal is not in the public interest. (Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979).
2. The proposal will set an undesirable precedent.

To: **Ordinary Council Meeting**
10 December 2008

D FITZGERALD
DIRECTOR CITY PLANNING
12 November 2008

DIRECTOR CITY PLANNING REPORT NO. 9/2008

SUBJECT: NORTH BELLBIRD PRECINCT - PUBLIC EXHIBITION OF DRAFT LEP (AMENDMENT NO. 121) AND REQUEST TO EXHIBIT DRAFT DCP AND SECTION 94 CONTRIBUTION PLANS

Consultant Planner, Leanne Saccaro , reports:-

SUMMARY

This report considers draft LEP (Amendment No. 121) for the proposed rezoning of the North Bellbird Precinct. An assessment of the proposed rezoning has been undertaken by Council having regard to the information prepared on behalf of the Johnson Property Group (JPG), the recommendations of the LES dated March 2008, the consultation undertaken with the relevant Government Agencies and the issues raised by the public submissions.

This report recommends that the draft plan be forwarded to the Department of Planning with the recommendation that the Minister only make the plan, subject to exhibition and finalisation of the draft Section 94 Contributions Plan, draft Development Control Plan (DCP) as well as the Voluntary Planning Agreement currently being negotiated between the JPG and the Department of Environment and Climate Change regarding Native Vegetation Offsets. The draft Development Control Plan and Section 94 Contributions Plan are attached for Council's consideration.

BACKGROUND

The subject land lies west of the existing residential area of Bellbird with the western edge located within the Vineyards District. Limestone Creek flows from the south-west to the north east and Bellbird Creek flows from east to west across the northern corner of the site. Parts of the site adjoining the creeks are flood liable. The north-eastern part of the site is generally flat with slope variation between 0 and 5 degrees. The western part of the site contains a series of ridges gently rising to the west of Limestone Creek to form the foothills of the Brokenback Ranges. The ranges are visually significant to this area. They also provide viewing locations which look down on the subject land.

The investigation area has a total area of 496.5 hectares, in a number of ownerships. The rezoning process thus far has been driven by the Johnson Property Group (JPG), which owns or has options over part of the site. The rezoning submission was lodged with Council in 2006 and the studies undertaken to support the proposal, while funded by JPG, cover all of the land in the investigation area, regardless of ownership and makes zoning recommendations for all of the land.

In response to some of the issues raised by the State Government Agencies, namely the RTA and the then Department of Natural Resources, additional reports were prepared in support of the proposal in 2007. The additional reports included the preparation of a *Floodplain Risk Management and Stormwater Management Strategy* to address proposed development on land affected by the 1 in 100 year flood event and general flooding impacts across the investigation area.

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Based on the findings of the *Floodplain Risk Management and Stormwater Management Strategy* the JPG advised Council in November 2007 that they were considering an amended structure plan. Having regard to the flooding constraints of the site, it was necessary to increase the area for public recreation, resulting in a reduction in the proposed overall lot yield for the investigation area. This prompted discussions between the JPG, Department of Planning and DECC regarding the addition and/or extension of the areas nominated for urban development by the proposed structure plan.

An addendum report was provided to Council in February 2008. The addendum report provides for the amended structure plan which proposes to rezone an additional land area of approx. 31 hectares to provide for urban development. This included vegetated areas previously proposed for conservation and also provided for the additional cleared areas to be zoned recreation as a direct result of flooding constraints as highlighted by the "*Floodplain Risk Management and Stormwater Management Strategy*". The proposed school site was relocated out of a flood affected area and this area now proposes residential development. The amended structure plan also removed the proposed rural residential development from Lots 1 and 2 DP 66183 (land in south western corner) as requested by the DoP in 2007.

In early 2008 Council resolved to prepare a draft LEP to rezone the land based on the amended structure plan which would allow for appropriate assessment and consideration of the proposed rezoning having regard for any issues raised by the public submissions.

Council resolved at its meeting held 16 April 2008 to publicly exhibit draft Local Environmental Plan (Amendment No. 121) for a minimum period of thirty (30) days. The draft LEP was placed on public exhibition from 21 May to 20 June 2008. A total of sixty (60) separate submissions were received by Council during the exhibition period. Fifty (50) of the submissions object to the proposal. The issues raised by the submissions have been taken into consideration by this assessment and copies of the submissions, including a summary of the issues raised, are provided in the enclosure document.

For further background on the rezoning submission including the consultation undertaken with Government Agencies, please refer to Council's Local Environmental Study (LES) dated March 2008. Copies of the LES are available on Council's website or upon request.

REPORT

An assessment of the proposed rezoning has been undertaken by Council having regard to the information prepared on behalf of the JPG to support a rezoning submission for the Bellbird North Investigation Area, the recommendations of the LES dated March 2008, the s.62 consultation undertaken with the relevant Government Agencies and the issues raised by the public submissions.

PLANNING ASSESSMENT

The Investigation Area has been identified in the Cessnock City Wide Settlement Strategy as suitable for investigation for urban development. The Lower Hunter Regional Strategy identifies the land as a "major priority release area" with a yield of up to 4,000 lots.

Discussion of the main issues raised by the assessment of the rezoning submission for the Bellbird North Investigation Area is provided. Recommendations for the rezoning of the land are provided below, including consideration of additional information received from the JPG in response to the issues raised which have been grouped and summarised accordingly. This is reflected in the amended draft LEP amendment map provided in the enclosures as **Appendix "A"**. For comparative purposes the draft LEP Amendment Map as exhibited is provided as **Appendix "B"** and marked superseded.

Local Environmental Study (LES) - March 2008

The Local Environmental Study prepared by Council and dated March 2008 raised issues for further consideration and consultation subject to public exhibition of the draft plan. While none of the issues raised prevent development of the land for urban purposes, the further assessment has resulted in minor amendments to zone boundaries and other aspects of the Structure Plan. It is considered that the changes proposed do not require re-exhibition of the draft LEP and it is noted that future development of the land is provided for by detailed requirements of the site specific Development Control Plan as well as the Section 94 Contributions Plan (or Voluntary Planning Agreement). These supporting documents will need to be exhibited and agreed on prior to finalisation and gazettal of any LEP for the Bellbird North Investigation Area having regard for the recommended zonings of the land.

Floodplain Risk Management and Stormwater Management Strategy

Part of the land is affected by the 1 in 100 year flood event and a substantial portion by the Probable Maximum Flood (PMF) event. To satisfy the Section 117 Direction regarding Flood Prone Land, the Department of Natural Resources (now the Department of Water and Energy) recommended that a floodplain management plan be prepared for the development, in accordance with the principles and guidelines of the State Government's Floodplain Development Manual 2005.

In March 2007 a Floodplain Risk Management and Stormwater Management Strategy examined the flooding, stormwater and riparian corridor constraints for the site. Given the potential impacts of the PMF event for the site, the effects of a 1:500 year event (which could result in significant volumes of water overtopping Limestone Creek) were also considered in the subdivision design and planning controls. This includes, amongst other types of development, the exclusion of development for the purposes of dual occupancy, multiple dwellings, hospitals, schools and nursing homes from land affected by the PMF event. This has been catered for through the inclusion of specific requirements in the attached draft Development Control Plan which requires that this matter be considered in detail at the development application stage.

Filling and rezoning of land affected by the 1% AEP (1 in 100 year) storm flood event

It is noted that the majority of the proposed residential development is above the 1% AEP storm flood event level as determined in the flood assessment provided by Worley Parsons. A small proportion however is within the area affected by the 1% AEP storm flood event level. In developing in this area it is proposed to ensure that the floor levels of any residential dwellings are higher than the 1% AEP storm flood event level plus 0.5m freeboard in addition to other specific requirements which are included in the draft Development Control Plan for the site.

Filling of Ruby Street Wetlands

As proposed, the rezoning intends filling of the wetlands in this area and rezoning to 2(a) General Residential. Significant public and Government Agency objection has been received in response to the proposed filling and the need to protect the wetlands on the site. Additional information was sought from the JPG addressing this issue, which resulted in additional calculations being undertaken and a more detailed proposal which provides for the filling of the wetlands and construction of a 15m wide swale to convey flood waters along the western side of Ruby Street.

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Assessment of the proposal found that, while catering for local flows, the proposal will reduce the available storage while also taking away the natural cleansing function currently provided by the wetlands. In addition to the local drainage and flooding issues, the proposed filling and development of the wetlands will also result in the clearing of significant vegetation from this part of the site and the proposal is not supported due to the high visual significance of this vegetation and the role that the wetlands play in providing for water quality and habitat. This is supported by the significant public objection received in response to the proposed filling of this area. As a result of recent discussions and in acknowledgement of Council and the public's concerns, the JPG raised no objection to the retention of the wetland area and proposed rezoning of this land to 6(a) Open Space (ie. no development permitted).

Retention of the Existing Farm Dams on adjoining land including Large Dam

The Floodplain Risk Management and Stormwater Management Strategy dated August 2007 recommends the filling or breaching of existing farm dams so as to reduce the risk of flooding on the proposed future urban development downstream.

Significant public objection was received regarding this aspect of the proposal, including submissions from the subject land holder. The main areas of concern being that the consent of the land owner(s) had not been given regarding the proposed breaching or filling of the farm dams on their property and the need to explore the safety implications (if any) of the dam(s) being retained.

The JPG were advised that Council did not support the filling or breaching of dams on private property without the written consent and specific agreement of the land owner(s) and asked that the Floodplain Risk Management and Stormwater Management Strategy be amended to cater for the retention of the dams. This information was provided in an addendum report dated 29 October 2008 which provides that the retention of the dam does not represent a risk to life and property downstream. This addendum report has been incorporated into the draft Development Control Plan.

Vineyards District/North Western portion of Investigation Area

The North Western portion of the Investigation Area lies within the Vineyards District and adjoins commercial vineyards, tourist destinations and working farms. To provide for a physical and visual buffer to the adjoining rural zoned land it was proposed to provide for a transition buffer comprising approximately 22 hectares of land to be zoned 1(c) Rural - Residential/Rural (Small Holdings) with a general allotment depth of 80m.

The issues raised by the public submissions included concern over the potential adverse impact that the proposal may have on the future of the Vineyards District, loss of viticulturally viable soils and the potential conflicts which may arise as a consequence of the development of the subject land for urban purposes. This included objections from the Hunter Valley Vineyards Association and various Government Agencies, including the Department of Natural Resources (DNR), the Catchment Management Authority (CMA), the Department of Environment and Climate Change (DECC) and the Department of Primary Industries.

Visual Impacts on Vineyards District and Adjoining Rural Zoned Land

Having regard for the issues raised, Council's assessment also raised concern over the proposed development of this land with regard to the potential for adverse impacts on adjoining rural land regarding conflicts and the resulting visual impacts on nearby tourist destinations. This included impacts on viewing opportunities from Mount View Road and the Tallavera Grove Cellar Door and Function Centre as a function of the resultant clearing of the land which contains native vegetation of both ecological and visual significance. Spray drift and noise impacts on the future residents were also of concern as a result of the proximity of the proposed development to the existing commercial vineyard and olive grove which operates on the adjoining land. This parcel also contains the large dam as discussed above with the dam required to service the existing operation.

Concern was also raised as to the need to retain a visually prominent stand of native vegetation located in the north west of the Investigation Area. This vegetation provides screening opportunities to the proposed development from Mount View Road and can be viewed generally from many locations in the locality including existing residential areas.

Council's assessment found that there was little planning justification to support the loss of this vegetation on visual, ecological and amenity grounds. In consultation with Council, the JPG put forward an amended proposal which provides for dedicated native vegetation corridors along the external property boundaries of the land. This will cater for both the retention of existing significant vegetation with the provision of additional vegetation in areas which are currently cleared, including a 50m wide buffer to the boundary adjoining the commercial vineyard and olive grove and the retention of the large stand of trees in the north west of the Investigation Area. These native vegetation corridors will be dedicated to Council as part of the proposed road reserves/recreation land and will provide both a physical and visual buffer between the rural zoned land and the North Bellbird Precinct in keeping with Council's objectives for the Vineyards District.

Viticultural Soils Analysis

Objection has been received regarding the proposed rezoning of existing land zoned 1(v) for urban purposes. Including objections from the Hunter Valley Vineyards Association and the Department of Primary Industries, concern has been raised as to the true viticultural potential of the land located in the north-western corner of the investigation area. It is believed that the northern portion of Investigation Area, which is currently zoned for vineyard use and is adjacent to land currently operating as a commercial vineyard, is viable vineyard country and should be retained in the 1(v) zone. Having regard to the report submitted for consideration with the proposed rezoning, which states that this land is not suited to horticultural or viticultural production and notwithstanding the recommendation that this land be rezoned for urban purposes, this unresolved objection is noted.

Rezoning of Land (off Tenant Street) to 1(c) Rural – Residential/Rural (Small Holdings)

This land was originally proposed to be rezoned for rural residential development by the original structure plan but was removed from the subject proposal due to concerns raised by the Department of Planning in 2007.

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Submissions seeking re-inclusion of these parcels and rezoning of this land for rural residential development have been received by Council as a result of the public exhibition of the proposal including the submission from the Hunter Valley Vineyards Association (HVVA) which recommends rezoning to 1(c) Rural – Residential/Rural (Small Holdings). The submissions state that this land is well suited to the 1(c) zoning and its inclusion is supported by the consultant reports provided for consideration with the rezoning submission. Of particular note are the recommendations of the Visual Impact Assessment and Viticultural Soils Assessment which state that the land is located within an ‘enclosed’ landscape and well outside those areas identified as comprising prime viticultural soils. Council further notes that the land directly adjoins land zoned for the same purpose to the south.

Council supports the recommended rezoning of this land to 1(c) Rural as originally provided for by the rezoning submission and as further supported by the public submissions received. It is further noted that as a result of the recommended removal of 22 hectares of 1(c) zoned land in the north western portion of the site, this area will now be the only area zoned for large lot residential development in the Investigation Area. This adjustment to the draft LEP is in keeping with the intent of the Lower Hunter Regional Strategy to limit rural residential development whilst also acknowledging the existing adjoining zoning of the land and local conditions. Having regard to the location, size and topography of the land it is considered that the resulting development will not result in an adverse visual impact on the Vineyards District and is suitable for its intended purpose.

Servicing

A Servicing Report was prepared for the Investigation Area and sought advice from:

- Hunter Water Corporation (water and sewer);
- Energy Australia (electricity);
- Telstra Countrywide (telecommunications); and
- Agility/AGL (gas).

The report notes that due to the size of the Bellbird North Investigation Area, major upgrades of the water, sewer and electricity infrastructure will be required. However, it is also noted that sufficient capacity exists in the existing infrastructure to cater for the initial stages of the development. This will allow the initial stages to proceed while planning and construction of the major upgrades occur. Consequently from a servicing aspect it is considered that the initial stages of the North Bellbird Precinct should be located adjacent to existing infrastructure in Bellbird and Cessnock South to reduce the cost of extending the existing infrastructure to service these lots. This is reflected in the proposed staging plan provided for consideration by the draft Development Control Plan.

The report also looks at the provision of road works, community facilities and drainage. Whilst it is expected that the developers will fund many of these required elements within the site, the development will increase demand on some services external to the site and a specific draft Section 94 plan has been prepared. The draft plans sets appropriate contributions for the sequential staging of the development which can then be used by Council to upgrade external services which the development may impact upon e.g. local roads, libraries, community facilities etc.

The works identified in the draft Section 94 Contributions plan are supported by the draft DCP provisions and Strategic Planning for the release area, which have been identified through the Local Environmental Study and subsequent rezoning process. Total contributions payable on a per lot basis are \$16,632.00. A summary of the contribution rates payable for the various facilities with the draft Section 94 Contributions Plan are included in the enclosure document at **Appendix “D”**.

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Following exhibition of the draft Section 94 Contributions Plan a report will be forwarded to Council to adopt the plan for the North Bellbird Precinct.

Traffic and Transport

Concerns have been raised by the public as a result of the potential increase in local traffic resulting from the proposed development of the land and the availability of adequate funding for the provision and maintenance of road infrastructure and services.

A Traffic and Accessibility Assessment was prepared for the Investigation Area and makes broad recommendations about the rezoning. It concludes that there are no issues preventing the rezoning proceeding, with more detailed studies required later in the process. A Technical Review of the traffic study was undertaken dated 25 September 2007 at the request of the Roads and Traffic Authority (RTA) and Council.

Council's engineer is concerned that there has been no consideration of the requirement to upgrade Mt View Road to provide for emergency evacuation in flooding and other emergencies from the site. This is in addition to the trips generated in accessing employment and tourism in the Vineyards, Mt View High School and sporting facilities as well as commercial and business centres in Cessnock. In addition, it is considered that the rezoning will require the upgrading of parking within the CBD in that there is a need for increased car park development west of Vincent Street to dissuade unnecessary trips back and forward across Vincent Street as a direct result of the rezoning. Levies for these facilities have been provided for in the draft Section 94 Contributions Plan.

The RTA has advised that they generally support the rezoning subject to appropriate funding mechanisms to cover the cost of any additional road and transport infrastructure related to the future development of the land. This includes appropriate clauses in the draft LEP to ensure adequate infrastructure is provided. It also requires that a section 94 Contributions Plan be completed to cover the cost of any additional road and transport infrastructure related to the future development of the land.

The Ministry of Transport also recommended further work on public transport provision, design of future subdivisions and location of facilities to ensure walk ability. These issues will be addressed through a State Voluntary Planning Agreement (VPA) and appropriate provisions are provided for in the draft DCP. It is noted that a draft State VPA is currently being negotiated with the proponent in consultation with the Department of Planning.

Geotechnical Constraints and Contamination

A Preliminary Geotechnical and Contamination Assessment did not reveal any constraints to rezoning of the area. The report states that the investigation area appears to be free from major site contamination, apart from localised hydrocarbon contamination in one of the farm dams and that some of the soil samples located close to creeks were found to be moderately to highly saline. However, the investigation did not reveal the presence of acid sulphate soils within the site.

The issue of salinity near creek lines requires further consideration. The proposal to revegetate riparian zones is likely to improve the current position and the proposed widths of the native vegetation corridors are considered to appropriately address this issue. Generally, additional reporting and investigation will need to be done for specific development proposals and the attached draft DCP includes provisions requiring the appropriate assessment for potential contamination at the development application stage as provided by State Environmental Planning Policy No. 55.

Recreation and Revegetation of Native vegetation Corridors

Specific provisions have been incorporated into the draft s.94 Contributions Plan and draft DCP for the Bellbird North Precinct having regard to the Floodplain Risk Management and Stormwater Management Strategy and additional review and/or studies undertaken. Native Vegetation Corridors are proposed along creek lines and it is envisaged that these corridors will be revegetated by the developers prior to the release of the Subdivision Certificate for residential development.

The JPG has advised Council that they will dedicate areas within Native vegetation Corridors (which includes parks and reserves) to Council at no cost. This will be considered in greater detail at the development application stage, requiring land be revegetated to Council's satisfaction and maintained by the developer for a period of five (5) years. This is provided for in the attached draft Development Control Plan and Section 94 contributions plans.

CONSULTATION

S.62 Consultation

Council undertook consultation with the relevant Government Agencies in September 2006. Detail of the consultation undertaken is provided in the LES dated March 2008. More recently consultation has been undertaken with several of these agencies in response to the amended structure plan and consideration of the issues raised by the public submissions.

Public Submissions

Subject land holders and adjoining owners/occupiers were notified of the proposal in writing and an advertisement was placed in the Cessnock Advertiser on two separate occasions. A community information day was held at Cessnock Library on Saturday 31 May 2008 and a landholder's forum was held on Tuesday 3 June 2008.

During the exhibition period sixty (60) separate written submissions were received by Council. Comprising a variety of responses, the submissions have been categorised as follows:

- Fifty (50) letters objecting to the proposal. Issues raised include filling of the existing wetlands and farm dams, flooding and safety concerns, increased traffic and condition of existing local roads and drainage, loss of significant vegetation and habitat, visual impacts, stress on Council services and infrastructure, negative impacts on adjoining vineyards and tourist destinations, as well as adjoining working farms. It is noted that two (2) of these letters are from land holders within the investigation area. Representation on behalf of two of the objectors was also received from the Honourable Kerry Hickey MP.
- Six (6) letters from or written on behalf of land holders who generally support the overall proposal but raise objections specific to their parcel and offer solutions to resolve the matters raised.
- A petition signed by twenty one (21) residents of Ruby Street, while accepting of the likelihood of future development generally within the investigation area, objecting to the proposed filling of the adjoining wetlands and resultant impacts on existing flooding issues, loss of significant vegetation, visual amenity and habitat. Also raising concern about the resultant traffic conditions and state of local roads/infrastructure.
- One (1) submission from a subject land holder requesting more information about rates, before they express their views.

- One (1) submission from an adjoining rural land holder, not part of the investigation area, requesting that their property be included in the rezoning and, if it is not included, that a public hearing be called.
- A submission from Hunter Water re-iterating their previous comments that the development cannot be fully serviced by current infrastructure and facilities and a developer funded servicing strategy will be required.

Copies of the submissions received are provided at **Appendix "F"**, which includes a summary of the main issues raised.

Hunter Valley Vineyards Association (HVVA)

An objection to the rezoning proposal has been received on behalf of the Hunter Valley Vineyards Association (HVVA). The HVVA objects to the rezoning of land currently zoned 1(v) located in the north-western portion of the investigation area. The grounds for objection include inadequate provision for physical and visual buffers (including spray drift) to adjoining existing commercial vineyards, impact on adjoining farm dams and imposition of costs to the subject land holder, adverse impacts resulting from the removal of significant vegetation in the north west which provides a natural buffer for tourists who use Mount View Road, adverse impact on iconic views from Mount View resulting from proposed residential development, flooding impacts, loss of viable viticultural land in the north-western corner and a recommendation that land in the south western portion of the Investigation Area be considered for rezoning to 1(c) as it is non-viticultural land.

A copy of the HVVA submission is provided at **Appendix "E"**, which includes a plan of the Associations preferred option.

Council's Engineers

Councils' engineers were asked to comment on the draft LEP and their comments have been taken into consideration by the assessment.

STRATEGIC LINKS

a. Management Plan

The following goals, objectives and outcomes in Council's Management Plan relate to the Land Use Planning Program:

Goal: Protect, enhance and promote the natural, developed and cultural environment.

Objectives: Review the Cessnock Local Environmental Plan.
Continue to develop residential development controls which are sensitive to localities.
Develop contemporary planning controls for City localities and precincts and incorporate them into Development Control Plan 2006 to ensure a high quality of development further focussing on environmentally sustainable development principles.
Review Development Contributions Plans on an ongoing basis.

Director City Planning Report No. 9/2008

Outcome: Plans (rezoning, development control and contributions) have been developed and implemented which address land use and settlement issues. Using a combination of maps, diagrams and text, they will guide development and demonstrate how to achieve good quality residential development based upon the analysis of the local character.

Council's assessment and consideration of the subject rezoning satisfies the aims of Council's Management Plan.

b. Other Plans

City Wide Settlement Strategy

The Cessnock City Wide Settlement Strategy (CWSS) identifies land across the Cessnock Local Government Area (LGA) for investigation for future urban development. Council considered a report on the CWSS at its meeting 21 November 2007.

The Lower Hunter Regional Strategy (LHRS) was released by the Department of Planning in 2006. The strategy aims to guide the Lower Hunter's growth for the next 25 years (2006-2031) by identifying future development areas, principal land use types, settlement patterns and conservation outcomes. All councils in the Lower Hunter are required to implement the outcomes and actions in the LHRS primarily through local environmental plans.

The CWSS has been reviewed at the Department's request to reflect the outcomes and actions of the Lower Hunter Regional Strategy. The CWSS was revised in 2007 to incorporate both stages of the CWSS into one strategic document. The CWSS (2007) incorporates the outcomes and actions arising from the LHRS (where possible in the timeframe for preparation of the new LEP) and extends the life of the CWSS to correspond with the twenty five (25) year time frame.

The LHRS identifies the land as part of a 'major priority release area' (up to 4,000 dwellings). The Bellbird North Precinct is a new release area under the CWSS (2007) Settlement Strategy.

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

The land should not be rezoned until such time as relevant amendments to the Development Control Plan and a site specific Section 94 contributions plan have been publicly exhibited (including any Voluntary Planning Agreements) and are in place to Council's satisfaction.

Development Control Plan (DCP)

A draft site specific Development Control Plan (DCP) has been prepared for the investigation area. The draft DCP provides for the development of the land for urban purposes having regard to the proximity of the proposed urban development to land containing existing working farms or commercial vineyards and the existing provisions of the Cessnock Development Control Plan 2006. This will form Chapter 11 of Part E of the existing Cessnock DCP 2006 and will progress concurrently with the assessment of the rezoning application.

Exhibition of the draft DCP will need to be undertaken for a minimum of thirty (30) days which can be exhibited concurrently with the draft Section 94 Contributions Plan for the North Bellbird Precinct. The exhibition will need to also allow for an amendment to the locality plan relevant to Part E – Chapter 3 of the Cessnock DCP 2006 which is the site specific DCP for

the Vineyards District to take into account the proposed amendments to the 1(v) zoned land (i.e. approximately 150 hectares of land currently zoned 1(v) to be rezoned for urban purposes).

A copy of the draft DCP is included at **Attachment “C”**.

b. Financial Implications

Section 94 Contributions Plan

A draft site specific Section 94 contributions plan has been prepared for the investigation area. This will progress concurrently with the assessment of the rezoning application and consideration of the proposed amendments to the Cessnock Development Control Plan 2006. A copy of the draft Section 94 Contributions Plan is included at **Attachment “D”**.

Voluntary Planning Agreements (VPA's)

As provided for the *EP&A Act and Regulations*, any planning provisions are to make appropriate provision for any future VPA's which may apply to the land. In their consultations and negotiations with relevant stakeholders, Council and/or State Government Agencies are to be satisfied that all necessary factors have been taken into consideration in the contractual agreement, providing for efficient and appropriate development and provision of infrastructure/services without the need for significant ongoing costs to the community or environment.

To date Council is only aware of draft State Voluntary Planning Agreements (VPA's) between the JPG and various State Government Departments. Provision has been made in the draft plan to allow for State Planning Agreements as required by the legislation.

c. Legislative Implications

Subject to the amendments proposed, the proposal has regard to the provisions of the Environment Planning & Assessment (EPA&A) Act 1979 and Regulation 2000, Water Management Act 2000, the Threatened Species Conservation Act 1995, the Rural Fires and Environmental Assessment Legislation Amendment Act 2002, the Native Vegetation Act 2003, State Environmental Planning Policies (SEPP's), and relevant Section 117 Ministerial Directions as provided for by Council's Local environmental Study dated March 2008.

d. Risk Implications

The risk implications of the proposed rezoning of the land for urban purposes are considered by the subject assessment. Risks include localised flooding and potential loss of life in a PMF flood event, loss of significant vegetation/habitat and wetland areas as a result of the proposed clearing and filling of the land and adverse impacts on the adjoining Vineyards District as a result of future development of the land for urban purposes if the proposed rezoning is not given appropriate consideration by Council.

e. Other Implications

Generally, the implications relative to the rezoning are ensuring the timely provision of services and infrastructure, planning for suitable access (including planning for bushfire) and adequate provision for community facilities, including the new primary school.

OPTIONS

1. Support the proposed amendment to the Cessnock LEP 1989.

2. Not support the amendment to the Cessnock LEP 1989.
3. Amend the recommendation.

CONCLUSION

In response to the issues raised by the submissions Council has prepared a preferred zoning map for the North Bellbird Precinct. A copy of this map is provided at Appendix "A" and forms the basis for the draft DCP and draft Section 94 contributions plan. The draft amendment LEP map takes into consideration the ongoing management and sustainability of the Vineyards District for primary production, retention of significant vegetation and preservation of view corridors and the removal of the 1(c) zone in the north-western corner and replacement with native vegetation corridors and inclusion of additional 1(c) zoned land in the southwest corner. Constraints to existing and proposed development resulting from the 1 in 100 year flood event have been addressed including the need for the retention of the Ruby Street wetlands and associated vegetation. These issues are further supported by the provisions of the draft Development Control Plan and Section 94 Contributions Plan for the North Bellbird Precinct.

RECOMMENDATION that:-

1. Draft LEP (Amendment No. 121) be referred to the Department of Planning and the Department be advised that:
 - a. Council has resolved to exhibit the draft Section 94 Contributions Plan and draft Development Control Plan; and
 - b. the Department of Environment and Climate Change is yet to finalised a Voluntary Planning Agreement with the Johnson Property Group regarding the clearing of vegetation on site and vegetation offsets.
2. Exhibit the draft section 94 Contributions Plan and draft Development Control Plan concurrently for a minimum period of thirty (30) days, in accordance with Council's notification policy.
3. A further report be presented to Council following exhibition of the draft plans.
4. Advise the relevant Government Agencies and members of the public who made submissions in respect of the draft LEP of Council's decision.

To: **Ordinary Council Meeting**
10 December 2008

D FITZGERALD
DIRECTOR CITY PLANNING
19 November 2008

DIRECTOR CITY PLANNING REPORT NO. 10/2008

SUBJECT: KITCHENER REZONING: SECTION 94 CONTRIBUTIONS PLAN AND DEVELOPMENT CONTROL PLAN

SUMMARY

This report provides an overview of the comments and submissions received in response to the public exhibition of the draft Section 94 Contributions Plan and the draft Development Control Plan, for the Kitchener rezoning, endorsed by Council at its meeting of 16 July 2008.

BACKGROUND

Following the resolution of Council on 16 July 2008, the draft Section 94 Contributions Plan and draft Development Control Plan were placed on public exhibition. Five (5) submissions were received. Three (3) submissions dealt specifically with the draft Development Control Plan and two (2) submissions dealt with both the draft Development Control Plan and the draft Section 94 Contributions Plan.

The Environmental Planning and Assessment Regulations allows Council to make alterations to draft Development Control Plans and Contributions Plans, whether resulting from consideration of a submission or otherwise.

In addition to a number of minor corrections, it is recommended that the draft Development Control Plan be amended to clarify issues relating to designated watercourses and mine subsidence. None of the changes are considered to substantially alter the intent or effect of the plan, addressing submissions received. It is therefore not considered that re-exhibition will be required should Council resolve to incorporate the proposed changes. An amended draft Development Control Plan is attached to this report indicating the changes proposed.

It is recommended, however, that the draft Contributions Plan be re-exhibited. Following the initial exhibition, two (2) significant alterations to the draft Section 94 Contributions Plan have been made. These are primarily as a result of clarification as to the type of items for which a contribution can be made and further address drainage and community facilities (cultural centre) for the Cessnock district. While the aim of the draft contributions plan remains unaltered, an increase in the per lot contribution from \$14,882 to \$16,156 is now proposed.

REPORT

The draft Plans were exhibited from 23 July to 20 August 2008. Five (5) written submissions were received. Three (3) submissions dealt specifically with the draft Development Control Plan, regarding the loss of residential density due to the amount of open space, watercourses and / or native vegetation. Two (2) submissions dealt with both the draft Development Control Plan and the draft Section 94 Contributions Plan. While these submissions dealt with minor matters within the contributions plan, Council, on review of recent changes to the levying of contributions by the Department of Planning, has amended the draft Plan post exhibition to address drainage and community facilities (cultural centre) for the Cessnock District.

Draft Development Control Plan

Submissions received on the draft DCP raise concerns with regard to residential density, subdivision design, road pattern, removal of vegetation, drainage and riparian areas.

The loss of residential density in a number of areas in the Kitchener Investigation Area are due to the on site constraints, with the amount of open space, watercourses and / or native vegetation reflecting these on site characteristics. Those low lying areas that have a number of tributaries of Black Creek running through them are indicated as passive open space, incorporating on-site detention. These will need to be acquired as detailed in the draft Contributions Plan. Notwithstanding this, where they are not specifically set aside for open space by the draft DCP, any future subdivision layout is likely to be in the form of large residential allotments. It should also be noted that in all cases there are areas in individual ownerships that are relatively unencumbered and could readily be subdivided to lower densities on the provision of services.

The exhibited Development Control Plan indicated a detailed road system. However, this has now been removed with the major access and boundary roads shown. The internal linkages will be subject to merit assessment on the submission of individual subdivision applications. However, the proposed extension of Heddon Street to the east has been located along the boundary line, between all properties concerned. This is considered reasonable so that no one property is burdened with road construction costs.

The configuration of the medium density area has being amended to be centred around the primary school and water feature of the development. This builds on the established settlement principles of the City Wide Settlement Strategy, which aims to direct future settlement growth into a more compact, sustainable settlement hierarchy.

Draft Section 94 Contributions Plan

The submissions received on the draft Contributions Plan dealt with minor matters relating to the form and content of this document. However, Council, on review of recent changes to the levying of contribution by the DoP, has amended the draft Plan post exhibition to address drainage and community facilities (cultural centre) for the Cessnock District.

While the aim of the draft contributions plan remains unaltered, an increase in the per lot contribution from \$14,882 to \$16,156 is now proposed. This is a significant adjustment, representing \$1274.00 per lot.

CONSULTATION

Following exhibition, the finalisation of the draft Development Control Plan and on-going preparation of the draft Section 94 Contributions Plan has involved extensive consultation, particularly with the Infrastructure and Services Department of Council. The Corporate and Community Department as well as a number of State agencies have also been consulted during this period.

STRATEGIC LINKS

a. Management Plan

The following goals, objectives and outcomes in Council's Management Plan relate to the Land Use Planning Program:

Director City Planning Report No. 10/2008

Goal: Protect, enhance and promote the natural, developed and cultural environment.

Objectives: Continue to develop residential development controls which are sensitive to localities.

Develop contemporary planning controls for City localities and precincts and incorporate them into Development Control Plan 2006 to ensure a high quality of development, further focussing on environmentally sustainable development principles.

Review Development Contributions Plans on an on-going basis.

Outcome: Plans (development control and contributions) have been developed and implemented which address land use and settlement issues. Using a combination of maps, diagrams and text, they will guide development and demonstrate how to achieve good quality residential development based upon the analysis of the local character.

b. Other Plans

Kitchener was added into the Cessnock City Wide Settlement Strategy in October 2005. The land was also identified for urban purposes in the Lower Hunter Regional Strategy as an area being suitable for future urban development.

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

On endorsement by Council, the proposed site specific development control plan (DCP) and Contributions Plan for the Kitchener investigation area will become effective upon gazettal of Cessnock LEP 1989 (Amendment No. 124).

The DCP provides for the development of the land for urban purposes having regard to the proximity of the proposed urban development to land containing National Park and State Forest and the existing provisions of the Cessnock Development Control Plan 2006. This will form Chapter 10 of Part E of the existing Cessnock DCP 2006.

b. Financial Implications

The draft site specific Section 94 Contributions Plan has been prepared for the Kitchener investigation area. This will progress concurrently with the assessment of the rezoning submission and consideration of the proposed amendments to the Cessnock Development Control Plan 2006. A copy of the draft Section 94 Contributions Plan is included in the enclosure document. Once endorsed by Council, the Contributions Plan will take effect from the gazettal of the Kitchener rezoning proposal and will assist Council in the funding of infrastructure projects in both the immediate locality and wider district.

c. Legislative Implications

Subject to the amendments proposed, the proposal has regard to the provisions of the Environment Planning & Assessment (EPA) Act 1979 and Regulation 2000, Water Management Act 2000, the Threatened Species Conservation Act 1995, the Rural Fires and Environmental Assessment Legislation Amendment Act 2002, the Native Vegetation Act 2003, State Environmental Planning Policies (SEPP's), and relevant Section 117 Ministerial Directions.

d. Risk Implications

The risk implications of the proposed rezoning of the land for urban purposes are considered by the subject assessment. Risks include fire hazard and potential loss of life in fire event, loss of significant vegetation/habitat as a result of the proposed clearing of the land and adverse impacts on the adjoining National Park and State Forest as a result of future development of the land for urban purposes.

e. Other Implications

Generally, the implications relative to the rezoning are ensuring the timely provision of services and infrastructure, planning for suitable access (including planning for bushfire) and adequate provision for community facilities.

OPTIONS

1. Endorse the proposed amendment to the draft DCP and the draft Contributions Plan.
2. Not to support the proposed amendment to the draft DCP and/or draft Contributions Plan.
3. Amend the recommendation.

CONCLUSION

The draft Section 94 Contributions Plan and draft Development Control Plan were publicly exhibited and received submissions as detailed above. These submissions have been noted and where possible the concerns addressed through minor amendments to the Planning Controls.

However, the draft Contributions Plan required some additional information to be included such as drainage and community facilities (cultural centre) for the Cessnock District. As such, it is considered that the draft Section 94 Contribution Plan be re-exhibited. The standard exhibition period is twenty-eight (28) days, but given the Christmas / New Year period, is recommended that this be increased to forty-two (42) days, from mid-December to the end of January 2009.

Should no submissions be received that would prevent the Plans adoption, it is recommended that the draft Section 94 Contributions Plan for Kitchener as submitted with this report be endorsed by Council.

RECOMMENDATION that

1. Draft Development Control Plan be adopted by Council.
2. Draft Section 94 Contributions Plan be re-exhibited for a period of 28 days. If no submissions are received that would prevent the Plans adoption, Council endorse the Contributions Plan for Kitchener as submitted with this report.

To: **Ordinary Council Meeting**
10 December 2008

D FITZGERALD
DIRECTOR CITY PLANNING
25 November 2008

DIRECTOR CITY PLANNING REPORT NO. 11/2008

SUBJECT: COMPANION ANIMAL MANAGEMENT PLAN REVIEW

Health and Building Manager, Mr Colin Davis, reports:-

SUMMARY

The Companion Animal Management Plan was adopted by Council on 12 December 2007 and provides Council with a strategic and operational framework for the management of companion animals.

The purpose of this report is to advise Council that a comprehensive review of the Action Plans in Part 2 of the Companion Animal Management Plan has been completed to best practice principles so as to provide improved outcomes in the area of companion animal management.

BACKGROUND

In December 2007 Council adopted a Companion Animal Management Plan. Council is required to review this plan following the election of a new Council.

REPORT

The review has been undertaken by Council's new Senior Ranger in conjunction with management so as to enable Council to more effectively respond to the requirements of the Companion Animals Act and to improve outcomes in the area of companion animal management. The Actions and Performance Indicators within the Action Plan will allow Council to achieve the goals and aims outlined in the Strategic Framework of the Companion Animal Management Plan.

Greater emphasis has now been placed on education programs. Reliance on legislation will always be the backbone of companion animal management however there is now more emphasis on the development of non-regulatory or proactive approaches such as education.

CONSULTATION

- Senior Ranger
- Mr Steve Larsen, Secretary of the Australian Institute of Local Government Rangers & Training Officer for Rangers through the Local Government and Shires Association.

STRATEGIC LINKS

a. Management Plan

The adoption of this policy progresses Council's Goal to promote and provide quality services and facilities which address the needs of the community.

b. Other Plans

This report recommends the adoption of an amended Companion Animal Management Plan.

STATUTORY IMPLICATIONS

c. Policy and Procedural Implications

N/A

d. Financial Implications

The implementation of the Companion Animal Management Plan will be undertaken by the Council Ranger Services staff and is accommodated by the 2008/09 City Planning budget. Any additional funding requirements will be reported back to Council.

e. Legislative Implications

The Department of Local Government has stated that all Council's should have a Companion Animal Management Plan so as to measure their outcomes in relation to managing companion animals.

f. Risk Implications

Nil

g. Other Implications

Nil

OPTIONS

Nil

CONCLUSION

The adoption of the revised Companion Animal Management Plan will improve the outcomes in the area of companion animal management.

RECOMMENDATION that Council adopt the revised Companion Animal Management Plan dated November 2008.

To: **Ordinary Council Meeting**
10 December 2008

D FITZGERALD
DIRECTOR CITY PLANNING
1 December 2008

DIRECTOR CITY PLANNING REPORT NO. 12/2008

SUBJECT: POLICY ON RE-HOMING IMPOUNDED ANIMALS TO ANIMAL RESCUE GROUPS AND WELFARE ORGANISATIONS

Health & Building Manager, Mr Colin Davis, reports:-

SUMMARY

The purpose of this report is to seek Council's adoption of a policy on re-homing impounded companion animals to Animal Rescue Groups & Welfare Organisations so as to:

- Reduce the number of animal's euthanased at Council's Animal Shelter;
- Assist all animal welfare organisations and rescue groups in re-homing companion animals;
- Provide cost effective options in the management of the Animal Shelter.

BACKGROUND

Section 64A of the Companion Animals Act 1998 states that animals surrendered by owners may be sold or destroyed. Before destroying a surrendered animal it is the duty of the council concerned to consider whether there is an alternative action to that of destroying the animal and (if practicable) to adopt any such alternative

The Department of Local Government has also introduced additional reporting requirements to monitor the effectiveness of the Companion Animals Act in reducing the number of unwanted companion animals' euthanased and the effectiveness of Councils policies regarding responsible companion animal management and re-homing of companion animals

The issue of supporting animal welfare organisations to re-home companion animals is not addressed in Council's current adopted fees and charges. The current fees for an Animal Welfare organisation to release a companion animal is the same as anyone wishing to purchase an animal, ie:

- Purchase fee \$50
- Microchipping \$30
- Registration \$40 (animal over 6 months & desexed)

REPORT

It is common practice for Council Pound Facilities to re-home impounded Companion Animals through Animal Welfare organisations such as HAR (Hunter Animal Rescue), DABS, DCH, PAWS, Cat Rescue, Animal Welfare League, etc.

Hunter Animal Rescue currently works with Port Stephens Council, Muswellbrook Council and Central Coast Council's (Council's that operate their own pounds) and does not pay any fees for any companion animals that they rescue from these pound facilities. This is to comply with the intent of the Act, reduce euthanasia and promote re-homing of desexed animals.

Director City Planning Report No. 12/2008

Hunter Animal Rescue, a non profit organisation has put a proposal to Council for a reduced fee structure to allow them to re-home companion animals in a cost effective manner from the Animal Shelter. Hunter Animal Rescue have not re-homed any animals from our animal shelter over the past 12 months because of the costs involved to release the animals. HAR have proposed the following fees:

- Purchase fee Nil
- Microchipping \$10 (Cost of microchips to Council approx. \$8)
- Registration \$40 (animal over 6 months & desexed) – as per current fees

If Council adopts a policy for Animal Rescue/Welfare organisations to re-home companion animals at a reduced rate the benefits to Council will be:

- Reduction in the amount of time it takes to clean and feed the shelter animals on a daily basis.
- Reduction in the housing, cleaning and feeding costs at the shelter for each animal.
- Reduction in the cost of euthanasia.
- Increasing the education of Animal Welfare and Responsible Pet Ownership. By on selling our impounded Companion Animals microchipped, registered and desexed we are therefore decreasing the risk of unwanted litters and surrendered animals.

CONSULTATION

- Kylie Richards from Hunter Animal Rescue.
- Holley Pattersen, Senior Ranger.
- Paul Grosbernd, Management Accountant.

STRATEGIC LINKS

a. Management Plan

The adoption of this policy progresses Council's Goal to promote and provide quality services and facilities which address the needs of the community.

b. Other Plans

Nil

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

To establish a new policy.

b. Financial Implications

Minimal impact on budget, Council will receive additional income from registration and microchipping fees and a reduction in euthanasia costs.

The policy implementation, which will be undertaken by Council staff, is accommodated by the 2008/09 City Planning budget.

c. Legislative Implications

Council has an obligation under the Companion Animals Act 1998 to reduce the number of animal's euthanased and to work with all animal welfare organisations and rescue groups to re-home companion animals.

Implementation of the recommendations of this report will ensure that Council has undertaken reasonable steps and actions to ensure compliance with its legislative obligations.

Council is required to give public notice of any new fees and charges under Sections 610F and 705 of the Local Government Act, 1993.

Section 706 of the Local Government Act, 1993 requires Council to consider any public submissions that are duly made to it.

d. Risk Implications

Nil

e. Other Implications

Nil

OPTIONS

Nil

CONCLUSION

Council has an obligation under the *Companion Animals Act 1998* to reduce the number of animal's euthanased and endorse willingness to work with all animal welfare organisations and rescue groups to re-home companion animals.

It is proposed that Cessnock City Council adopt a policy on working with Animal Rescue Groups and Animal Welfare Organisations to increase the amount of suitable Companion Animals re-housed and decrease the amount of Companion Animals euthanased.

The following fees and charges are proposed;

- Purchase fee Nil
- Microchipping \$10
- Registration \$40 (animal over 6 months & desexed)

RECOMMENDATION that

1. Council adopt the attached policy on re-homing impounded animals to animal rescue and welfare organisations. The effective date of the policy will be the date of determination of the proposed fees (Recommendation 3).
2. Council give public notice of the proposed fees in accordance with sections 610F and 705 of the Local Government Act 1993. The proposed fees are:
 - Purchase fee Nil
 - Microchipping \$10
 - Registration \$40 (animal over 6 months & desexed)

Director City Planning Report No. 12/2008

3. Council delegate to the General Manager to determine the proposed fees subject to no submissions being received during the period of public notice.

To: **Ordinary Council Meeting**
10 December 2008

D FITZGERALD
DIRECTOR CITY PLANNING
1 December 2008

DIRECTOR CITY PLANNING REPORT NO. 13/2008

SUBJECT: DEVELOPMENT APPLICATION NO. 8/2006/533/4 FOR AMENDMENT TO EXTEND TRADING HOURS AND TO ADVISE OF THE LODGEMENT OF A CLASS 1 PLANNING APPEAL TO THE LAND & ENVIRONMENT COURT

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

REASON FOR REPORT

The report is presented to Council in determining an amendment application (Council's reference 8/2006/533/4) by the Wentworth Hotel to permanently extend trading hours and to advise of the lodgement by the applicant of a Class 1 planning appeal to the Land & Environment Court in support of the permanent extension of trading until 3.00 am on Friday and Saturday nights. Council is also advised that the Court has granted interim orders extending the trial period in which the Hotel may continue 3.00 am trading until 28 February, 2009 unless permanently extended otherwise by approval being granted by Council or the Court. Should the amendment be refused the matter will likely proceed to Hearing in February 2009.

It is recommended that Council refuse the application to permanently extend trading hours as the proposal is unsatisfactory with due regard for the planning provisions of the Environmental Planning & Assessment Act, 1979.

APPLICANT

Harper Somers O'Sullivan

OWNER

Bales Investment Pty Ltd

APPLICATION LODGED

31 July 2008

PROPERTY ADDRESS

36 Vincent Street ,Cessnock
Lot 3, Section A, DP 4080
PIN 23810

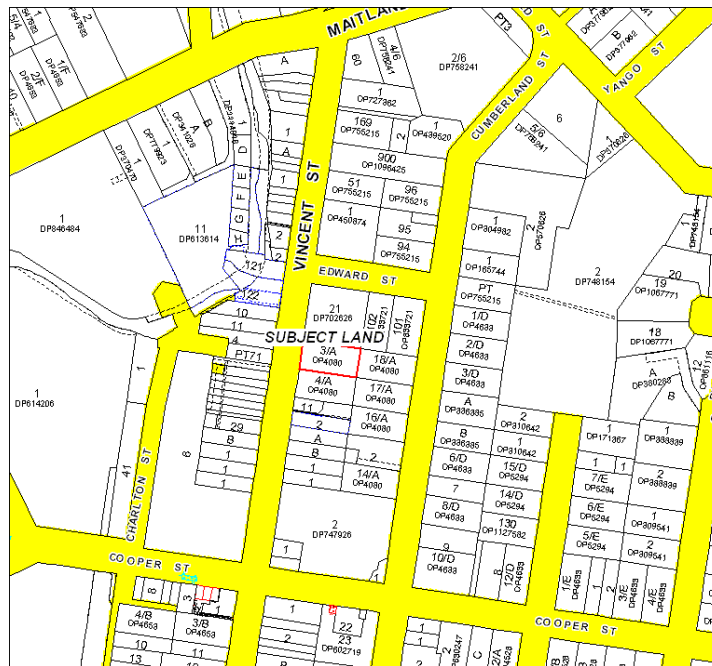
AREA

834 sq metres

ZONING

3 (a) General Business

MAP



PROPOSAL

The proposed development is for the amendment under the provisions of Section 96 (1a) of the Environmental Planning & Assessment Act, 1979 to Condition No 2 of an amended development consent (Council's reference 8/2006/533/3) for a "Temporary Extension of Trading Hours until 3.00 am on Friday & Saturday nights only", issued 21 November 2007 for a period of twelve (12) months. The proposal seeks the permanent extension of trading hours to 3.00 am on Friday and Saturday nights.

The applicant has proposed amendments to the security management plan established under the previous amended consent in response to security, transport and reports of antisocial behaviour. The revised security management plan incorporates additional transport measures and security patrols to assist in removal of patrons from the premises located in Vincent Street, Cessnock. It is proposed to maintain the range of existing measures detailed by a Security Management Plan for the premises to control the behaviour of patrons which includes the closure of the outdoor dining area at 12 midnight and refusal of entry or re-entry to all patrons after 12 midnight.

BACKGROUND

The Development Application under Section 96 (1a) (Council's Reference 8/2006 /533/4) was lodged 31 July 2008 seeking to amend condition No 2 of Council's amended consent issued 21 November 2007 which granted extended trading to 3.00 am on a 12 month trial basis .

On 20 October, 2008, the applicant lodged a Class 1 planning appeal in the Land & Environment Court (LEC 11080 of 2008). The extension of trading hours trial period was to have expired on 21 November 2008, however Consent Orders were sought from the Land & Environment Court extending the trial period to the 28 February, 2009 unless extended permanently by an approval granted by the Council or by the Land & Environment Court. The extension is intended to provide both parties with

additional time in which to determine the issues. Where the application is refused by Council, the matter will proceed to a hearing.

SITE DESCRIPTION

The Wentworth Hotel is located in the Northern end of Vincent Street, Cessnock approximately 250 metres from Maitland Road and the closest Licensed premises (The Cessnock Hotel). The Wentworth Hotel is located in an established Commercial area, with the nearest residences located to the east of the Hotel in Cumberland Street.

The existing car park accessing the rear of the Hotel has frontage to Cumberland Street on which there are number of residences situated. One residential unit is located in Vincent Street in close proximity to the main entry to the Wentworth Hotel.

The locality can be characterised as the commercial centre of Cessnock with a mix of commercial retail and service premises. The Wentworth Hotel has frontage to Vincent Street and is surrounded by retail and service premises on both sides of Vincent Street in a layout typical of a regional city main street.

The streetscape is represented by buildings established predominantly in the earlier part of the 20th century. The front doors and windows of the buildings are positioned immediately fronting the public footpath with limited opportunity to physically separate the front of the premises from public open space. The prevailing building set back has therefore encouraged the installation of metal shutters and grilles to address security concerns.

The facilities for public parking are restricted within Vincent Street with the greater part of available parking being located to the rear of the row of buildings. Pedestrian access from the rear car park to Vincent Street and the front of the Wentworth Hotel is gained via an alley which serves the public car park to the rear. Public transport is not available at the close of trading. Taxi ranks are available in the nearest cross streets some distance on foot from the Wentworth Hotel.

A number of other Licensed premises are established on Vincent Street, of which the Cessnock Hotel is the only other extended trading premises. The Hotels in the main street do not generally remain open beyond 12.00 midnight. The regular availability of the Wentworth Hotel beyond these hours encourages patrons intending to remain on licensed premises past midnight to relocate to the Wentworth Hotel.

STRATEGIC LINKS

a. Management Plan

The assessment of this application supports Council's Second Goal – To protect, enhance and promote our natural, developed and cultural environment.

b. Other Plans

The determination of this application has implications for the development by Council of crime prevention policy.

**ENVIRONMENTAL
PLANNING
INSTRUMENTS**

The provisions of the Cessnock Local Environmental Plan, 1989 applies to the development of the subject site. The Plan indicates that the land is zoned 3(a) General Business Zone. In addition the provisions of clause 27 -“Development Principles” – Zone No 3(a) and 3 (c) and Schedule 1 – “Additional Aims for Business Centres” apply to development on the subject site.

The provisions of the Cessnock Development Control Plan 2006 apply to development on the subject site. The following parts of the Plan apply specifically to the proposal:

- Part B – B.2 Public Notification & Advertising.
- Part C – C.4 Land Use Conflict & Buffer Zones.

**ADVERTISING-
NOTIFICATION &
CONSULTATION**

The amendment proposal has been notified and Council in exhibiting the application to extend the trading hours received three (3) submissions;

1. Two (2) Residents.
2. NSW Police Service – Licensing Section, Maitland.

The residents stated and objected that the trial period had in their opinion resulted in;

- a) Damage to their property.
- b) Disturbance to their residential amenity by virtue of noise and increased pedestrian traffic late at night.
- c) Disturbance to their peace by virtue of frequent violent confrontations between patrons in the vicinity of their homes.

Comment

The statistics provided by the NSW Police Service and the conclusions of the New South Wales Bureau of Crime Statistics and Research Report prepared by the Attorney General’s Department for Cessnock (2007) substantiates that alcohol related incidents have risen in recent times and NSW Police statistics indicate that the extended trading at the Wentworth Hotel is contributing to the problem. The NSW Police Service have provided specific incident reports that would support the resident claims of an increase in anti-social behaviour and malicious property damage in the location.

The NSW Police Service have specifically objected to the proposed extension to trading hours on the basis of;

- a) Statistical increase in the level of incidents reported attributable to the extension of trading hours at the Wentworth Hotel.

- b) Increase in the demand placed on Police resources in attending to incidents.
- c) The trial period has confirmed the NSW Police objection to the original granting of a extended trading hours on a trial basis.

The NSW Police were approached with respect to an amended proposal to permit 1.00 am trading on Friday and Saturday nights. The NSW Police remain opposed to any extension of trading at 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 relevant matters identified:

a. The Provisions of any Environmental Planning Instrument

Cessnock Local Environmental Plan, 1989

The subject site is zoned 3(a) General Business under the provisions of the Cessnock Local Environmental Plan, 1989. The objectives for development in this zone are;

“1. Objectives.

- a) to encourage the provision of retail, commercial and other business services, and associated development such as parking dwellings service industries and the like,*
- b) to encourage development associated with tourism,*
- c) to encourage the concentration of retailing and other related uses and services, and*
- d) to encourage improvements in pedestrian networks and pedestrian amenity in business centres.*

2 Without consent

Nil.

3 Only with consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Aerodromes; agriculture; caravan parks; cellar door facilities; cemeteries and crematoria; commercial vineyards; extractive industries; forestry; generating works; helipads; heliports; horse training establishments; industries (other than light or home industries); institutions; junk yards; liquid fuel depots; mines; panel beating; recreation establishments; sawmills; stables; stock and sale yards; wine storage facilities.”

Comment

The application is considered unacceptable pursuant to the provisions of Section 79C (1a.i) in that the proposal is inconsistent with the following objectives of the 3(a) General Business Zone contained in Clause 9 of the Cessnock Local Environmental Plan, 1989.

- a) to encourage the provision of retail, commercial and other business services, and associated development such as dwellings and the like,

Comment

The extension of trading until 3.00 a.m will discourage the development of businesses in the locality where these are likely to be affected by noise and security issues. The likely development of shop top housing for example would be significantly affected by amenity and security issues associated with extended trading of licensed premises.

- b) to encourage development associated with tourism, and

Comment

The security issues identified by the NSW Police Service are likely to discourage the future development of tourist related facilities in the main street.

- c) to encourage improvements in pedestrian networks and pedestrian amenity in business centres.

Comment

The proposal does not propose any measures likely to improve the safety of existing connections for pedestrians from Vincent Street to the public car park to the rear of the premises and control the movement of pedestrians from Vincent Street to taxi ranks and surrounding residential areas at 3.00 am on Friday and Saturday nights.

Clause 27 – Development Principles – Zone No 3(a) & 3 (b)

Clause 27 states;

“The Council shall not grant consent to development on land within Zone No 3 (a) or 3 (c) unless it is satisfied that:

(a) the development is designed and arranged in a manner which:

- (i) achieves an effective relationship with adjoining development, having regard to the functions of the centre in which the development is proposed to be situated,*

- (ii) *wherever practicable, contributes to a pedestrian network and provides amenity and comfort for pedestrians,*
 - (iii) *retains opportunities for through site links for pedestrians,*
 - (iv) *wherever practicable, enables integration and connection of parking areas, including access for pedestrians,*
 - (v) *contributes to an overall improvement to the character, appearance and functioning of the centre in which the land is situated, and*
 - (vi) *is compatible with traffic management (including service vehicles) proposals adopted by the Council for the centre in which the land is situated, and*
- (b) the development, by its nature, orientation, height, design and operation will not adversely affect the amenity of any residential development in the vicinity.”*

Comment

The application is considered unacceptable pursuant to the provisions of Section 79C (1a.i) Environmental Planning & Assessment Act, 1979 in that the proposal is inconsistent with the following objectives of the 3(a) General Business Zone contained in Clause 27 of the Cessnock Local Environmental Plan 1989 in that the development is not arranged in a manner which:

27 (a)(i) achieves an effective relationship with adjoining development, having regard to the functions of the centre in which the development is proposed to be situated,

Comment

There is no evidence to suggest that the extension of trading hours on a permanent basis will improve relationships between licensed premises in the main street and other businesses which have been adversely affected by property damage such as glass breakage or graffiti.

(v) contributes to an overall improvement to the character, appearance and functioning of the centre in which the land is situated, and will by its nature not adversely affect the residential amenity of development in the vicinity.

Comment

The residential amenity of dwellings in the vicinity of the development is not considered to be improved by the permanent extension of trading hours.

(vi) is compatible with traffic management (including service vehicles) proposals adopted by the Council for the centre in which the land is situated,

Comment

The transport of patrons late at night has been identified as an issue in the locality due to limited taxi services and the lack of public transport. Transport demand at the hours proposed is not consistent with the availability of services.

The development, by its nature and operation will adversely affect the amenity of any residential development in the vicinity due to noise and security issues.

Schedule 1 – Additional aims for Business Centres

“(a) to promote the continued growth of the major business centres and their support zones, consistent with each centre’s function in the hierarchy, and without creating undue oversupply of retail floorspace,

(b) to provide improved services and facilities for residents and visitors,

(c) to encourage new development that is likely to stimulate regeneration and redevelopment of existing shopping centres,

(d) to discourage major out-of-centre development which is likely to detract from existing business centres,

(e) to work towards improvement of the amenity of centres through increased parking, pedestrian accessibility and comfort, and reduced pedestrian and vehicular conflicts,

(f) to provide for a full range of business and service opportunities in the major business centres and support zones,

(g) to promote the arrangements and design of development in business centres and support zones in a manner which is compatible with adjoining residential areas,

(h) to enable the improvement of the local road network in the city area and to minimise conflicts between through and local traffic, while maintaining convenient access to business facilities for through traffic, and

(i) to conserve and enhance the environmental heritage of the city of Cessnock.”

Comment

The proposal is considered unsatisfactory pursuant to the provisions of the Environmental Planning & Assessment Act 1979 as the proposal is inconsistent with Schedule 1 of the Cessnock Local Environmental Plan 1989 as it is not considered to ;

- a) Promote the growth of the major business centres and their support zones, consistent with each centre's function in the hierarchy.

The extension of trading will likely have the effect of discouraging future development.

- b) to provide improved services and facilities for residents and visitors.

The proposal does not include any measures to improve the services for residents in the vicinity of the premises.

- c) to encourage new development that is likely to stimulate regeneration and redevelopment of existing shopping centres.

The proposal does not encourage new forms of development that enhance the redevelopment of premises in the main street where there is a risk that the property will be adversely affected by property damage.

- d) to promote the arrangements and design of development in business centres and support zones in a manner which is compatible with adjoining residential areas.

The extension of trading hours is by virtue of issues relating to security and amenity, incompatible with adjoining residential development.

- e) to conserve and enhance the environmental heritage of the city of Cessnock.

The incidence of property damage and the need to install screens and shutters on commercial premises has had a detrimental impact on the heritage values of the streetscape. The proposal will not contribute to a reduction in the likelihood of future damage to heritage buildings in the location.

Development Control Plan 2006

The provisions of the Cessnock Development Control Plan 2006 apply to development on the subject site. The following parts of the Plan apply to the proposal;

- The relevant sections of Cessnock Development Control Plan 2006 are;

- Part B – B.2 Public Notification & Advertising .
- Part C – C.4 Land Use Conflict & Buffer Zones.

The amendment proposal is not inconsistent with the provisions of the plan nominated.

b. The Likely Impacts of That Development

Environmental Impacts(natural and built)

1. The application is considered unacceptable pursuant to the provisions of Section79C (1b) of the Environmental Planning and Assessment Act 1979 in that the proposal will have a detrimental social impact on the amenity of the neighbourhood.

The advice of the NSW Police and statistics report an increase in alcohol related crime in the locality indicates that extended trading of licensed premises will contribute to the number of incidents affecting local residents and business.

The extension of trading hours will contribute to the increasing need to adopt security measures such as screens and roller shutters on businesses fronting the main street which has an adverse impact on the streetscape and heritage values of the buildings and places an additional burden on owners / operators.

2. The application is considered unacceptable pursuant to the provisions of Section79C (1.d.e) of the Environmental Planning and Assessment Act, 1979 in that the extension of trading hours is not in the public interest and will lead to the diminution of the quiet and good order of the neighbourhood and place unreasonable demands on the resources of the NSW Police Service in attending to incidents related to the operation of the premises.

Access, Transport and Traffic

The proposal is unsatisfactory with respect to the availability of public transport to cater for patrons leaving the premises late at night. The lack of public transport being available from the CBD has been identified as contributing to pedestrian traffic to adjoining residential areas late at night causing disturbance and an increase in malicious property damage as patrons return home.

The provisions of Section 96 of the Environmental Planning & Assessment Act, 1979.

1. The consent authority cannot be satisfied that in view of the fact that the extension of trading hours will increase trade by forty percent over a short time period of six (6) hours trade that the resultant intensity of development is substantially the same development for which consent was originally granted by Council in 2006.
2. The information supplied with the amendment application is inadequate with respect to detailing the likely social impacts of the proposal in that it does not address the following;
 - a) The proposal does not contain any suggested means of combating or controlling unruly and disruptive behaviour by patrons of the business during trading and for the period after trading has ceased.
 - b) No information has been provided of the number of patrons within the Hotel after 12.00 midnight Friday and Saturday during the trial period.
 - c) No documentation has been provided that may constitute the records and intelligence to be collected and maintained as referred to by Section 4.4.3 of the Security Management Plan. No reports and intelligence have been provided under the reporting requirements nominated by Section 4.5 of the Security Management Plan.
 - d) No Security report has been provided by a suitably qualified person assessing the effectiveness of the security arrangements proposed by the applicant.

Consequently, due to the lack of information, the consent authority cannot be satisfied that no adverse social and economic impact will arise from the proposal.

**STATUTORY
IMPLICATIONS**

a. Policy and Procedural Implications

The extension to trading hours will have implications for the ongoing maintenance of assets in Vincent Street where damage requiring repair can be related to an increase in alcohol related incidents due to the anti-social behaviour of late night patrons.

b. Financial Implications

Any increase in the extent of maintenance required to assets is likely to have implications for the provision of services such as street cleaning and civil maintenance..

c. Legislative Implications

Nil

d. Risk Implications

Nil

e. Other Implications

Approval of the amendment to enable permanent trading until 3.00 am will likely impact on the development of crime prevention plan to be considered by Council in the future.

**DISCLOSURES OF
POLITICAL
DONATIONS & GIFTS**

Political donations or gifts are not relevant to the determination of any planning application, and the making of political donations or gifts does not provide grounds for challenging the determination of any planning application.

Council has received Declarations of Political Donations & Gifts related to this application from the following:

Nil

OPTIONS

The option of reducing the extent of trading to 1.00 am has been explored and is not supported on the basis of advice from the NSW Police Service.

The imposition of additional security measures by way of amended conditions of consent has been considered and the applicant has offered some additional measures under the current amendment, however it is not considered that the proposal can be redeemed solely by conditions as the existing stringent measures imposed are proving ineffective in changing the behaviour of patrons after they have left the premises.

CONCLUSION

Assessment of the proposal has determined that the intensification of the use of the Hotel during the period of extended trading hours has resulted in an unacceptable impact on the amenity of the locality and is not considered to be in the public interest. The application is recommended for refusal.

RECOMMENDATION that Council refuse the amendment under the provisions of Section 96 of the Environmental Planning & Assessment Act, 1979 of Development Application 8/2006/533/1 for the following reasons:-

1. The consent authority cannot be satisfied that in view of the fact that the extension of trading hours will increase trade by forty percent over a short time period that the resultant increase in intensity of development means that the development as proposed is substantially the same development for which consent was originally granted by Council.
2. The application is considered unacceptable pursuant to the provisions of Section 79C (1a.i) in that the proposal is inconsistent with the following objectives of the 3(a) General Business Zone contained in Clause 9 of the Cessnock Local Environmental Plan, 1989.
 - a) to encourage the provision of retail, commercial and other business services, and associated development such as dwellings and the like,
 - b) to encourage development associated with tourism, and

- d) to encourage improvements in pedestrian networks and pedestrian amenity in business centres.
3. The application is considered unacceptable pursuant to the provisions of Section 79C (1a.i) Environmental Planning & Assessment Act, 1979 in that the proposal is inconsistent with the following objectives of the 3(a) General Business Zone contained in Clause 27 of the Cessnock Local Environmental Plan 1989 in that the development is not arranged in a manner which:
- 27 (i) achieves an effective relationship with adjoining development, having regard to the functions of the centre in which the development is proposed to be situated, and
 - (v) contributes to an overall improvement to the character, appearance and functioning of the centre in which the land is situated, and will by its nature adversely affect the residential amenity of development in the vicinity; and
- (b) the development, by its nature, orientation, height, design and operation will not adversely affect the amenity of any residential development in the vicinity.
4. The application is considered unacceptable pursuant to the provisions of Section 79C (1a.i) Environmental Planning & Assessment Act, 1979 in that the proposal is inconsistent with the following objectives of the 3(a) General Business Zone contained in Schedule 1 of the Cessnock Local Environmental Plan 1989 in that it is not considered;
- (a) to promote the continued growth of the major business centres and their support zones, consistent with each centre's function in the hierarchy.
 - (b) to provide improved services and facilities for residents and visitors,
 - (c) to encourage new development that is likely to stimulate regeneration and redevelopment of existing shopping centres,
 - (g) to promote the arrangements and design of development in business centres and support zones in a manner which is compatible with adjoining residential areas,
5. The application is considered unacceptable pursuant to the provisions of Section 79C (1b) of the Environmental Planning and Assessment Act 1979 in that the proposal will have a detrimental impact on the amenity of the neighbourhood.
6. The application is considered unacceptable pursuant to the provisions of Section 79C (1.d.e) of the Environmental Planning and Assessment Act 1979 in that the extension of trading hours is not in the public interest as it will lead to the diminution of the quiet and good order of the neighbourhood.
7. The information supplied with the application is inadequate with respect to the likely social impacts of the proposal in that it does not address the following;
- a) The proposal does not contain any suggested means of combating or controlling unruly and disruptive behaviour by patrons of the business during trading and for the period after trading has ceased.
 - b) No information has been provided of the number of patrons that will be permitted within the Hotel after 12.00 midnight Friday and Saturday during the trial period.
 - c) No documentation has been provided that may constitute the records and intelligence collected and maintained as referred to by Section 4.4.3 of the Security Management Plan. Nor have reports and intelligence provided under the reporting requirements nominated by Section 4.5 of the Security Management Plan.
 - d) No Security report has been provided by a suitably qualified person assessing the effectiveness of the security arrangements proposed by the applicant in preserving the amenity of the neighbourhood.
- Consequently the consent authority cannot be satisfied that no adverse impact on the amenity of the neighbourhood will arise from the proposal.

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8. The proposal is unsatisfactory with respect to the availability of public transport to cater for patrons leaving the premises late at night.

To: **Ordinary Council Meeting**
10 December 2008

D FITZGERALD
DIRECTOR CITY PLANNING
25 November 2008

DIRECTOR CITY PLANNING REPORT NO. 14/2008

SUBJECT: DEVELOPMENT APPLICATION NO. 8/2008/525/1 FOR CHANGE OF USE TO TOURIST ACCOMMODATION

Senior Development Planner, Mr P Giannopoulos, reports:-

REASON FOR REPORT The number of objections are considered significant as they exceed 50% of the notified properties.

APPLICANT Mr R W J McMurray & Mrs M V McMurray

OWNER Mr R W J McMurray & Mrs M V McMurray

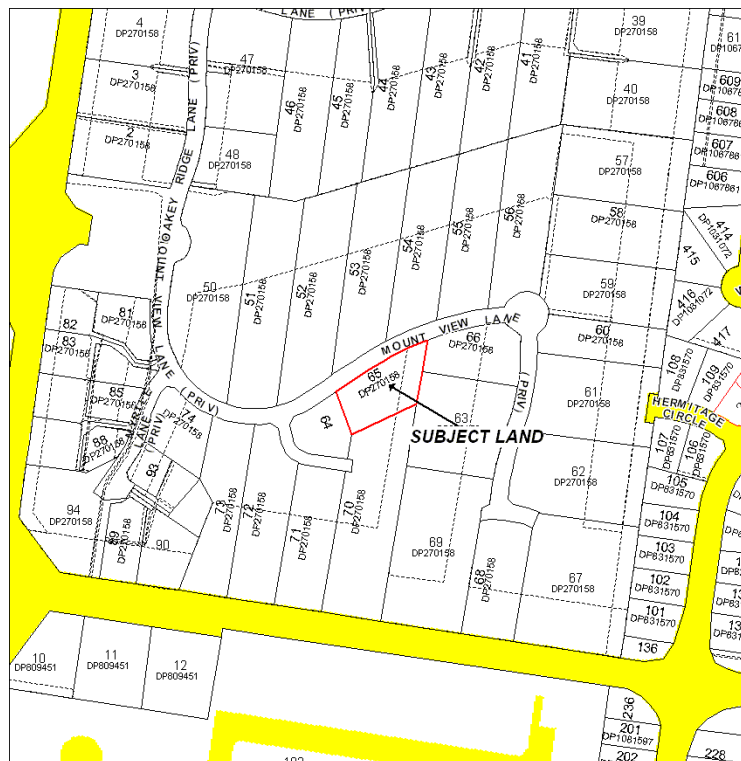
APPLICATION LODGED 19 June 2008

PROPERTY ADDRESS Mount View Private Access Road, Kelman Estate, Cessnock
Lot: 65 DP: 270158
PIN: 502866

AREA 2052 sq.m.

ZONING Residential 2(a)

MAP



PROPOSAL The applicant proposes to adapt a 200m² dwelling so that it may be used for a Bed and Breakfast. Two bedrooms of the four bedroom house are proposed to be used as Bed and Breakfast accommodation with a maximum of 4 guests at any one time. The applicant proposes to use the existing car parking for the development and there is no construction proposed.

BACKGROUND

Initially the application was notified incorrectly as 'Change of Use To (Tourist Accommodation)'. The initial notification caused confusion and there was significant objection, (13 submissions were received with notification only being sent to 8 residents), many objections were on the grounds that 'Tourist Accommodation' is prohibited under the zoning provisions.

The application was later renotified as a 'Bed and Breakfast' and there were four (4) objectors who restated their objection to the development.

SITE DESCRIPTION

The subject site consists of an irregular shaped lot within the Kelman Estate. The site is on the southern side of a private access road that services the estate and contains a single storey dwelling.

STRATEGIC LINKS

a. Management Plan

The assessment of this application supports Council's Second Management Plan Goal – To protect, enhance and promote our natural, developed and cultural environment.

b. Other Plans

Nil

**ENVIRONMENTAL
PLANNING
INSTRUMENTS**

Cessnock Local Environmental Plan, 1989.

CONSULTATION

Comments were obtained from Council's Health and Building staff. The comments from the Health and building staff have been incorporated into the proposed consent conditions.

**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 relevant matters identified:

a. The Provisions of any Environmental Planning Instrument

Cessnock Local Environmental Plan, 1989

The proposed development falls within the definition of Bed and Breakfast Accommodation, being:

an establishment operated by the permanent residents of a dwelling-house which:

- (a) provides temporary accommodation for the short-term traveller,*
- (b) offers meals for guests only,*
- (c) does not accommodate more than 12 persons,*
- (d) does not have a floor area greater than 300 m²,*
- (e) does not contain cooking facilities in rooms for the preparation of meals by guests,*

(f) is not used in whole or in part for the permanent or long-term accommodation of any person other than the person or persons who normally reside in the dwelling-house, and

(g) is contained wholly within the confines of that dwelling-house.

The development is permitted with consent on land zoned Residential A - 2(a). The objectives of the 2(a) zone include 'to provide for other forms of development which may appropriately be located in a residential zone' it is considered that the development is consistent with that zone objective and does not relate to any of the other objectives.

b. The Likely Impacts of That Development

Submissions

The application was notified in accordance with Council's Development Control Plan 2006 for a period of 15 days. Thirteen (13) objections were received in response to the initial notification. When the application was renotified four (4) residents reconfirmed their objection. The grounds of objection are as follows:

1. Council's policy requires that the premises be operated by permanent residents of the property and there are no permanent residents at the premises.

Comment

It is correct to state that Council's Policy requires that bed and Breakfast establishments are operated by permanent residents. The applicant has stated that the premises will be operated in accordance with Council's Control and Regulation of Bed and Breakfast Establishments Policy this means that the building will be permanently occupied. It is also proposed to include a condition of consent to reinforce this requirement.

2. Compliance with performance criteria cannot be guaranteed if ownership changes.

Comment

Council has the power to take action against the owner/operator of a development that is not complying with conditions of consent. If the property is sold, it does not alter Council's ability to enforce its planning requirements.

3. The owner of the property has not sought approval by the Kelman Management Committee.

Comment

The applicant has not sought the permission of the Kelman Management Committee. Planning legislation does not require the applicant to gain the approval by the Kelman Management Committee.

4. The applicant does not intend to operate a Bed and Breakfast. The applicant merely wants approval to help sell the property.

Comment

Development consent is granted to the land, it is not specifically dedicated to an individual. An application by someone who intends to gain that approval merely to sell the property with the approval is as legitimate and worthy, as an application made by someone who intends to act on the consent.

5. We did not purchase in this area to be surrounded by Bed and Breakfast Establishments

Comment

This ground of objection does not provide reason to refuse the application.

6. The development will add maintenance costs to the Kelman Estate.

Comment

The impacts of the Bed and Breakfast development are not expected to be significant. If the development results in additional costs to the Kelman Estate it is a matter that needs to be addressed through means that are outside the planning system.

7. The development will not maintain residential amenity and such accommodation is not acceptable. Noise, disruption and damage has resulted from unsupervised accommodation.

Comment

Bed and breakfast developments are permitted in the Residential zone because they are small scale developments, that generally have low environmental impact.

As the dwelling will be permanently occupied by the operator this will provide greater control of establishment's guests. There is usually higher a level of control of guest behaviour, when the operator of the establishment resides on the premises because they can monitor and control guests. Whilst there may be exceptions to this rule, it is considered that this type of development is appropriate in residential areas.

8. Approval would make compliance with Occupation Health and Safety Act difficult.

Comment

This matter is not a ground that can be validly used to refuse the application.

9. There are others operating Tourist establishments without approval in Kelman Estate

Comment

This is not a relevant matter for consideration with this application. The applicant is not responsible for the conduct of other residents/owners.

10. Multiple dwellings are not permitted in Kelman Estate.

Comment

The development is not considered to be 'multiple dwellings' instead it is a 'bed and breakfast' which is a permitted development.

11. Development will exceed building envelopes and be contrary to landscape design requirements

Comment

The applicant does not propose to change building footprint or to alter landscaping.

12. Sewage system was not designed for the additional load.

Comment

The development will not exceed the capacity of the existing infrastructure including the sewage system.

13. No clear plan has been submitted showing car parking.

Comment

The car parking plans are adequate for assessment purposes. Detailed scale plans are required under the conditions of consent, this is to ensure that the line-marking of spaces is undertaken accurately in compliance with the car parking standards.

**STATUTORY
IMPLICATIONS**

a. Policy and Procedural Implications

Nil

b. Financial Implications

Nil

c. Legislative Implications

Nil

d. Risk Implications

N/A

e. Other Implications

Nil

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**DISCLOSURES OF
POLITICAL DONATIONS
& GIFTS**

Political donations or gifts are not relevant to the determination of any planning application, and the making of political donations or gifts does not provide grounds for challenging the determination of any planning application.

OPTIONS

Council has received Declarations of Political Donations & Gifts related to this application from the following:
Nil
Nil

CONCLUSION

The proposed development is one that is permitted in the zone and one that has low environmental impact.

The applicant has demonstrated that the development can operate in a manner that is consistent with Council's Bed and Breakfast Policy; this will require that that dwelling is permanently occupied. The permanent occupation of the building will provide a level of surveillance and control that will negate the amenity concerns of the responding neighbours. In the circumstances, the development is considered acceptable and warrants approval.

RECOMMENDATION that Development Application 8/2008/525/1 for Bed and Breakfast Accommodation on Lot 65 DP 270158 Mount View Private Access Road, Kelman Estate, Cessnock be approved subject to the following conditions:

General

1. The development being undertaken strictly in accordance with the details set out on the application form, any information submitted with the application and the plans submitted, or as modified by these further conditions.

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

Reason

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

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

Reason

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

3. The establishment shall be operated by the permanent resident(s) of the dwelling.

Reason

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

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4. There shall be not more than four (4) paying guests accommodated within the dwelling at any one time, unless all guests come from the one family unit, wherein six (6) guests may be accommodated.

Reason

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

5. Each paying guest shall not reside at the establishment for more than fourteen (14) consecutive days in any month.

Reason

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

6. The owner(s)/proprietor(s) shall keep a register and record the following details with regard to every guest:

- (a) their name and address; and
- (b) the date of their arrival and departure.

Reason

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

Carparking

7. On-site car parking shall be provided for a minimum of four (4) vehicles (two spaces for residents and two for guests) 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 Occupation Certificate.

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.

Signage

8. One (1) sign only shall be permitted on the property with maximum dimensions of 1.2 m x 0.6 m. The sign must not be illuminated. The location, style and materials of the sign shall be compatible with the dwelling and surrounding development and shall be as approved by Council before the sign is erected or displayed.

Reason

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

Food handling and health standards

9. Food prepared for the consumption by guests is considered as 'Food for Sale' and as such the proprietor(s) must be conversant with the provisions of the Food Act, 2003 and the Food Standards Code. The proprietors must ensure the following:
 - The kitchen area shall be provided with a suitable portable fire extinguisher and fire blanket.
 - All refrigerators shall be capable of maintaining food temperatures at 5°C and shall be supplied with a thermometer located in an accessible position within the refrigerator so as to ensure adequate temperatures are being maintained.

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- A dishwashing machine and single bowl sink OR a double bowl sink shall be installed in the kitchen area to ensure adequate provision is made for the hygienic cleansing of utensils and materials. Such fixtures shall be provided with a continuous supply of hot water.
- A wall mounted liquid soap dispenser and disposable hand towel shall be provided in close proximity to the kitchen sink so as to provide adequate hand washing and drying facilities.
- A comprehensive cleaning schedule shall be provided and clearly displayed within the kitchen detailing regular areas to be cleaned and methods of cleaning.
- The changing or storage of soiled nappies is prohibited within the kitchen area.
- The premises shall be maintained free of any vermin and shall be regularly treated with approved pest control measures.
- No animals are to be permitted within the dining room or kitchen area. This clause does not apply to guide dogs for the visually or hearing impaired.
- Premises shall be subject to regular inspections by Council's Environmental Health Officer and to the payment of an inspection fee for each inspection.

Reason

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

10. The building must be upgraded with smoke alarms and evacuation lighting system to comply with Part 3.7.2 BCA for a Class 1b building in accordance

Reason

To ensure that the building is provided with safeguards so that occupants are warned of fire in the building to enable safe evacuation.

11. Lighting must be provided for patrons, residents and visitors that may be leaving the premises after dark. The lighting must be connected to a self-activating system to provide suitable illumination of the common parking area and the travel path between the parking area and the building entry door, at all hours after dark.

Reason

To ensure that the development provides safety and security for the residents, patrons and public.

Prior to Occupation

12. Occupation or use of premises for the purposes approved by this consent shall not commence until an 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

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13. The building must comply with the Fire Safety provisions applicable to the approved use. The applicant shall provide Council and the Fire Commissioner with a copy of the Final Fire Safety Certificate and the Fire Safety Schedule relating to the required fire safety measures in accordance with Division 4 of the Environmental Planning and Assessment Regulation 2000 prior to the issue of Occupation Certificate. The Final Fire Safety Certificate and the Fire Safety Schedule are to be prominently displayed in the building. This condition MUST be complied with prior to the Occupation Certificate.

Reason

To ensure the required fire safety measures have been installed in the building and are operable prior to the issue of an Occupation Certificate. To comply with the prescribed requirements of the Environmental Planning and Assessment Act.

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

| CONTRIBUTION TYPE | \$ |
|--------------------------------------|------------|
| Plan Preparation and Administration | \$ 92.00 |
| Tourist Information and Signage | \$1,134.00 |
| Vineyards District Roads and Bridges | \$1,524.00 |

At this time the total contribution required is \$2,750.00 and is to be paid prior to the issue of the Occupation Certificate.

NOTE:

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

Reason

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

To: **Ordinary Council Meeting**
10 December 2008

D FITZGERALD
DIRECTOR CITY PLANNING
27 November 2008

DIRECTOR CITY PLANNING REPORT NO. 15/2008

SUBJECT: DEVELOPMENT APPLICATION NO. 8/2007/184 FOR CLEARING OF LAND TO ALLOW FUTURE DEVELOPMENT OF THE SUBJECT LAND FOR A SENIORS LIVING DEVELOPMENT

HEZ Business Unit, reports:-

REASON FOR REPORT

A development application has been lodged for the clearing of land which is intended to allow future development of the subject land for a Senior's Living Development upon part of Lot 7 DP 1037092 being commonly known as land off Hospital Road Weston.

The applicant seeks deferred commencement consent for clearing of this land. The deferred commencement condition suggested by the applicant's legal advisor recommends that clearing of the land would not physically occur until the applicant enters into an arrangement with the provider of services or a developer for the purpose of a Senior's Living Development upon the subject land.

Council's solicitor is of the opinion that the use of a deferred commencement condition in this case is fundamentally flawed and cannot be supported.

The application is recommended for refusal.

APPLICANT

Harper Somers O'Sullivan Pty Ltd

OWNER

HEZ Pty Ltd

APPLICATION LODGED

8 March 2007

PROPERTY ADDRESS

Lot 7 DP 1037092 Cessnock Road Weston
PIN:503487

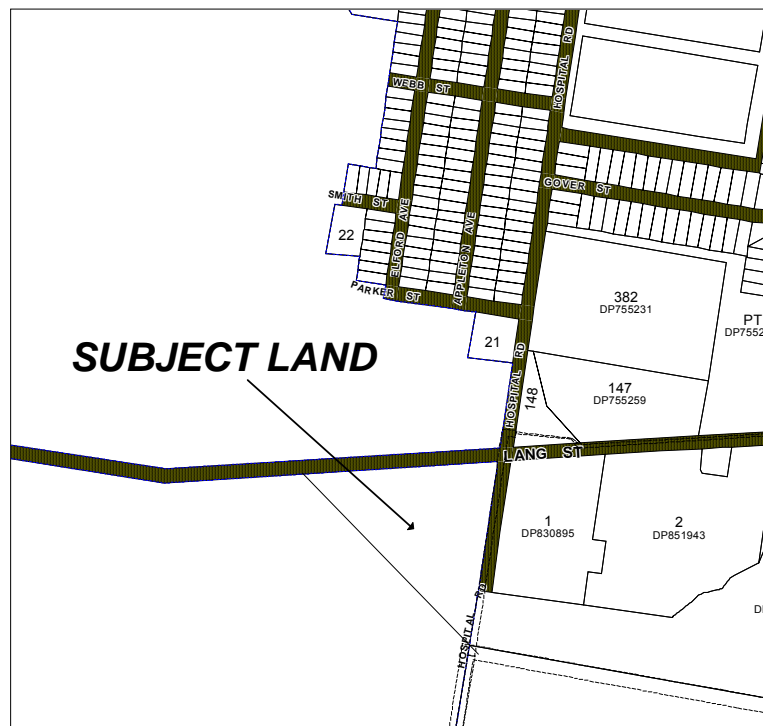
AREA

5.5 Hectares

ZONING

5(a) Special Uses (Community Use) Zone

MAP



PROPOSAL

The proposed works to be undertaken on this site involve clearing of 3.74 hectares of the Lower Hunter Spotted Ironbark Forest (LHSGIF) vegetation community to allow further development of the site for a Senior's Living Development (i.e. aged care facility) whilst providing necessary bushfire asset protection zones and establishing appropriate soil and erosion sediment controls.

Some native vegetation (i.e. 1.1 hectares) will be retained on site within the ten (10) metre vegetated buffer areas to be created along boundaries of the proposed site. This also includes the western boundary which abuts an area zoned 7(b) Environmental Protection (Conservation) which acts as a buffer to the adjoining industrial zoned lands. The eastern boundary of the site which has frontage to Hospital Road has been largely cleared of existing vegetation. It is proposed that this area be rehabilitated with planting of suitable endemic species.

A preliminary concept plan has been prepared by the applicant's architects EJE Architecture demonstrating how a Senior's Living Development could notionally be accommodated upon the subject site after substantial clearing of the site has been completed.

Erosion and sediment controls measures are proposed to be implemented to manage any disturbance to the site during and after clearing operations. Cleared areas of the site will then be hydro seeded to provide a stabilising natural vegetation cover that can be readily managed until such time as the site is further developed.

BACKGROUND

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies to a Senior's Living Development. This SEPP has been amended to allow additional bushfire prone lands to be developed for senior's housing subject to certain criteria being satisfied. Therefore the applicant could lodge an application for Senior's Living Development in conjunction with clearing of the subject land. This would be a far better way of assessing the potential impacts of such a development without pre-emptive clearing of the site.

The applicant was requested to withdraw this application with the advice that Council was not likely to support this application. However the applicant requested Council to process the application as lodged.

SITE DESCRIPTION

The subject site is described as being a 5.5 hectare triangular shaped parcel of land being to the south of an unformed section of Lang Street Weston. The real property description of the site is part Lot 7 DP 1037092 off Cessnock Road, Weston. The site is commonly known as land opposite Kurri Kurri Hospital, being along the western side of Hospital Road and to the south of Lang Street. This land is positioned to the south of the approved school/child care centre development with lands to the west and south being vacant and covered by bushland.

The site is described as vacant, covered by natural vegetation and is affected by a north west cross fall with the land sloping away from Hospital Road.

STRATEGIC LINKS

a. Management Plan

The assessment of this application supports Council's Second Goal – To protect, enhance and promote our natural, developed and cultural environment.

b. Other Plans

Nil

**ENVIRONMENTAL
PLANNING
INSTRUMENTS**

- State Environmental Planning Policy (Housing for Seniors or People with a Disability)
- Hunter Regional Environmental Plan
- Cessnock Local Environmental Plan 1989
- Cessnock Development Control Plan 2006 – Chapter E6 – HEZ
- HEZ Environmental Management Strategies

CONSULTATION

- Mine Subsidence Board (MSB)
- NSW Rural Fire Services (RFS)
- Former Department of Natural Resources
- Mallik Rees Lawyers
- Friends of Tumblebee

**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 relevant matters identified:

a. The Provisions of any Environmental Planning Instrument

State Environmental Planning Policies

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

The intention of the applicant was to seek approval for land clearing so that the bush prone category of the land could be down graded from Category 1 to Category 2 to allow future development of the site for aged housing pursuant to this SEPP. This is no longer necessary due to amendments to this SEPP.

A Senior's Living Development could now be considered for the site provided a site compatibility certificate as per Clauses 24 and 25 is obtained from the Director General of the Department of Planning and any proposal complies with the document entitled Planning for Bush Fire Protection 2006 per Clause 27 of this SEPP.

A comprehensive development application which involved clearing of the land in conjunction with a Senior's Living Development in accordance with the provisions of this SEPP would enable a proper environmental assessment to be undertaken and result in better outcomes for the site.

Regional Environmental Planning Policies

Hunter Regional Environmental Plan 1989

The proposal is not considered to be contrary to the provisions of this planning instrument.

Cessnock Local Environmental Plan, 1989

The subject land is zoned 5(a) Special Uses (Community Use) Zone pursuant to Cessnock Local Environmental Plan (CLEP) 1989.

The objectives of the 5(a) Special Uses Zone are:

- (a) *to accommodate development by public authorities on publicly owned land;*

The subject site is currently privately owned land and the proposal for clearing of land to facilitate further development of the land is not being carried out by a public authority in this case.

(b) *to provide for appropriate community uses; and*
Clearing of land is not in isolation a community use, whilst it is intended to facilitate further development of the land for Senior's Living Development, the aged care proposal does not form part of this application.

(c) *to enable associated and ancillary development.*
The clearing of land in this case is not being carried out in association with a specific land use.

This development application for clearing of land as demonstrated above is considered to be inconsistent with the objectives of the 5 (a) Special Uses (Community Use) zone.

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

- a) Clause 20A – Clearing of land within Zone 4(h), 5(a) or 7(b);
- b) Clause 32 – Land subject to Bushfire Hazards;
- c) Clause 46 (7) – Development of certain land;
- d) Clause 47 – Development within Mine Subsidence District; and
- e) Clause 57 – Hunter Employment Zone – General development of land within Zone 4(h), 5(a) or 7(b).

Clearing of the land upon the subject site is permissible with consent of Council pursuant to Clause 20A (2) (b).

It is noted that Clause 57(5) (c) of Cessnock LEP 1989 requires a walkover by a local aboriginal group. Mindaribba LALC have advised in writing that the group participated in a walkover of the site and advised that during construction of roads or clearing that a representative of MLALC observe the work to ensure that no artefacts or sites are destroyed during this process.

Development Control Plan 2006

The proposed clearing of land has been assessed 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/ Habitat Management Strategy

A Flora and Fauna Assessment Report and Vegetation Clearing and Management Plan accompany this development application.

The site comprises predominantly Lower Hunter Spotted Gum Ironbark Forest (LHSGIF) with the lower strata consisting of components of the Kurri Sand Swamp Woodland (KSSW). Both these communities are listed as endangered ecological communities under the Threatened Species Conservation Act 1995. One threatened flora species being *Grevillea parviflora*

subsp occurs on the site in moderate densities.

It has been estimated that there are 107 mature trees and 8 hollow bearing trees on site and in the worst case scenario approximately 15 mature trees and 3 hollow bearing trees may be retained if the indicative concept plan and the required APZ density were adopted. However as the application does not seek approval for the senior's living proposal, the extent of clearing cannot be accurately quantified and may be in excess of that nominated by the applicant.

A 7 part test has been completed for the affected threatened species and communities that concludes that the impact will not be significant.

Written advice has been received from the Director General of the former Department of Natural Resources that the Community Use component of the Zone 5(a) within the HEZ estate "*has the substantial character of a zone designated township*". Such land is therefore excluded from the Native Vegetation Act 2003. Therefore the provisions of the Native Vegetation Act 2003 are no longer applicable to the subject site.

Heritage

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

No artefacts were located during a walkover of the subject site with representatives of a local aboriginal group. Should any artefacts be uncovered on site during the clearing/construction phase then the relevant local aboriginal land group, Council and DECC should be contacted and works stopped immediately. This is considered a standard procedure and hence conditioned accordingly.

Bush Fire Hazards

The subject site is designated within a known bushfire prone area. Hence the application was referred to the NSW Rural Fire Services initially as the applicant was seeking to change the bushfire status of the land. A Senior's Living Development is designated as a Special Fire Protection Purpose (SFPP) development in accordance with Section 100B of the Rural Fires Act 1997.

The RFS has advised it is not in a position to properly assess the application given the level of information provided to Council. "*The Concept Feasibility Plan provided proposes asset protection zones for the development based on residential development and not those required for a SFPP development. The applicant is to provide evidence that the proposed development can support the required asset protection zones for SFPP developments in accordance with Section 4.2.7 of Planning for Bush Fire Protection 2006.*"

These comments support Council's view that an application for a Senior's Living Development which includes associated clearing should be lodged to allow proper assessment of bushfire and other relevant environmental matters.

Mine Subsidence

The subject site is located within a proclaimed Tomalpin Mine Subsidence District. The application was referred to the MSB for comment, although the development proposal clearly does not involve any building works.

The MSB has responded by outlining matters that need to be addressed prior to any building works occurring on site such as:

- a. Final drawings to be submitted prior to construction that have been certified by a qualified structural engineer;
- b. Removal of any risk of mine subsidence;
- c. Geotechnical investigation should be completed.

The proposal is for clearing of land only and these matters would need to be addressed if any building works were proposed for the site in the future under a separate application.

Environmental Management Strategies

The following Environmental Management Strategies (EMS) have been adopted by Council for the HEZ estate including:

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

The requirements of the EMS documents relevant to the clearing of land have been considered in the detailed environmental assessment of this application. The premature clearing of land is considered to be contrary to the aims and objectives of the Habitat Management Strategy in that appropriate ecological protection measures cannot be implemented where the final development is unknown.

b. The Likely Impacts of That Development

Environmental Impacts(natural and built)

The pre-emptive clearing of vegetation from the site is not supported as Council cannot undertake a full assessment of the potential natural and built environmental impacts that may result from any proposed development on this site until full details of the development proposal are outlined such as building footprints, materials of buildings and associated facilities, etc in a comprehensive application.

Suitability of the Site for the Development

The subject site is located on the fringes of existing urban development such as the Kurri Kurri Hospital and vacant industrial land to the west and south.

Premature clearing of the land is not supported and use of a deferred commencement condition creates uncertainty and implies Council pre-emptively supports development of the land for a Senior's Living Development which is inappropriate.

Submissions

The application was placed on public exhibition from 24 September 2008 to 8 October 2008 being a period of 15 days in accordance with provisions of Cessnock Development Control Plan 2006 – Chapter B2 Notification and Advertising. Five (5) submissions have been received by Council.

The main concerns raised in these submissions have been considered and are outlined below:

- 1. Clearing of the site will have a significant impact on the endangered regent honeyeater bird that is now breeding on the site.**

Comment: Information obtained from the Department of Environment and Climate Change indicates that recordings of regent honeyeater locations were to the west of the subject site on lands zoned 4(h) Hunter Employment Zone.

- 2. The clearing of native vegetation seems totally unnecessary when there is no DA for use of the site.**

Comment: Agreed. A development application for clearing of land with a specific use would be a better approach so that the full impacts of the development can be assessed in accordance with relevant legislation.

- 3. The land is significantly undermined and any rectification of the site to allow construction would impose substantial costs on the future user.**

Comment: The subject site is located within a proclaimed Mine Subsidence District and there is evidence of potholing in the vicinity of the subject site. Mine subsidence issues would need to be considered in detail and referred to the Mine Subsidence Board for comment with any land use DA for the site. The cost of any rectification work associated with mine subsidence is an issue for the developer rather than Council.

- 4. An endangered vegetation community including one species that is unnamed and unresearch may be lost.**

Comment: The premature clearing of the site is not supported. If a DA is lodged for clearing and building works for a specific use then an assessment of any affected endangered ecological communities and new species can be undertaken.

5. Development of this site may interfere with other existing developments in close proximity such as the Masonic Village and Mary Pike wing of Kurri Kurri Hospital

Comment: At this stage only the impacts associated with the clearing of the land can be considered.

6. Clearing of the site will interfere with the breeding and migration habits of the swift parrot.

Comment: The premature clearing of the site is not supported by Council. A 7 part test has been undertaken by the applicant's ecologist in respect to the potential impacts of this development including the swift parrot life cycle and it has been found that a significant impact would not result given the amount of habitat resource remaining in close proximity to the site.

7. Construction of the site will impact on parking facilities for the hospital.

Comment: This DA is for clearing of land only. The site has already been fenced to prevent illegal entry onto the site during works associated with construction of the Stage 2 Spine Road.

8. The purpose of this DA is at odds with objectives of the 4(h) Zone

Comment: The subject site is zoned Special Uses 5(a) and the objectives of this zone have been considered in assessment of the development application. Hence the 4(h) zone objectives are not applicable in this case.

9. The advertised notification of the development proposal fails to comply with requirements of Part B Schedule 1 of Cessnock Development Control Plan.

Comment: The development application was not required to be advertised in a local newspaper in accordance with Cessnock DCP given that the application was for a local integrated development. However at the discretion of the Development Services Manager all developments within the HEZ estate are advertised in the local paper and potentially affected adjoining owners and occupiers including local community groups are individually notified if registered with Council.

10. To clear the land and let it stand empty will create noise impacts from motor bike users and further destruction to the land.

Comment: The pre-emptive clearing of land is not supported by

Council.

- 11. The land may never be built upon, so why destroy the habitats of the wildlife.**

Comment: Agreed. A development for clearing and use of the site is considered to be best practice for the site and its surrounds.

- 12. Incorrect to say either the HEZ LEP or the assumed concurrence negates any significant impact on threatened species.**

Comment: Impact on threatened species will be assessed in accordance with relevant environmental legislation.

- 13. No evidence that the flora and fauna assessment meets the requirements of DCP 56.**

Comment: The flora and fauna assessment has been undertaken in accordance with the HEZ Habitat Management Strategy and other relevant Council Policies.

- 14. Extent of impacts of the DA is not known because of the shortcomings in the SOEE.**

Comment: Given that a final land use is not nominated within this DA the potential impacts of the final development cannot be fully assessed.

- 15. Clearing is necessary to allow Category 1 Vegetation to be cleared and hence allow development under the Seniors Living SEPP.**

Comment: As outlined in a previous section of this report a development proposal for Senior's Living Development can now be considered for the site without prior clearing of the land as being sought by this application.

- 16. Applicant is asking to clear vegetation for speculative marketing purposes in a location which has national significance.**

Comment: It appears that the DA is seeking clearing of land prior to determination of the final land use which is contrary to adopted planning policies such as Cessnock LEP 1989, Cessnock DCP 2006 and EMS's as demonstrated within other sections of this report.

Cumulative Impacts

Approval for pre emptive clearing of any lands associated with the HEZ estate may lead to further applications of this type which is contrary to the objectives of the 4(h) zone within Cessnock LEP 1989 and the aims and objectives contained within Chapter E6 – HEZ of Cessnock DCP 2006.

Legal Advice

A deferred commencement condition suggested by Henry Davis York Lawyers accompanies the development application submission. Subsequently this advice and the DA documentation were referred to Council's solicitor for comment. Council's solicitor is of the view that the draft condition by the applicant's solicitor is fundamentally flawed for a number of reasons as outlined below:

- *“The provisions as drafted would allow a deferred commencement condition to be satisfied on the applicant merely entering into a contract with some other person or company (which company or person may be without assets) for the development of the land as a SEPP (SL) development. This will not provide Council with any assurance that the land will be developed for the purpose stipulated nor is information given to enable Council to assess the proposal in any meaningful way.*
- *There is no assurance or certainty that SEPP (SL) as it currently stands will not be amended or rescinded, which would frustrate the whole purpose of the deferred commencement condition. I note in passing that SEPP (SL) has been amended four times since it was first made and SEPP (SL) has fundamentally changed over the last few years.*
- *There is no certainty that consent will ever be granted for any proposed SEPP (SL) or indeed that the proposal will comply with the provisions of the then existing SEPP (SL), as all that will be required to enable the applicant to commence clearing the land is evidence from the applicant that it has entered into some arrangement with a third party who promises to lodge a SEPP (SL) development in the future. The SEPP (SL) development application may be fundamentally flawed, such that no development could ever be granted, but this would not prevent the deferred commencement condition being satisfied and the land cleared.*
- *The condition could be taken as prejudgment by the Council of the suitability of the site for a SEPP (SL) type development and perhaps even prejudgement by the Council to grant consent, regardless of the merits of any application that might be lodged.*
- *I further note in passing that pursuant to the current version of the SEPP (SL) the land may require a site suitability certificate. If that is the case there is no guarantee that such a site suitability certificate would be granted by the Department of Planning, which would in turn frustrate any attempts to approve a SEPP (SL) development.”*

Given the above concerns raised by Council solicitors, the clearing of land where no specific details of future development are known is premature and will not promote orderly or economic development of the subject land that has satisfactorily addressed all environmental issues.

**STATUTORY
IMPLICATIONS**

a. Policy and Procedural Implications

Nil

b. Financial Implications

The applicant may lodge an appeal with the Land and Environment Court if refusal of the application is supported. Costs to defend the appeal would be in excess of \$10,000.

Legal advice has also been sought on the use of a deferred commencement consent for the clearing of this land. The advice received suggests that a deferred commencement condition should not be used by Council as it is fundamentally flawed.

c. Legislative Implications

d. Risk Implications

Nil

e. Other Implications

Nil

**DISCLOSURES OF
POLITICAL
DONATIONS & GIFTS**

Political donations or gifts are not relevant to the determination of any planning application, and the making of political donations or gifts does not provide grounds for challenging the determination of any planning application.

Nil. The application was lodged prior to this legislation being enacted and submissions received do not disclose any political donations or gifts.

OPTIONS

Council may wish to approve this application. However this has the potential to set an undesirable precedent with numerous other development applications being lodged with Council for pre-emptive clearing of the HEZ estate. This is contrary to existing planning objectives and instruments applying to the estate.

CONCLUSION

The development application for clearing of land to support an intended Senior's Living Development, where no specific details have been provided of this future development is not considered to be good planning practice and does not allow Council to properly assess a development application in accordance with relevant environmental legislation. The imposition of a deferred commencement condition creates uncertainty and implies that Council will support future applications that are not appropriate as each application is assessed on its merits.

Given the concerns raised by the NSW Rural Fire Service and Council's solicitors, as well as the lack of certainty around the

final form of the development this development application for clearing cannot be supported and is recommended for refusal.

RECOMMENDATION that Council refuse Development Application No. 8/2007/184/1 for clearing of land on part Lot 7 DP 1037092 Cessnock Road Weston for the following reasons:

1. The proposed clearing of land is not consistent with the objectives of the 5(a) Special Uses (Community Use) Zone of Cessnock Local Environmental Plan 1989.
2. The proposed clearing of land is inconsistent with Section 6.1.2 aims and objectives of Chapter E6 – HEZ of Cessnock DCP 2006.
3. The proposal is considered to be contrary to the objectives and schedules of the Habitat Management Strategy.
4. The clearing of the subject site in the absence of an approved land use is not an orderly and/or economic use and development of the land.
5. Council cannot properly assess the application in accordance with provisions of Section 79C of the Environmental Planning and Assessment Act due to the lack of details in terms of the future development of the land.
6. Appropriate Asset Protection Zones cannot be created in accordance with Section 4.2.7 of Planning for Bush Fire Protection 2006 given that no building footprints; etc are provided with the application.
7. The development is not in the public interest.

To: **Ordinary Council Meeting**
10 December 2008

D FITZGERALD
DIRECTOR CITY PLANNING
26 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 25/2008

SUBJECT: CEMETERIES POLICY REVIEW

Recreation Operations Coordinator, Ms A Sander, reports:-

SUMMARY

Council's Cemetery Policies were last reviewed in 2004.

BACKGROUND

Under the Local Government Act, 1993 the Public Health (Disposal of Bodies) Regulation 2002 and the Local Government Control of Cemeteries Act 1966, Council as a cemetery authority is required to establish policies and procedures in regards to the control of the management and operations of Council's cemeteries. Council currently manage and operate nine (9) general cemeteries and two (2) lawn cemeteries.

REPORT

Council staff are currently carrying out a major review of all cemetery management and operations. The review is assessing all cemetery policies and procedures. The initial stages of the review have identified all activities within the cemeteries portfolio and areas where process improvements can be made. The review proposes to update seven (7) of the current cemetery policies to bring them in line with Council's current Cemetery Management Plan (2000).

CONSULTATION

- Recreation Services Manager
- Administration Coordinator
- Acting Administration Officer
- All contractors undertaking duties in Council cemeteries including; funeral directors, stonemasons, grave diggers and maintenance contractors have been invited to attend a Cemeteries Information session on 11 December 2008 at Council.

STRATEGIC LINKS

a. Management Plan

Cemetery activities are linked to Council's Management Plan in Goal 1.16.1 "How it will achieve this – continue to improve the appearance of our cemeteries" and "In particular Council will gradually implement the 2008 cemeteries strategy".

b. Other Plans

The 2000 Cemeteries Management Plan was reviewed in December 2007. The election of a new Council in September 2008 as well as the organisation restructure has delayed the revised plan being presented to Council. It is envisaged that Council will be briefed on the 2008 Cemeteries Strategy early in the New Year with a view to place on public exhibition immediately after.

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

The following listed Cemetery Policies have been reviewed and amendments made.

| | |
|-------------------------------|---|
| Policy No.: | C10.1 |
| Policy: | Grave Digging Services |
| Recommended Amendment: | Council not provide a grave digging service for general cemeteries (excluding lawn) and the responsibility of providing such services remain with the respective undertakers. |

| | |
|-------------------------------|---|
| Policy No.: | C10.2 |
| Policy: | Reservation of Grave Plots in Lawn Cemeteries |
| Recommended Amendment: | The reservation of grave plots not be permitted in Council's Lawn Cemeteries under any circumstances. That all burials/internments take place in the next available plot. |

| | |
|-------------------------------|--|
| Policy No.: | C10.3 |
| Policy: | Installation of Vases in Cemetery and Columbarium Walls |
| Recommended Amendment: | Council provide and install Lawn vase holders in the Lawn beam within the Lawn Cemetery and also provide bud holders on the columbarium wall plaques, for the charge as adopted by Council from time to time. Council at the discretion of Cemetery operations staff remove any unauthorised vases and plaques from beams and columbarium walls from time to time. That the policy be renamed to "Installation of Vases and Plaques in Cemetery and Columbarium Walls". |

| | |
|-------------------------------|---|
| Policy No.: | C10.7 |
| Policy: | Policy and Licence Fees for Stone Masonry works within Council Cemeteries |
| Recommended Amendment: | <ol style="list-style-type: none">1. Council adopt an annual licence fee each year for stonemason principals to carry out stonemasonry services with cemeteries under the core, control and management of Council.2. The standards in the Cemetery Policy be adopted and be applied in conjunction with the Monumental Mason's Association of NSW Standards (AS4204) subject to any variation adopted from time to time. |

| | |
|-------------------------------|---|
| Policy No.: | C10.8 |
| Policy: | Charge of Second Burials at Aberdare Lawn Cemeteries |
| Recommended Amendment: | Council adopt a charge for second burials at Council's Lawn Cemeteries to cover the cost of grave digging, backfilling or the replacement of the plaque (without emblem). That the policy be renamed to "Charge of Second Burials at Aberdare and Kurri Kurri Lawn Cemeteries" |

| | |
|-------------------------------|--|
| Policy No.: | C10.10 |
| Policy: | Burial on Private Land |
| Recommended Amendment: | As per policy written. No changes, legislation still the same. |

| | |
|-------------------------------|---|
| Policy No.: | V1.1 |
| Policy: | Removal of Graffiti |
| Recommended Amendment: | As per existing policy. No changes, legislation still the same. |

b. Financial Implications

Nil.

c. Legislative Implications

The 1993 Local Government Act does not include any cemetery specific legislation. As such, the care, control and management of cemeteries are covered by a range of legislations, charters and guidelines. Following is a listing of the key relevant legislative provisions:

- Local Government Act, 1993
- Public Health Act, 1991
- Public Health Regulations, 1991
- Occupation Health and Safety Act, 2000
- Privacy and Personal Information Protection Act, 1998
- State Records Act, 1998
- Heritage Act, 1977
- Conversion of Cemeteries Act, 1974
- Fair Trading, 1987
- Coroners Act, 1980
- Crown Lands Act, 1989
- Human Tissues Act, 1993
- Births, Deaths and marriages Registration Act, 1995
- Anti-Discrimination Act, 1979

d. Risk Implications

Policy review and updates such as the ones proposed within this report will minimise risks to Council. For example, Council will at its own discretion, and with utmost care, remove any unauthorised vase holders from lawn cemetery beams and/or columbarium walls.

e. Other Implications

N/A

OPTIONS

N/A

CONCLUSION

Council's ongoing review of cemeteries management and operations will continue to identify processes and procedures that will need to be amended, updated and developed. Reviewing the cemetery policies to bring them into line with Council's Management Plan will be an ongoing process.

Director Infrastructure & Services Report No. 25/2008

RECOMMENDATION that Council adopt the amendments to Policy No. C10.1, C10.2, C10.3, C10.7, C10.8, C10.10 and V1.1 as outlined in this report.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 26/2008

SUBJECT: ESTABLISHING COUNCIL'S CARBON FOOTPRINT

Manager Environment and Waste, Mr M Alexander, reports:-

SUMMARY

The purpose of this report is to inform Council of the Federal Governments impending Carbon Pollution Reduction Scheme legislation.

BACKGROUND

The Australian Government intends to introduce the Carbon Pollution Reduction Scheme (CPRS) as the best way to limit carbon pollution. The Government has committed to a long term emission reduction target of 60% below 2000 levels by 2050.

It is intended that all the Green House Gasses (GHG) included under the Kyoto Protocol – carbon dioxide (CO₂); methane (CH₄), nitrous oxide (N₂O), sulphur hexafluoride (SF₆) hydrofluorocarbons (HFC's) & perfluorocarbons (PFC's) will be covered from scheme commencement.

Methane is a product of organic breakdown in anaerobic conditions (ie: landfill).

REPORT

The CPRS "green paper" was introduced in July 2008 and submissions were received until September 2008. Numerous submissions have been made from industry and organisations including:

- ALGA,
- NSW – LGSA,
- Hunter Business Chamber
- ICLEI - L/Govt for Sustainability.

Copies of the Green Paper (532 pages) and list of submissions is available via website www.climatechange.gov.au

Briefings provided by the Australian Government - Department of Climate Change indicate the following timetable is intended:

- July 2008 Green Paper
- Sep 2008 Submissions
- Oct 2008 Treasury Model
- Dec 2008 White Paper
- Dec 2009 Legislation
- July 2010 Introduction

What is Required

To place Council in the best possible position, to make informed decisions and consider mitigation measures, it is recommended the following approach be taken:

Director Infrastructure & Services Report No. 26/2008

1. Comprehensive data collection and record keeping & determination of our carbon footprint i.e. our greenhouse emission sources and quantities
2. Calculation of Council liability
3. Consider mitigation measures that may reduce the liability
4. Compliance with the CPRS (when introduced)

How To Get There

Clarity will come over the next few months as Government “rolls out” the finer detail of the scheme and its application.

However, from the initial briefings and available information about the scheme and its requirements it is apparent that there will be impact on Council’s resources via data collection, establishing a reporting framework, guidelines and calculation templates that will be required will take time and should be started ASAP.

It is important for us to start to collect data (establish our carbon footprint) ASAP.

CONSULTATION

A briefing session was provided to Council on Wednesday, 12 November 2008.

STRATEGIC LINKS

a. Management Plan

The CPRS is (proposed) Federal Legislation. Whilst this activity is not currently covered in the Management Plan it will become part of the plan in terms of activity and finance once introduced in 2010.

b. Other Plans

Unknown at this point.

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

Policy has not been developed at this point as the scheme and the mechanics of the scheme are not legislated.

The first stage of assessing the impact the scheme will have on the organisation is to determine Council’s carbon footprint.

Once the quantum of the footprint is known, further information will be able to be drawn, such as:

- The financial impact
- Mitigation measures
- Policy development that will provide a pathway to minimise the impact

b. Financial Implications

The introduction of the CPRS will have financial implications to Council. Until the level of Council’s emissions is known (carbon footprint), the financial liability cannot be calculated with any accuracy.

Initial indications suggest the cost of determining the organisations carbon footprint could be in the order of \$50,000. However, this will be further explored through an Expression of Interest and capability assessment.

Given the largest contributor to Councils carbon footprint will be from the landfill operation it is recommended that the costs for the footprint exercise be met from the waste reserve.

The current balance of the Waste Reserve is \$4.66 million.

c. Legislative Implications

The Carbon Pollution Reduction Scheme is Federal Legislation

d. Risk Implications

N/A

e. Other Implications

Council will need to consider:

- the resources required to manage the responsibility
- the cost (& funding source) for the initial data collection (carbon footprint)
- on-going responsibility
- on-going budgeting implications
- impact on all activities and work programs

OPTIONS

1. Do nothing until legislation detail is released.
2. Take pro-active approach and commence data collection ASAP to determine the organisations carbon footprint.

It is considered that Council will be best placed with Option 2. Determining the footprint may identify ways to reduce or minimise the obligations and/or changes in policy or procedure that will make a positive contribution. To achieve this position, data is required to make informed decisions.

CONCLUSION

The proposed CPRS will not be voluntary; it will be a combination of continuing existing action and complying with the “new” legislation.

What is known is that new legislation is coming that will bring with it compliance obligation, resource demand and financial liability. Whilst there may be ways to reduce or minimise these obligations we need data and time to make informed decisions.

It is considered that this will be best achieved by establishing our carbon footprint as soon as possible.

RECOMMENDATION that

1. Council undertake the calculation of its organisational carbon footprint as soon as possible.

Director Infrastructure & Services Report No. 26/2008

2. Funds to be provided from the Waste Reserve.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 27/2008

SUBJECT: PLAN OF MANAGEMENT FOR NORTH ROTHBURY PLAYGROUND

Trainee Recreation and Community Officer, Ms E Peel, reports:-

SUMMARY

The North Rothbury Playground draft Plan of Management was presented to Council at its meeting on 4 June 2008. At this meeting Council considered the Director Infrastructure & Services Report No. 39/2008 regarding the draft Plan of Management for North Rothbury Playground/Tennis Court.

BACKGROUND

A review of all major recreational settings has been undertaken over the past three (3) years. This review has culminated in the preparation, exhibition and subsequent adoption of a number of sites specific Plans of Management, including Baddeley Park (Cessnock), Varty Park (Weston) and North Rothbury. It is intended that, on an on going basis, a number of draft Plans of Management will be presented to Council for consideration prior to exhibition.

REPORT

Approval was given to advertise the draft Plan of Management for a period of forty two (42) days from 11 June 2008 to 23 July 2008. A number of submissions including a petition signed by one hundred and seventeen (117) people were received.

Key matters raised in the submissions and petition included:

- Council's proposal to re classify and sell a proportion of the park
- The current lack of facilities at the park
- The proposed demolition of the tennis court and associated club house

Considering the feedback received, Council Officers meet with approximately fifty (50) or so North Rothbury residents on Tuesday, 25 November 2008. The outcome of the meeting was that the clause in the draft Plan of Management to reclassify the land from Community to Operational and sell it be removed and that Council be requested to adopt the Plan of Management for North Rothbury Playground. A copy of the amended Plan of Management has been included with the Enclosure Documents.

Additionally Council staff committed to undertake minor works such as removal of signage and graffiti in the park in the near future and to meet with a number of community members in January 2009 to commence the development of a draft Masterplan for North Rothbury Playground. It is intended that the draft Masterplan will outline works and improvements to the park over a short to medium term period, say 5 years.

CONSULTATION

Consultation has been undertaken with the following Council Officers:-

- Recreation Services Manager
- Community Facilities Planner
- Acting Open Space Operations Coordinator
- Acting Recreation Operations Coordinator
- Building Services Coordinator

STRATEGIC LINKS

a. Management Plan

The review and development of Plans of Management are discussed in the 2008 - 2011 Management Plan. In line with goal 8.1.8 Council will review and update Plans of Management and Masterplans in line with the Outdoor Recreation and Open Space Plan.

b. Other Plans

Future works outlined in the draft Plan of Management for North Rothbury Playground have been identified in Council's draft Recreation and Open Space Strategic Plan via the five (5) year Parks Capital Works Program.

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

N/A

c. Legislative Implications

All Council land classified as 'Community', such as North Rothbury Playground, is required under Section 36 of the Local Government Act, 1993 to have a Plan of Management.

d. Risk Implications

NIL

e. Other Implications

NIL

OPTIONS

N/A

CONCLUSION

Community consultation regarding the draft Plan of Management for North Rothbury Playground resulted in valuable feedback being provided to Council which has enabled a positive outcome for the community to be achieved. Council is now well informed and aware of what the residents of North Rothbury need in terms of recreation facilities and will continue to work with the community in an attempt to meet those needs.

RECOMMENDATION that Council adopt the amended draft Plan of Management for North Rothbury Playground.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 28/2008

SUBJECT: GRANT FUNDS FOR BELLBIRD COMMUNITY HALL PLAYGROUND

Trainee Recreation and Community Officer, Ms E Peel, reports:-

SUMMARY

Council has recently been notified that its application for an upgrade to the playground at Bellbird Community Hall under the Local Government Playground Grants Program (NSW Government) has been successful.

BACKGROUND

The objective of the Local Government Playground Grants Program is to assist local governments to provide new equipment and infrastructure for children's play areas. The aim of the grant is to provide better outdoor spaces for children, to promote exercise and tackle childhood obesity.

REPORT

Cessnock City Council was one of fifty seven (57) councils in NSW to receive a grant via the Local Government Playground Grants Program in the first round of grant funding in October 2008. In April 2008 Council lodged an application for a playground upgrade at Bellbird Community Hall and the organisation has recently been notified that \$15,000 has been awarded to this project (A media release regarding the funds has been included within the Enclosure Documents).

The funds received from the NSW Government will be utilised to replace the existing playground safety surfacing (course river sand) with rubber wetpour safety surfacing. The installation of rubber wetpour safety surfacing is paramount at Bellbird Community Hall, not only to improve the operation of the playground but to prevent further damage to the timber hall floor through the transference of sand from the playground. These works will also enable Council to comply with current Australian Standards for surfacing.

Applications for Round 2 of funding closed on November 21, 2008 and an application was submitted for an upgrade to Miller Park Playground. This is in line with Council's adopted and prioritised Playgrounds Capital Works Program, where Miller Park is identified as the next playground to be upgraded. A further report will be prepared for Council's consideration should the application be successful.

CONSULTATION

As part of the community consultation process for the draft 2008 Recreation and Open Space Strategic Plan a number of information workshops were held throughout the Cessnock LGA. Each of the above mentioned projects were highlighted at the workshops through the Playground Capital Works Program. Attendees at the workshops included local Tidy Town Committees, representatives from local sporting and community groups, Hall Management Committees, local school representatives and local residents. Those who attended the workshops in Cessnock and Branxton were supportive of the proposed upgrades to the playgrounds at Bellbird Community Hall and Miller Park.

STRATEGIC LINKS

a. Management Plan

Director Infrastructure & Services Report No. 28/2008

The provision of recreational and community services/facilities by Council is highlighted in the Management Plan. The specific projects identified within each planned maintenance and/or capital works program have been developed in order for Council to achieve its goal of promoting and providing quality services and facilities which address the needs of the community. Each of the capital improvement programs including the Playgrounds Capital Works Program are included within the Management Plan.

b. Other Plans

The application for grant funding for Bellbird Community hall is in line with Council's draft 2008 Recreation and Open Space Strategic Plan which illustrates the Playground Capital Works Program and associated priorities.

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

The proposed works are in line with Council's Playground Policy P55.1. Specifically objective 1.1 "To provide a system of children's playgrounds that are safe, attractive and challenging to children".

b. Financial Implications

The grant funds received will increase the 2008/2009 Recreation Services Budget by \$15,000

c. Legislative Implications

N/A

d. Risk Implications

The installation of rubber wetpour will improve safety at the site for children and enable Council to comply with ASNZ4422:1996 Critical Head Impact Criteria.

e. Other Implications

The installation of rubber wetpour safety surfacing will improve the function of the Bellbird Community Hall playground ensuring compliance with Australian Standards and protecting the timber floor of the hall which has been affected by sand carried in from the playground. Additionally the existing koppers log barrier surrounding the playground is a potential trip hazard for children and parents and will be removed through the installation of rubber wetpour safety surfacing. Removal of the koppers logs is also in line with Council's philosophy to phase out the use of treated timber in children's playgrounds.

OPTIONS

N/A

CONCLUSION

The funds provided by the Local Government Playground Grants Program provides an opportunity to continue to implement its prioritised Playground Capital Works Program and to provide the community with high quality playground facilities.

Director Infrastructure & Services Report No. 28/2008

RECOMMENDATION that Council accept the \$15,000 grant from the New South Wales State Government.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 29/2008

SUBJECT: MINUTES OF THE \$ FOR \$ GRANTS COMMITTEE MEETING OF THE CESSNOCK CITY COUNCIL HELD ON 13 NOVEMBER 2008, COMMENCING AT 11AM

PRESENT Mayor, Councillor Davey (in the chair), Councillors Hawkins and Main, Director Infrastructure and Services, Recreation Services Manager, Community Facilities Planner

APOLOGY Councillor Ryan

MINUTES Due to the lack of committee members at the previous committee meeting it was decided that the minutes could be confirmed by Council at its meeting to be held on 10 December 2008.

RESOLVED that the Minutes of the \$ for \$ Grants Committee Meeting held on 5 March 2008 be confirmed by Council at its meeting on 10 December 2008.

BUSINESS ARISING FROM PREVIOUS MINUTES

Council's Recreation Services Manager confirmed that the balance of funds from the 2007/2008 Heritage Dollar for Dollar grant scheme totalling \$5,355 were allocated to the restoration of the Heritage listed Greta Band Rotunda.

A discussion was held around renaming the \$ for \$ grants committee, considering not all grants administered by Council through this committee are provided on a dollar for dollar basis. Examples were provided including the Schools Environment grants where a maximum of \$500 is provided to successful applicants regardless of the cost of the project, the Heritage Dollar for Dollar grants also have a limit, in that successful applicants receive a maximum of \$1,000 for any given project.

MOTION **Moved:** Councillor Hawkins **Seconded:** Councillor Main

RESOLVED that the \$ for \$ Grants Committee be renamed the Community Grants Committee.

DIRECTOR INFRASTRUCTURE AND SERVICES REPORT NO. 1/2008

SUBJECT: 2008 SPORTING FACILITIES & EQUIPMENT DOLLAR FOR DOLLAR GRANT SCHEME

Council's Recreation Services Manager discussed the grant scheme and assessment of applications received through the Sporting Facilities and Equipment Dollar for Dollar grant scheme.

MOTION **Moved:** Councillor Hawkins **Seconded:** Councillor Main

RESOLVED that

1. All participants be thanked for their ongoing support and commitment to the enhancement of Council's sporting facilities;
2. The Sporting Facilities and Equipment Dollar for Dollar Grant Scheme be allocated as follows:-

| FACILITY/ORGANISATION | DESCRIPTION | COST \$ | GRANT \$ |
|-------------------------------------|---|--------------------|---------------------|
| Aberdare Tavern Cricket Club | Repairs to cylinder mower | 1,600 | 800 |
| Abermain Hawks Rugby League Club | Purchase of chest freezer, fridge, tackle bags and bump pads | 1,861 | 931 |
| Bellbird Junior Soccer Club | Supply and Installation of hotplate and range hood for kiosk | 4,339 | 2,170 |
| Branxton Croquet Club | Laser levelling of croquet lawn 2 | 2,000 | 2,000 |
| Cessnock Basketball Association | Purchase of blinds for the centre, improvements to amenities and purchase of kiosk items including a security grill, preparation and serving benches. | 5,545 | 2,764 |
| Cessnock City Hornets | Installation of shade cover over existing grandstand | 18,040 | 9,020 |
| Coalfields Horse Riding Club | Purchase of horse jumping equipment | 780 | 390 |
| Kurri Kurri Junior Football Club | Purchase of new goal posts and 6 aluminium bench seats | 1,597 | 799 |
| Kurri Kurri Little Athletics Centre | Purchase of ride on mower and line marker | 9,200 | 4,600 |
| Kurri Kurri Tennis Club | Repairs and servicing of tennis courts 1,2, 3 & 4 | 4,343 | 2,172 |
| Mulbring Cricket Club | Purchase of a cricket pitch cover | 2,560 | 1,280 |
| Wollombi Tennis Club | Extension of the existing croquet court to full size, purchase of maintenance equipment | 4,168 | 2,084 |
| Neath Target Archers | Installation of concrete pad for shipping container, Purchase of target archery equipment | 4,034 | 2,017 |
| Wollombi Valley Pony Club | Purchase of pony equipment as well as play equipment. | 7,206 | 3,603 |
| Branxton District Netball Club | Purchase of stand alone shelving and storage boxes | 741 | 370 |
| TOTAL | | 68,014 | 35,000 |

3. Provision be made in the 2009/10 Recreation Capital Works Program or in the next round of Sporting Equipment and Facilities dollar for dollar grant scheme for \$3,300 towards the supply and installation of a waste water treatment system for the Cessnock Pony Club site.

**DIRECTOR INFRASTRUCTURE AND SERVICES
REPORT NO. 2/2008**

SUBJECT: 2008 COMMUNITY FACILITIES DOLLAR FOR DOLLAR GRANT SCHEME

Council's Recreation Services Manager discussed the grant scheme and assessment of applications received through the Community Facilities Dollar for Dollar grant scheme.

MOTION **Moved:** Councillor Main **Seconded:** Councillor Hawkins
RESOLVED that

1. All applicants be thanked for their contribution towards the enhancement of Council's Community Facilities
2. Council allocates funding through its Community Facilities Dollar for Dollar Grant Scheme as outlined in the table below:

Director Infrastructure & Services Report No. 29/2008

| Facility/Organisation | Description | Cost \$ | Grant \$ |
|--|--|----------------|-----------------|
| Abermain Plaza Hall | Purchase of floor cleaner and 2 chair trolleys | 4,584 | 2,084 |
| Bellbird Community Hall | Replacement of boundary fencing and gates along the front and side of the hall | 7,925 | 3,603 |
| Branxton Community Hall | Purchase of new refrigerator | 2,860 | 1,300 |
| Branxton Playgroup | Upgrade of playground including purchase of new play equipment and top up of safety surfacing | 1,309 | 595 |
| Branxton Preschool | Installation of shade shelter over playground and exterior painting of one classroom | 8,259 | 3,754 |
| Cessnock Multipurpose Children's Centre | Purchase of new tables, chairs, high chairs, play equipment and a book shelf for the day care room | 5,082 | 2,309 |
| Cessnock Occasional Childcare Centre | Purchase of new tables, chairs and high chairs to cater for all children attending the centre | 1,816 | 825 |
| Cessnock Pensioners Association | Purchase of a pie warmer | 607 | 276 |
| Greta Community Preschool | Purchase of outdoor tables and chairs and play equipment | 2,548 | 1,158 |
| Hunter Prelude EIC | Purchase of 20 Bilibo chairs for children with special needs | 769 | 350 |
| Kurri Kurri Community Centre | Internal painting of four rooms, common area and offices | 9,020 | 4,100 |
| Kurri Kurri Kidzone Playgroup | Installation of shade shelter over play equipment | 6,803 | 3,400 |
| Kurri Kurri Senior Citizens Centre | Purchase of 8 tables | 3,772 | 1,714 |
| North Cessnock Community Hall | Minor internal storeroom renovations and repairs to male toilets. | 5,610 | 2,550 |
| Weston Civic Centre | Purchase of 100 stackable chairs | 3,346 | 1,521 |
| Weston Community Preschool | Painting and carpeting the interior of the pre school | 8,380 | 3,809 |
| Wollombi Community Hall | The purchase of wine glasses to complete table settings for 100 people | 290 | 132 |
| Wollombi Valley Progress Association – Laguna Hall | Replace existing stove top and purchase 30 new chairs for the hall | 2025 | 920 |
| | TOTAL | 75,005 | 34,400 |

3. \$16,900 towards improvements to the Kurri Early Childhood Centre be factored into the Recreation Services 2009/10 Budget for Council's consideration.

**DIRECTOR INFRASTRUCTURE AND SERVICES
REPORT NO. 3/2008**

SUBJECT: 2008 SCHOOLS ENVIRONMENT DOLLAR FOR DOLLAR GRANT SCHEME

Council's Director Infrastructure & Services discussed the grant scheme and assessment of applications received through the Schools Environment Dollar for Dollar grant scheme.

Director Infrastructure & Services Report No. 29/2008

It was confirmed that the schools who were successful in the 2008/09 grant scheme are not the same as successful schools via the 2007/08 grant scheme.

MOTION **Moved:** Councillor Main **Seconded:** Councillor Hawkins
RESOLVED that

1. All applicants be thanked for their contribution towards the enhancement of the local environment
2. The committee allocate funding to the following projects:

| SCHOOL | PROJECT | GRANT OBJECTIVES MET | | | | | TOTAL COST | GRANT FUNDS REQUESTED |
|---------------------------|---|----------------------|---|---|---|---|-----------------|-----------------------|
| | | 1 | 2 | 3 | 4 | 5 | | |
| Cessnock West Public | <ul style="list-style-type: none"> • Vegetable garden • Watering system | √ | √ | √ | √ | √ | \$1,000 | \$500 |
| Black Hill Public | <ul style="list-style-type: none"> • Chicken Coup | √ | √ | √ | √ | √ | \$2,500 | \$500 |
| St Brigid's Primary | <ul style="list-style-type: none"> • Greenhouse | √ | √ | √ | √ | - | \$1,800 | \$500 |
| Bellbird Preschool | <ul style="list-style-type: none"> • Compost Tumbler • Vegetable Garden | - | √ | √ | √ | - | \$1,203 | \$500 |
| Stanford Merthyr Infants | <ul style="list-style-type: none"> • Sensory Garden • Drought proofing existing gardens | √ | √ | √ | √ | √ | \$1,235 | \$500 |
| Greta Community Preschool | <ul style="list-style-type: none"> • Native Garden | - | √ | √ | √ | - | \$1,080 | \$500 |
| Kitchener Public | <ul style="list-style-type: none"> • Total waste system | √ | √ | √ | √ | √ | \$2,000 | \$500 |
| Laguna Public | <ul style="list-style-type: none"> • Bird attracting garden | √ | √ | √ | √ | √ | \$955 | \$500 |
| Kearsley Public | <ul style="list-style-type: none"> • Vegetable garden | √ | √ | √ | √ | √ | \$1,100 | \$500 |
| Abermain Public | <ul style="list-style-type: none"> • Bush Tucker and Sensory Garden | √ | √ | √ | √ | √ | \$1,000 | \$500 |
| | TOTAL | | | | | | \$13,873 | \$5,000 |

GENERAL BUSINESS: Nil

The meeting was closed at 11.20am

RECOMMENDATION that Council endorse the minutes of the \$ for \$ Grants Committee Meeting held on 13 November 2008.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 30/2008

SUBJECT: PAYNES CROSSING ROAD, WOLLOMBI – RECONSTRUCTION

Infrastructure Services Manager, Mr K Dillon, reports:-

SUMMARY

Approval is sought to temporarily close to both traffic and pedestrians part of Paynes Crossing Road at Wollombi to facilitate re-construction and widening of the gravel section of road situated between Williams Bridge and Cunneens Bridge.

Approval is also sought to invite open tenders to undertake the work.

BACKGROUND

At its Ordinary Meeting held on 19 November 2008 Council approved the acquisition of road widening from two properties adjacent to the gravel section of Paynes Crossing Road to enable proposed re-construction and widening works. Those works form part of the joint Department of Transport and Regional Services (DOTARS) submission with Singleton Shire Council to upgrade the Wollombi to Broke road link along Paynes Crossing Road/Wollombi Road.

An options questionnaire has been circulated since 6 November 2008 in the Wollombi / Laguna / Broke communities by way of direct postage, community displays/handouts and website advertisement inviting feedback on the preferred period and duration for the necessary temporary road closure to undertake the main aspects of the proposed upgrading works.

After the questionnaire had been mailed out an error was detected and a revised questionnaire was printed and mailed out on Thursday, 13 November 2008. The revised questionnaire shown below also contained errors. (The Easter school holidays are in April, not March, as indicated.) None of the errors were considered material to the questionnaire decision. The closing date for invited comment was extended to Monday, 24 November 2008 to allow residents to respond to the amended mail out. The four (4) options presented in the revised questionnaire were:

Option A

- Road closed between 9.30am and 2.30pm each week day and between 7.00am and 4.30pm Saturdays for approximately 10 weeks.
- Construction works would be likely to commence in mid February 2009.

Option B

- Road closed (24 hours) for the 2009 Easter school holidays (i.e. 11/3 – 27/3 inclusive) but open Good Friday.
- Road closed between 9.30 am and 2.30 pm each week day and between 7.00 am and 4.30 pm Saturdays after Easter school holidays for approximately a further 4 weeks.
- Construction works would commence shortly before Easter.

Director Infrastructure & Services Report No. 30/2008

Option C

- Road closed (24 hours) for the 2009 Easter school holidays (i.e. 11/3 – 27/3 inclusive) but open Good Friday.
- Road closed between 7.00 am and 4.30 pm (Monday to Saturday inclusive) after Easter school holidays for approximately a further 2 weeks.
- Construction works would commence shortly before Easter.

Option D

- Road closed for the 2009/10 Christmas school holidays after Boxing Day (ie.27/12/09 - 25/1/10 inclusive).
- Construction works would commence shortly before Christmas.

REPORT

A total of 55 responses have been received to the questionnaire with some positive feedback from respondents on the community consultation process undertaken. The respondents were invited to indicate their cascading preference for the various options as well as provide comment on any other option they considered worthy of consideration. The results of the consultation are summarised in the following table.

| COUNT | Initial Preference | 2nd Preference Distribution | | 3rd Preference Distribution | |
|--------|--------------------|-----------------------------|-------|-----------------------------|-------|
| OPTION | Total | Distributed | Total | Distributed | Total |
| A | 38 | 4 | 42 | 1 | 42 |
| B | 1 | 13 | 14 | 16 | 30 |
| C | 3 | 7 | 10 | 13 | 23 |
| D | 13 | 8 | 21 | 0 | 21 |
| TOTAL | 55 | | | | |

It can be seen that the community strongly supports the temporary road closure period and duration outlined under Option A. This is considered to reflect a desire to cater for school related trips, to allow some daily opportunities to use this section of road for domestic, business and tourist activities and to expedite the work.

One aspect which appears to have influenced the low initial preference for either Option B or C is inclusion of the Easter long weekend public holiday period in the full closure period. The Easter long weekend affords an important tourist opportunity for the Wollombi community and hence the Option B and Option C closures excluding this weekend may have received a more favourable response.

It should be noted that the proposed road closure will be necessary for only the main initial aspects of the work, primarily site clearing, bulk rock excavation and haulage, drainage trenching and initial pavement works. Much of the final construction work can occur under routine traffic control involving delays of up to approximately 15 minutes.

CONSULTATION

Broad consultation was undertaken in view of the strategic importance of the road link to several communities. The questionnaire was mailed out to 281 residents and organisations within the Wollombi and Laguna areas; 250 copies of the questionnaire were provide to the manager of the Broke Service Station/General Store/Post Office to distribute into 150 local residents' post boxes as well as provide counter-top handouts.

Copies of the questionnaire were also provided to the 'Our Own News' (OON) publication circulated in Wollombi and surrounding communities as well as a copy published on the 'Wollombi Valley Online' website (www.wollombi.nsw.au/news/display/169). Copies of the questionnaire were also made available from the Wollombi General Store, Wollombi Café and Laguna General Store.

It can be seen from the limited responses obtained (55) that many residents/property owners in the greater Wollombi/Broke community are not overly concerned by the proposed temporary road closure.

STRATEGIC LINKS

a. Management Plan

The project is funded under Council's 2008/09 Budget.

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

The selected option will have a substantial impact on the cost of the work as construction efficiencies can be substantially affected. The need to undertake daily clean-up the excavated rock to allow re-opening of the road to traffic overnight will mean additional cost due to less productive time and extra temporary road restoration/excavation safeguard measures. The combined delayed start/early finish times associated with Option A make that option the most expensive option, with Option D considered the least expensive. Regardless of which option is pursued, it is proposed to invite tenders for the work on a staged basis to provide construction flexibility should the costs greatly exceed the current budget.

Proposed Stage 1 would extend from the Wollombi end to just past access to 'The Grange' (the narrowest section). Stage 2 would involve the balance of the work to Williams Bridge as shown in the Enclosure to this report.

The budgetary situation will be reviewed once tenders are assessed.

c. Legislative Implications

The project is estimated to cost well in excess of the \$150,000 limit imposed under s55, Local Government Act and Regulations necessitating the calling of open tenders for the work. No advantage is seen in pursuing the selective tendering approach.

d. Risk Implications

Delays in undertaking the works could jeopardise completion of expenditure of the Auslink funds before 30 June 2010 which would have financial implication for Council. Adoption of either Option A, B or C will require additional temporary measures associated with the daily re-opening to traffic creating the risk of significant additional cost which may result in the need to stage the works.

The temporary road closures proposed will minimise the safety risk to motorists, other road users and workers during construction.

e. Other Implications

The proposed road design incorporates safeguard for the significant rock excavation marks and stone retaining walls undertaken by convict labour which have heritage significance as part of the original Great North Road. Safeguarding these relics should have negligible effect on the cost of the project.

OPTIONS

No other practical options to undertake the work were submitted by the respondents. No other options to undertake the work have been canvassed. Night-time operations (say closure between 6.30pm and 6.00am daily) should be feasible however the noise impacts on nearby residents would be considerable due to the prolonged nature of the work and the large excavation equipment required. Five (5) dwellings are situated within 650m of the work site. Daily re-opening of the road to traffic would still be required and the need for extensive site lighting would be an extra cost. Site safety may be compromised with this approach due to the difficult terrain to effect adequate lighting. This approach is therefore not considered desirable and is not recommended.

A modified Option B has been developed and is considered worthy of consideration:

Option B1

- Road closed (24 hours) for the 2009 Easter school holidays excluding any closure for the full Easter long-weekend and Anzac Day long-weekend (i.e. closure from 14/4/09 – 24/4/09 inclusive).
- Road closed between 9.30 am and 2.30 pm each week day and between 7.00 am and 4.30 pm Saturdays after Anzac Day long weekend for approximately a further 4 weeks.
- This option reduces the tourism impact of the road closure during the two long-weekend public holidays incorporated within the Easter school holiday period compared with Option B.

CONCLUSION

The need to cater for school traffic is considered important as the alternative route involves approximately a 70km detour via Cessnock. Options A, B, B1 and D are all considered sympathetic to school operations. Despite the limited community response to the questionnaire, Option A is considered the most acceptable alternative to minimise community impacts. This option will have negative cost implications compared with Options B, B1 or D. Options A, B and B1 allow the works to be undertaken expeditiously whereas Option D involves considerable delay. Option B will significantly affect tourist visitation to the area during the Easter school holiday period. It is therefore recommended that alternative tenders be invited on the basis of Option A and B1 and that the final determination of which option to pursue be determined once the financial implication of the decision can be readily quantified.

Director Infrastructure & Services Report No. 30/2008

RECOMMENDATION that open tenders be invited for the reconstruction and widening of the gravel section of Paynes Crossing Road at Wollombi both on a staged construction basis and based upon the alternative temporary road closure options outlined as Option A and Option B1 in the body of this report.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 31/2008

SUBJECT: PROPOSED CHANGES TO THE GRAVEL RESHEETING & SEALING PROGRAM

Civil Maintenance Manager, Mr B Jamieson, reports:-

SUMMARY

Council is asked to consider changing projects in the Gravel Resheeting & Sealing Program.

BACKGROUND

Councillors may recall the devastation to our road and infrastructure network that occurred during the storm that visited our area on the June long weekend 2007. Our area was declared a natural disaster by the NSW State Government therefore gaining access to two forms of grants from the State Government.

The Department of Commerce allocates funding for initial emergency works and the Roads & Traffic Authority (RTA) allocates funding for repair works. As the guidelines were not available from the Department of Commerce initial repair works on rural roads were allocated to the emergency funding and resulting in a non claimable amount of \$300,000.00.

As the funding was spent on rural gravel roads it is felt that the shortfall should come from the Gravel Resheeting & Sealing Program allocation of \$927,800.

REPORT

At the meeting of the Infrastructure & Services Committee held on 20 August 2008 Council adopted the Gravel Resheeting & Sealing Program for 2008/09.

The projects were:-

- Gills Lane Brunkerville
- Wilderness Road Lovedale
- Old Maitland Road Keinbah
- Murray's Run Road Laguna
- Howell's Road Abernathy
- Barraba Lane Quorrobolong
- Richmond Vale Road Mulbring
- Mt View Road Mt View
- O'Connors Road Nulkaba

A revised program is presented for councils consideration with the \$797 625 remaining.

| | |
|--------------------|--------------|
| Wilderness Road | \$155,874.00 |
| Flood Damage claim | \$300,000.00 |
| Richmond Vale Road | \$260,000.00 |
| Ingles Lane | \$14,000.00 |
| Aveys Lane | \$67,751.00 |

Ingles Lane is a carry over from the 2007/08 program and is considered necessary as it is a safety issue for traffic doing a u turn to get back onto Oakey Creek Rd.

Director Infrastructure & Services Report No. 31/2008

Avery's Lane was severely damaged during the 2007 flood. Residents were cut off for a week as the road was washed away. An initial estimate of \$55,604 was provided to the RTA as claim for the repairs however a detailed estimate undertaken by Councils staff doubled the original estimate.

Council will make a claim to the RTA for the extra repair works but we need funding to complete the project by June 09 as the flood damage repair funding will be withdrawn at this date.

Projects from the original program New Street Mulbring, Metcalf Lane, O'Connors Road Nulkaba, Mount View Road Mt View, Old Maitland Road, Murrays Run Road Barraba Lane and Gills Lane will be carried over to the 2009/10 program.

CONSULTATION

Discussions with Council's Roads, Bridges & Drainage Manager, Council's Asset Engineer and Director Infrastructure & Services have taken place and are aware of the changes.

STRATEGIC LINKS

a. Management Plan

NIL.

b. Other Plans

NIL.

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

NIL.

b. Financial Implications

Council's Finance Coordinator Infrastructure & Services reports that the following meeting with the Department of commerce held on 24 November 2008, an agreement was reached over the amount to be reimbursed for the June 2007 storm.

The Department of Commerce agreed to reimburse Council for the emergency works including that expenditure incurred during ordinary time as reported in the DI&S Report No. 23/2008. There is a shortfall in funding resulting from works done on roads not claimable from the Department of Commerce. This shortfall under the guidelines will be approximately \$485,000.

Finance have previously earmarked \$200,000 of the Financial Assistance Grant which is surplus to that which was budgeted. They have agreed to allocate it to the flood damage shortfall.

Additionally the RTA have indicated that they are expecting a further claim from Council for storm damage works from Council. However in the interim it is recommended that the shortfall of \$285,000 be funding from the Gravel Resheeting & Sealing Program.

c. Legislative Implications

Nil

d. Risk Implications

NIL

e. Other Implications

NIL

OPTIONS

N/A

CONCLUSION

While the changes to the projects in the Gravel Resheeting & Sealing Program will delay some projects Council will construct the remaining gravel section of Richmond Vale Road. This road is one of our highest maintenance rural roads. It's traffic volumes have increased and it is difficult to satisfactorily keep the maintenance to the road on our current rural schedule.

The completion of Avery's lane will improve the access to the rural properties and take advantage of the RTA's flood damage allocation.

RECOMMENDATION that Council adopt the changes to the Gravel Resheeting & Sealing Program.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 32/2008

SUBJECT: RESEAL WORKS IN QUARRYBYLONG STREET, SOUTH CESSNOCK

Civil Maintenance Manager, Mr B Jamieson, reports:-

INTRODUCTION

To respond to a "Question without Notice" (reference Minutes of the Ordinary Council Meeting 3 September 2008) from Councillor Olsen.

"Councillor Olsen asked a question regarding the pavement fatigue in Quarrybylong Street".

SUMMARY

To provide Council with information regarding the cause of the pavement failure in Quarrybylong Street, South Cessnock between Gordon Avenue and McFarlane Street.

BACKGROUND

Quarrybylong Street between Vernon Street and McFarlane Street, South Cessnock was included the 2004/05 Urban Resealing Program. The works called for the pavement to be widened by one meter on the eastern side of the road, failures to be heavy patched and the area resealed.

Resealing is undertaken to provide a water proof and trafficable restoration to pavements to prolong their life.

REPORT

The works were completed in February 2006 and included road widening, some minor heavy patching and resealing were successfully completed and performing well. During the works there was no indication of pavement distress or indications of its future failure.

After an onsite inspection with the Roads, Bridges & Drainage Manager, it is believed the drought breaking rainfall experienced in the local area starting on the June 2007 long weekend and a higher level of rain up until the December of 2007 contributed to the pavement failure.

This increased rainfall raised the watertable in the McFarlane Street area weakening the pavement and causing it to be susceptible to heavy traffic which uses the area.

The failed area of Quarrybylong has minimal gutters to protect the pavement compared to the other sections of Quarrybylong Street. These areas have a deep drain running parallel to the pavement. This drain relieves the pavement of excess sub grade moisture keeping the area stable.

The failed pavement has been removed and a stronger material of a greater depth has been constructed. Unfortunately due to residential driveway levels the watertable on the western side could not be deepened the pavements performance will be monitored to see if a subsoil drain is required to be installed at a later date.

CONSULTATION

Council's Roads, Bridges & Drainage Manager was consulted on this report.

STRATEGIC LINKS

a. Management Plan

N/A

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

The repair works funding is limited by the Urban Maintenance allocation.

c. Legislative Implications

N/A

d. Risk Implications

N/A

e. Other Implications

N/A

OPTIONS

N/A

CONCLUSION

The pavement failure of Quarrybylong Street, South Cessnock between Gordon Street and McFarlane Street is attributed to the raising of the water table following increased rainfall experienced by the local area.

RECOMMENDATION that the information be noted.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 33/2008

**SUBJECT: CUNNEENS BRIDGE, WOLLOMBI REPLACEMENT ALIGNMENT
OPTIONS**

Infrastructure Services Manager, Mr K Dillon, reports:-

SUMMARY

Approval is sought to publicly exhibit three (3) alternative road realignment options for Paynes Crossing Road to enable public comment before Council's adoption of a preferred route for the replacement Cunneens Bridge and road approaches over Congewai Creek at Wollombi. The three options are shown in the Enclosures to this report.

BACKGROUND

A report to Council detailing the heritage assessment and resulting recommendations was submitted to Council at its Meeting of 20 September 2006 (Director S&CS Report No 129/2006 refers).

The Council resolved to adopt the following recommendations:

1. Council adopt the heritage study undertaken by Bill Jordan & Associates Pty Ltd for conservation management of Cunneens Bridge.
2. Council adopt the proposal to construct a new bridge downstream of the existing structure including architectural treatment as a "gateway" to Wollombi.
3. Council liaise with the Convict Trail Association concerning design of an interpretive area for the Great North Road on the approach to the existing Cunneens Bridge.
4. Council forward a copy of the report and its proposal to construct a new bridge to the NSW Heritage Office for approval.
5. Council place on exhibition the Cunneens Bridge Heritage Study and concept designs of the proposed new structure for public comment.

As a result the three volumes of the heritage study undertaken by Bill Jordan & Associates Pty Ltd for conservation management of Cunneens Bridge, together with concept designs for a new concrete structure downstream were placed on public exhibition.

At its Ordinary Meeting held on 3 October 2007 Council considered the Director Works & Services Report No 16/2007 concerning subsequent developments with the Cunneens Bridge replacement project. At that meeting Council resolved:

1. "Council approve further investigation of the upstream route option for the new bridge to carry Paynes Crossing Road over Congewai Creek.
2. A further report be presented to Council on the outcome of the former cemetery archaeological research as part of a review of the realignment options."

Shortly after making these resolutions Council received a petition involving 139 signatories in support of the previously adopted downstream bridge alignment route. This report also addresses that petition.

REPORT

Considerable further investigation work has been undertaken at the site for both upstream and downstream route options for the replacement bridge and approach roadworks. This has included:

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- heritage research of burial records for the former Wesleyan Cemetery, a shed within the road reserve situated adjacent to 'Kalamondah', and the general route alignment to Wollombi village,
- geotechnical assessment for bridge piling foundation design and pavement design,
- archaeological research following identification of parts of the area as containing potential indigenous archaeological deposits,
- assessment of flora and fauna constraints at the site.
- investigation of public utility constraints affecting the project,
- assessment of the private 'Meeting of the Waters' project proposal.
- investigation of road alignment impacts on neighbouring properties.

All of these investigations have involved considerable expenditure and staff time, with virtually nothing to show 'on the ground' towards construction of the replacement bridge. Nevertheless, the investigations have been required to comply with statutory requirements and they have helped crystallise or eliminate potential project constraints and hence help clarify a preferred route alignment.

Wesleyan Cemetery

Investigation and interpretation of the Wesleyan Cemetery records was seen as an essential pre-requisite for Heritage Office permissions to disturb any part of the cemetery site. Elizabeth Roberts of the Convict Trail Project group has volunteered her time and expertise to undertake the necessary research to ascertain a possible list of persons buried there. Her research has been extensive and commendable.

Her research revealed that there are 690 deaths registered in Wollombi between 1856 (the start of compulsory registration) and 1900, by which time she determined that the cemetery was no longer in use.

From the 690 deaths she extracted all known burials in Wollombi, Ellalong, St Albans and the MacDonald Valley; Mulbring; Nulkaba; Wisemans Ferry plus Howes Valley and Putty private cemeteries as well as checking for burials in Broke and Warkworth. She also extracted the people who are likely to have been buried in any of these places as their siblings or parents or children are also buried there and they or their parents were resident in that particular area e.g. Howes Valley.

Elizabeth then checked the shortened list against electoral rolls for 1869-70 and 1878-9 and the Greville post office directory for 1862 and 1878-9. This showed that most of the names in the missing burials are Wollombi families. This has left 340 persons with no known place of burial. She then checked this list against the 2987 births registered in Wollombi between 1856-1900 to find that the majority of the deaths with no known place of burial recorded are infants or very young children.

Council supported Elizabeth's research by way of financial contribution towards transcribing the 'place of burial' details from the 340 identified deaths certificates. The result of this investigation has been to identify one definite Wesleyan and 8 possible Wesleyans as the maximum number of people who are buried in the Wesleyan Cemetery.

Details of the known burial are:

Elizabeth Charter aged 55 died 28 July 1864 buried Wesleyan Methodist Burial Ground Wollombi

The following records with no religion or place of burial registered may be in the Wesleyan Cemetery:

John Wright died 1856 aged 40 years farm labourer
Timothy Reedy aged 60 years died 1857

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James Ryan died 1859 43 years
James Hewens died 1859; 20 days old
William D Parker died 1863; 7 months old no funeral service preformed.
John Alfred Mitchell 6 days died 1884
Henry Jonas Robert Daly 9 days died 1887
Clara Turner 3 days died 25 Sept 1900 Wollombi

Burials occurring before Elizabeth Carter (1864) are considered more likely to have also occurred in the Wesleyan Cemetery, but Elizabeth Roberts suspects the later ones are not, especially the 1900 burial.

Elizabeth Roberts concludes that the only other possible burials in the cemetery would be unregistered deaths post 1856. With no Church records and no registrations there is no way of identifying these people as they could just as easily have been buried in the back yard if they were not registered. Elizabeth's research has revealed that there are numerous small private burial grounds around the valley.

It is concluded from this research that the cemetery was used sparingly and that minor disturbance is unlikely to encounter any grave sites. The ground probing radar investigations previously undertaken in the potentially affected area revealed some minor soil profile anomalies but was inconclusive as to the presence of any graves.

Both Option B and C affect the cemetery site to varying degrees, with Option 'C' having a very lower impact. The scope of construction work requiring cemetery disturbance has been discussed with Heritage Office staff and it has been indicated that approval would be given to an Exceptions Permit under s139(4), Heritage Act to allow the proposed pavement work to proceed.

Some community sensitivity to building a road over a former cemetery is understandable. The invitation of community comment on the various alignment options is considered the best way to gauge such sentiment.

Shed adjacent to 'Kalamondah'

Heritage assessment of the shed situated within the road reserve adjacent to 'Kalamondah' has revealed that the structure has low heritage value and that demolition can proceed subject to archival recording. From anecdotal information it is understood that the structure was built by Council as a tool store during the time when the then owner of 'Kalamondah', Mr Edgar Leslie, was employed by the then Kearsley Shire Council. This would explain why the shed is built on the public road and not within private property.

It appears that use of the shed has continued to be enjoyed by successive owners of the 'Kalamondah' property due to its close proximity to the 'Kalamondah' residence. However this adverse possession does not entitle the user to claim any interest in the site pursuant to s45D (3) Real Property Act, 1900.

All alignment options affect the shed in order to preserve the convict pick markings on a rock outcrop on the opposite side of the road in this vicinity, as well as retain reasonable access amenity to the 'Kalamondah' residence. Demolition is therefore considered essential.

Discussions have been held with the owner of 'Kalamondah', Mr Tony Palfreeman, concerning demolition of the shed. Whilst he expressed a preference for retention of the structure, he acknowledged the competing site constraints and the need to improve the road geometry for safety reasons. He also expressed a desire, in the event of its demolition, to be compensated for its loss or for Council to erect a replacement shed. This issue together with

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issues such as access and fencing adjustments can be addressed as part of any road widening acquisition compensation negotiations.

Indigenous Archaeological Issues

During the existing bridge site heritage assessment undertaken in 2005/06, the consultant identified two potential archaeological deposit (PAD) sites along the proposed route. These sites have been the subject of Research Permits pursuant to s87, National Parks and Wildlife Act, 1974, which required eight (8) test trenches to be excavated and sieved.

The research within PAD No.1 involving four (4) trenches on the Wollombi village side of Congewai Creek revealed a total of seven (7) stone artefacts of low significance. The consultant has concluded that the National Parks and Wildlife Service (NPWS) should favourably consider issuing a 'Permit to Destroy' for the site without requiring further salvage.

The research within PAD No 2 involving four (4) trenches on the Broke side of Congewai Creek revealed a total of 107 stone artefacts. Most (86) artefacts were encountered in Pit 1 situated on the spur ridge near the abovementioned shed. The findings in Pit 1 were considered of low-moderate significance. The consultant has recommended that the NPWS consider issuing a 'Permit to Destroy' for all areas other than on the spur ridge. Whether the NPWS requires further salvage to occur in the spur ridge area will be the subject of further discussions and negotiations with the local indigenous stakeholders and the NPWS. Notwithstanding, the research has indicated that this issue should not affect the route alignment decision as the spur ridge is required to be disturbed by all route options.

Flora and Fauna

Council's consultant has indicated that there are no significant floral or faunal implications to any of the route alignment options. The narrow strip of River Oak trees adjacent to the creek occurs on both sides of the existing bridge and is affected by all options to about the same degree. This is mapped as part of the Wollombi Redgum River Oak Forest unit which is considered an endangered ecological community. The project is intended to incorporate significant replanting of trees in this vicinity to help screen the new structure from view from nearby residences, since the proposed bridge is approximately 3m higher than the existing bridge and will likely be more apparent in the landscape.

The intended number of replantings will greatly exceed the number of trees to be cleared so a net positive outcome is expected, regardless of which option is adopted. The downstream options (Options 1 and 3) are considered to offer an opportunity to screen the new bridge by plantings within the road corridor, whereas the upstream option (Option 2) would require either additional acquisition than indicated or plantings to occur within private property.

'Meeting of the Waters Project'

This is a private proposal within the 'Kalamondah' property downstream of Cunneens Bridge. It involves improvements to the creek bank's stability and riparian habitat values by way of tree planting and livestock exclusion fencing. Much of this work has been completed with funding assistance from the Department of Water and Energy. The project name reflects the nearby confluence of Congewai Creek and Wollombi Brook (south branch) which occurs approximately 150m downstream from the existing Cunneens Bridge. The confluence is not visible from the road and is not accessible via any public-owned land or right-of-way.

None of the route alignment options affect the subject area as the proposal was specifically set back from the existing bridge to prevent any conflict with the proposal. It has been offered to the owner of 'Kalamondah' that Council would include some plantings within the set-back area once the preferred route is known.

Public Utilities

All options require both telecommunication (Telstra) services and electricity (Energy Australia) pole relocations, but to varying extents. Option 1 and 3 involve the least electricity pole impact (2 poles) with Option 2 affecting 3 poles.

Option 1 and 2 are considered to have a moderate telecommunication impact whereas Option 3 is considered to have a minor telecommunications impact.

Petition Supporting Downstream Option

A petition sponsored by Rex & Paula Thompson, owners of 'The Rectory' property situated immediately adjacent to Cunneens Bridge (on the upstream and Broke side of the bridge) has been submitted to Council and contains 139 signatories. The petition indicates opposition to the upstream option alignment (Option 2) on two bases, namely its significant impact on the former Wesleyan Cemetery; and the inferior road geometry achievable affecting road safety. The petition pre-dates development of Option 3 and hence it is unknown whether all petitioners would continue to support Option 1 over Option 3. The Option 3 alignment has been discussed with Mr & Mrs Thompson and they are prepared to support that proposal in view of its reduced impact on the former cemetery. They remain opposed to Option 2.

The Thompsons also raised concerns regarding the threat posed by the upstream option to the continued stability of the sandstone abutment wingwall relics on the existing Cunneens Bridge, these being the primary convict relics of importance at the site for heritage conservation. The downstream options (Options 1 and 3) are considered to offer the best means of protecting these relics, as a downstream bridge and road approaches will tend to 'dam back' floodwaters (afflux) overtopping the existing bridge, thereby slowing flow velocities during moderate flow events (up to 1 in 5 year frequency). An upstream option would tend to accelerate flows through the new bridge orifice and this flow would be directed at the stone relics immediately downstream, jeopardising both the creek bank and stonework foundation stability.

The proposed public exhibition of all options is considered to be the best mechanism to ascertain the depth of community sensitivity and concerns regarding the numerous aspects and issues surround this project, including disturbance of the former cemetery site and existing bridge relics. It is recommended that the petitioners be advised that Council will be mindful of their submission when deliberating on the preferred option route at its 4th February 2009 meeting

Road Widening and Road Closure Requirements

All options require road widening acquisitions to varying extents to contain the proposed roadworks. All options also include opportunities to close and transfer surplus areas of public road to offset or offer as part of any compensation for the necessary acquisitions. The plans shown in the Enclosures details the various acquisition and closure parcels as well as the affected land owners. While there are numerous properties affected, the options only affect three (3) individual owners. The lists shown on the Enclosures summarises the net areas of acquisition / closure affecting each individual owner for each option.

Option 2 involves the greatest area of acquisition with Option 3 requiring the least. Option 2 also affords the greatest opportunity for road closure compared with Option 3 offering the least. Option 3 incorporates the best net road acquisition / closure balance for the affected owners as well as reasonable equity to dealings with the affected parties.

CONSULTATION

Extensive ongoing consultation has occurred throughout the Wollombi community concerning progress with the project. Monthly updates have been provided to the Wollombi Valley Progress Association and also to the 'Our Own News' (OON) publication circulated in Wollombi and surrounding communities. An update presentation on the project was also provided to the Progress Association on 27 September 2008 by the Infrastructure Services Manager, Mr K Dillon.

Numerous discussions have been held with the main affected landowners, Mr Tony Palfreeman ('Kalamondah') and Mr Rex Thompson ('The Rectory') concerning the various options and acquisition / closure impacts.

The general community has not yet had an opportunity to comment on the most recently developed Option 3. It is therefore recommended that further public consultation be undertaken before Council finally adopts its preferred route.

It is proposed to undertake public exhibition of all options from 12 December 2008 until 19 January 2009. This will allow reasonable opportunity for the public to gain an appreciation of the options and issues and allow the comments received to be reported to the Ordinary Council Meeting on 4th February 2009 for final decision.

STRATEGIC LINKS

a. Management Plan

The project is funded under Council's 2008/09 Budget.

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

The general financial implications of the options are similar in terms of bridge and road approach works costs. Property acquisition and utility adjustment cost associated with each option will vary in accordance with the level of impact as outlined above. Notwithstanding, these costs are not expected to significantly affect the overall project budget.

One aspect of the project that would vary significantly between the upstream (Option 2) and downstream (Options 1 & 3) options is the likely cost of creek bank protection works associated with safeguarding the stone wingwall relics. It is considered likely that the NSW Heritage Office will require significant additional erosion protection measures to be installed around the existing bridge abutments should an upstream alignment option be adopted. The cost of these works are likely to have a moderate influence on the project budget required.

c. Legislative Implications

Public consideration of the options has no legislative implications. Congewai Creek is not a navigable waterway and in any case the provisions of section 79, Roads Act, 1993 are not considered mandatory.

d. Risk Implications

Delays in undertaking the works could jeopardise completion of expenditure of the Auslink funds available for the project before 30 June 2010 which would have financial implication for Council. Council however has power to use and occupy any land necessary adjacent to a public road to carry out road works pursuant to section 175, Roads Act, 1913. This power could be exercised if necessary to avoid forfeiture of the funding.

Delays also have consequence for the continued functionality of the existing bridge which is currently restricted to a 9 tonne gross vehicle mass loading. The recent concrete chicanes installed along Paynes Crossing Road have helped reduce the volume of over-loaded vehicles using the route and traffic is being periodically monitored to check compliance. The risk of structural damage to the bridge however remains as smaller over-loaded trucks can still access the route.

The longer the delay in constructing the new bridge the more likely that the cost of the new works will increase and additional expenditure will be required to maintain the existing structure in service. It is therefore considered imperative that Council not defer consideration of this matter.

e. Other Implications

NIL.

OPTIONS

Council could decide to adopt a preferred option without further public consultation, however in view of the significant interest in the project within the Wollombi community, this course of action is not recommended. The slight delay of less than two months in determining this matter is considered warranted in the circumstances.

CONCLUSION

Public exhibition of the three route options developed for the replacement alignment of Paynes Crossing Road over Congewai Creek at Wollombi should occur from 12 December 2008 until 19 January 2009 due to the significant community interest. This will facilitate a report on the submissions received being presented to the Ordinary Council Meeting on 4 February, 2009 for determination of the preferred route.

RECOMMENDATION that

1. Public exhibition of the three (3) route options developed for the replacement alignment of Cunneens Bridge over Congewai Creek on Paynes Crossing Road at Wollombi shown in the Enclosures to this report occur from 12 December 2008 until 19 January 2009 and inviting public comment.
2. A report be presented on the submissions received to the Ordinary Meeting of Council to be held on 4 February, 2009 with a recommended option.

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3. Council formally express its appreciation to Mrs Elizabeth Roberts of the Convict Trail Project Group for her research assistance in regard to this project.
4. The petitioners be advised that Council will be mindful of their submission when deliberating on the preferred option route at its 4 February 2009 meeting.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 34/2008

SUBJECT: 2008/09 RECREATION AND COMMUNITY CAPITAL WORKS AND PLANNED MAINTENANCE PROGRAMS

Recreation Services Manager, Ms Nicole Benson, reports:-

SUMMARY

The purpose of this report is to provide Council with an update on the progress of the various programs including minor works, capital works and planned maintenance programs within the Recreation Services Budget. This report specifically deals with the following prioritised programs adopted by Council:-

- Recreation Minor Works Program
- Recreation Capital Works Program
- Recreation Buildings Planned Maintenance Program
- Recreation Buildings Capital Works Program
- Playgrounds Planned Maintenance and Capital Works Program
- Pools Planned Maintenance and Capital Works Program
- Floodlights Planned Maintenance and Capital Works Program
- Community Buildings Planned Maintenance and Capital Works Program

BACKGROUND

Each year the previously adopted planned maintenance and capital works programs are reviewed based on a number of factors including links to strategic plans, external funding opportunities, consultation with user groups and key stakeholders, addressing limitations in the provision of recreation and community facilities, the condition of facilities and the amount and type of utilisation including trends. This methodology is used to develop prioritised planned maintenance and capital works programs for recreation and community facilities.

REPORT

The following tables provide information about the progress of each project listed within the respective programs:-

| 2008/09 Minor Works Program | | | |
|--|--------|------------|---|
| Project | Budget | % Complete | Comment/Start Date |
| Sporting field improvements program incorporating slicing, fertiliser and herbicide and top dressing | 45,000 | 50 | Millfield Oval to be topdressed December 08/January 09 depending on climatic conditions |
| Parks signage and naming plaques | 10,000 | 5 | Research underway |
| Recreation planning documents for surveys, masterplans etc | 15,000 | 50 | North Rothbury masterplan in January 09 |
| Planting of advanced stock trees at Howe Park Abermain | 5,000 | 100 | |
| Installation of picnic seating and concrete slab beneath existing shelter, improvements to cricket practice nets at Booth Park Kurri Kurri | 10,000 | 100 | |

2008/09 Minor Works Program

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| Project | Budget | % Complete | Comment/Start Date |
|---|--------|------------|--------------------|
| Picnic shelter and aluminium bench seating at Millfield Oval | 11,000 | 0 | January 2009 |
| Extension to irrigation lines at Margaret Johns Park Kurri Kurri | 2,000 | 10 | Currently underway |
| Slacks Park Wollombi stage 1 park upgrade incorporating refurbishment of picnic shelters and 115m koppers log fencing | 11,500 | 0 | March 2009 |
| Installation of a picnic shelter and seating at Lions Park Branxton | 7,500 | 90 | Currently underway |
| Concrete pathway to link car park to picnic facilities at Peace Park | 3,000 | 100 | |

| 2008/09 Recreation Capital Works Program | | | |
|--|--------|------------|--------------------|
| Project | Budget | % Complete | Comment/Start Date |
| Manning Park (Cessnock) fire fighters training facility | 23,000 | 20 | Currently underway |
| Greta Central Oval fencing | 15,000 | 0 | April 2009 |
| Mulbring Oval replacement of cricket practice nets in partnership with Mulbring Cricket Club and Cricket NSW | 30,000 | 100 | |
| Greta Tennis Courts surface upgrade in partnership with Greta Tennis Club | 22,000 | 5 | January 2009 |
| Baddeley Park Hockey Centre pathway and fencing improvements | 6,000 | | Jun 2009 |
| Howe Park (Abermain) automatic irrigation system | 40,000 | 5 | Currently underway |
| Miller Park (Branxton) automatic irrigation system | 34,500 | | February 2009 |
| Pokolbin Park stage 2 upgrade as per masterplan – fencing and picnic shelter refurbishment | 15,000 | | May 2009 |
| Jefferey's Park Kearsley fencing along Congewai Street | 10,000 | 0 | February 2009 |
| Cessnock Netball Courts stage 1 garden renovations | 15,000 | 0 | February 2009 |

| 2008/09 Recreation Buildings Capital Works Program | | | |
|---|---------|------------|--|
| Project | Budget | % Complete | Comment/Start Date |
| Miller Park Branxton amenities block construction | TBD | 5 | DA assessment underway. Construction tender to be prepared January 2009. |
| Howe Park Abermain amenities block construction stage 1 | 100,000 | 5 | User group consultation January 2009 |

| 2008/09 Recreation Buildings Planned Maintenance Program | | | |
|--|--------|------------|--------------------|
| Project | Budget | % Complete | Comment/Start Date |
| Hot water service upgrades at various locations | 3,000 | 50 | Ongoing |
| Kiosk security upgrade at Jefferey's | 4,500 | 100 | |

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| | | | |
|--|--------|-----|--------------------|
| Park Kearsley | | | |
| Water line replacement at Mount View Basin | 3,000 | 0 | January 2009 |
| Backflow device replacements at various locations | 8,500 | 50 | Ongoing |
| Stage 2 expansion of amenities at Carmichael Park Bellbird | 49,700 | 95 | |
| Disconnection and rehabilitation of former septic area at Kitchener Poppethead | 3,500 | 10 | January 2009 |
| Stage 2 Greta band rotunda improvements | 10,000 | 100 | |
| Stage 3 Jeffries Park (Abermain) improvements - power upgrade to park | 27,500 | 0 | June 2009 |
| Stage 2 amenity refurbishment at Weston Park | 10,000 | 0 | February 2009 |
| Securing and repairs to centre of roof at Turner Park toilets and amenities | 10,000 | 10 | Currently underway |
| Pokolbin Park construction of new public toilets in line with masterplan | 57,300 | 10 | June 2009 |

| 2008/09 Playgrounds Capital Works Program | | | |
|--|--------|------------|-----------------------------------|
| Project | Budget | % Complete | Comment/Start Date |
| Playground repairs and upgrades | 6,900 | 50 | Ongoing in line with safety audit |
| Stage 2 playground upgrade at Hall Park, Cessnock | 24,000 | 0 | March 2009 |
| Installation of rubber wetpour Safety Surfacing at Bellbird Community Hall | 15,000 | 0 | January 2009 |

| 2008/09 Pools Planned Maintenance And Capital Works Program | | | |
|---|--------|------------|---|
| Project | Budget | % Complete | Comment/Start Date |
| Cessnock and Branxton pools – annual pump maintenance, pre-season maintenance and structural assessment. | 39,000 | 95 | Awaiting design for a ramp at Branxton Pool |
| Branxton Pool lighting, pool cleaner and concourse replacement. | 28,500 | 100 | |
| Cessnock Pool floodlight repairs, fencing around plant room and filter bed pipe replacement | 18,800 | 100 | |
| Kurri Kurri Aquatic Centre pool pump replacement, maintenance and painting, purchase of defibulation unit and renewal of stands for heat pumps. | 48,250 | 50 | Maintenance and painting scheduled for April 2009 |

| 2008/09 Floodlights Planned Maintenance And Capital Works Program | | | |
|--|--------|------------|--|
| Project | Budget | % Complete | Comment/Start Date |
| Floodlight globe replacements, focusing, starter replacements and repairs to floodlight systems across the LGA | 15,000 | 5 | Majority of works occur in March prior to winter sporting season |
| Installation of 2 x 18m poles and 3 | 40,000 | 5 | January 2009 |

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| | | | |
|---|--------|---|--------------|
| lights per pole at Howe Park, Abermain. | | | |
| Installation of 2 x 18m poles and 6 lights per pole at Orange Street Oval, Abermain | 60,000 | 5 | January 2009 |

| 2008/09 Community Buildings Planned Maintenance And Capital Works Program | | | |
|---|---------|------------|--|
| Project | Budget | % Complete | Comment/Start Date |
| Grounds maintenance at community facilities | 5,000 | 25 | |
| Floor maintenance at Cessnock Civic Indoor Sports Centre and Bellbird Community Hall | 15,000 | 0 | Sports Centre scheduled for January 2009 and Bellbird Hall February 2009 |
| Scheduled maintenance (Fire Safety and electrical) at community facilities | 18,000 | 50 | Ongoing |
| Reactive maintenance at community facilities | 20,000 | 50 | Ongoing |
| Signage and planning for all community facilities | 5,000 | 10 | March 2009 |
| Cessnock Community Performing Arts Centre Senior Citizen's room fit out | 37,000 | 95 | |
| Abermain Plaza Hall roof sheeting, stair repairs and internal painting | 10,300 | 85 | Painting scheduled for April 2009. |
| Kurri Kurri Community Centre stair access to roof to comply with OHS requirements | 25,000 | 0 | March 2009 |
| Weston Civic Centre bar heater removal in Senior's Hall, installation of air conditioning in Senior's Hall and gutter repairs | 11,600 | 100 | |
| Millfield Community Hall construction of toilets, kitchen improvements and increased storage | 81,000 | 15 | DA approved works scheduled to commence February 2009 |
| Branxton Community Hall landscaping, fencing and access improvements | 25,000 | 100 | |
| Cessnock Gem and Mineral Club window repair and security improvements | 2,650 | 50 | Currently underway |
| Abermain School of Arts ramp and toilet construction and relocation of services | 40,700 | 15 | DA assessment underway. Start date June 2009 |
| Cessnock Civic Indoor Sports Centre | 748,000 | 100 | Official opening scheduled for New Year and report on budget to be presented to Council in February 2009 |

Each of the above programs, with the exception of the Building Programs, is running in line with budgets and timeframes and can be expected to be complete within this financial year. Staffing levels in the Building Services section are being assessed with a view to replace staff that have left the organisation, or where areas are lacking. For example, a plumber, carpenter and painter. Building Services is working with Human Resources on this resourcing issue.

Two matters have been raised with Council in relation to electricity supplies at Rotary Park Kurri Kurri and Kurri Kurri Sportsground.

1. Requests have been made to increase the electricity supply in Rotary Park Kurri Kurri to better cater for the growing number of events in the park which require electricity. For example Carols by Candlelight, Nostalgia Festivals and other civic events and celebrations.
2. The electricity supply to the media box on the northern side of the Kurri Kurri Sportsground was disconnected by Energy Australia in June this year due to it being considered to be defective by the electricity authority. Electricity supply in this area of the Kurri Kurri Sportsground is integral to the operation of the venue during rugby league games as recording, time keeping, announcing and cold beverage sales occur here. Alternate options for these duties were investigated by Council with the Club and revealed that whilst the sale of drinks could occur at the main kiosk on the southern side of the ground, there is nowhere else at the facility to undertake time keeping, recording and announcing with ease. As such, Council proceeded to obtain advice and a subsequent quotation from a licenced electrician to complete works so that the media box can be operational for the 2009 rugby league season which commences March 2009.

Miller Park (Branxton) amenities block construction (as listed in the Recreation Buildings Capital Works Program) has been on the program since 2007/08. The assessment of the development application is complete and the assessment of the construction certificate is underway. A separate report will be prepared for Council on this project as there are a number of funding sources and opportunities associated with the project.

CONSULTATION

- Recreation Operations Coordinator
- Open Space Operations Coordinator
- Building Services Coordinator
- Financial Coordinator
- Management Accountant
- Building Assessment Officer
- Electrical contractors
- Various representatives from Hall and Sporting Committees as well as some local residents

STRATEGIC LINKS

a. Management Plan

The provision of recreational and community services/facilities by Council is highlighted in the Management Plan. The specific projects identified within each planned maintenance and/or capital works program have been developed in order for Council to achieve its goal of promoting and providing quality services and facilities which address the needs of the community. Each of the capital improvement programs is included within the Management Plan.

b. Other Plans

Projects contained within the Recreation Services Budget have direct links to many existing strategic documents including:-

- a. Draft 2008 Recreation and Open Space Strategic Plan
- b. Masterplans for Miller Park (Branxton), Greta Central Oval (draft), Branxton (town), Pokolbin Park, Howe Park (Abermain),

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- c. Plans of Management for Baddeley Park (Cessnock), Miller Park (Branxton), Greta Central Oval, Howe Park (Abermain),
- d. Aquatics Strategy, Social and Community Plan

STATUTORY IMPLICATIONS

c. Policy and Procedural Implications

N/A

d. Financial Implications

The cost to complete a power upgrade incorporating a new meter box, an aerial service, connection to toilets, underground power supply and provide additional power points at Rotary Park Kurri Kurri is \$7,557. There are no funds in the current Recreation Budget for these works.

The cost to repair the fault at Kurri Kurri Sportsground is \$12,415 and does not include Energy Australia fees. Energy Australia fees are not known until an application to complete the works is lodged with them. There are no funds in the current Recreation Budget for these works and Kurri Kurri Rugby League Club have advised Council that they do not have any funds to contribute.

Funds are allocated annually towards reactive maintenance at various community and recreation facilities. Funds for this type of issue would normally be sourced from Parks Services Reactive Maintenance and the budget for this area has been expended.

A review of the current Recreation Services budget did not highlight any sources of funding for either project. However because of the high need and relatively low expense these projects should be undertaken. There are adequate funds recognised in the quarterly review.

e. Legislative Implications

N/A

f. Risk Implications

N/A

g. Other Implications

Country Rugby League requires the recording and timekeeping of games in accordance with Country Rugby League guidelines and this can not occur unless electrical repairs are undertaken at Kurri Kurri Sportsground.

OPTIONS

The works at Kurri Kurri Sportsground are considered a higher priority than those at Rotary Park.

The Kurri Kurri Rugby League Club are registered in the 2009 Tooheys Newcastle Rugby League Competition and the competition draw has been drafted with a view to finalise it by mid-January 2009. As such, there is an expectation that the facility will have the capacity to stage competition games.

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Civic events can still take place in Rotary Park Kurri Kurri however, it is recognised that the electricity upgrade will improve operation of such events and subsequently the capacity of the park and reduce Council risk during public events.

CONCLUSION

The 8 programs listed above are being completed in a reasonable timeframe and mostly within budget. Council officers will continue to review and develop programs based on a number of factors including links to strategic plans, external funding opportunities, consultation with user groups and key stakeholders, addressing limitations in the provision of recreation and community facilities, the condition of facilities and the amount and type of utilisation including trends.

Repairs to Kurri Kurri Sportsground electricity could not have been planned for and the works at Rotary Park.

During large events such as markets and nostalgia weekend the supply of power is becoming a potential OH&S issue and there is a risk to the public.

RECOMMENDATION that Council include electricity repairs at Kurri Kurri Showground and power upgrade at Rotary Park, Kurri Kurri in the Recreation Program for 2008/2009.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR CORPORATE & COMMUNITY REPORT NO. 23/2008

SUBJECT: ANNUAL REPORT FOR 2007/2008

SUMMARY

Council is required to prepare an Annual Report by 30 November of each year.

BACKGROUND

Part 4, Section 428 of the Local Government Act 1993 requires Councils in NSW to furnish to the Minister for Local Government and certain other persons, an Annual Report. The report is due to be lodged with the Minister for Local Government by 30 November annually and must set out Council's achievements with respect to the objectives and performance targets set out in the Council's Management Plan for the previous year and a number of other items required by Section 428.

REPORT

A copy of Council's Annual Report for the 2007/2008 Financial Year is enclosed for the information of Councillors.

A copy of the Annual Report was sent to the Department of Local Government (DLG) prior to the 30 November along with a covering letter and was also emailed to the DLG.

A copy of the Annual Report has also been posted onto Council's website.

CONSULTATION

Office Coordinator – Corporate and Community
General Manager
Director City Planning
Director Infrastructure and Services

STRATEGIC LINKS

a. Management Plan

The Annual Report is linked to the 2007/2008 Management Plan as the Management Plan sets out the objectives and performance targets for Council to achieve for the financial year. The Annual Report demonstrates the extent to which Council has achieved these objectives and performance targets.

b. Other Plans

The Annual Report is also linked to the 2007/2008 State of Environment Report (which was reported to Council on 5 November 2008), Council's Expenses and Facilities Policy for 2008 (which was adopted by Council on 22 October 2008) and the 2007/2008 Annual Financial Reports (which were reported to Council on 19 November 2008).

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

There are no policy or procedural implications for this report.

b. Financial Implications

There are no financial implications for this report.

c. Legislative Implications

Section 428(1) of The Local Government Act 1993, requires all Councils in NSW to prepare an Annual Report by 30 November.

Section 428(3) requires the Annual Report to be furnished with the Minister for Local Government.

d. Risk Implications

There are no risk implications for this report.

e. Other Implications

There are no other implications for this report.

OPTIONS

There are no options for Council other than to prepare and submit the Annual Report as required by the Local Government Act.

CONCLUSION

The Annual Report for the 2007/2008 financial year was prepared and submitted by Council to the Minister for Local Government as required by the Local Government Act. This report is to notify Councillors of the completion of the Annual Report for the 2007/2008 financial year and to provide a copy to Councillors for their information.

RECOMMENDATION that the report be received and the information noted.

To: **Ordinary Council Meeting**
10 December 2008

C BENNETT
DIRECTOR CORPORATE & COMMUNITY
14 November 2008

**DIRECTOR CORPORATE & COMMUNITY
REPORT NO. 24/2008**

**SUBJECT: PROPOSED LICENCE FOR COMMUNITY BUS PARKING – KURRI
 KURRI COMMUNITY CENTRE**

Mr Allan Selway, Casual Senior Property Officer, reports:-

SUMMARY

Council approval is sought for the granting of a licence agreement to Kurri Kurri Community Centre Inc (KKCC Inc) over Council land for bus parking associated with operation of the Kurri Kurri Community Centre.

BACKGROUND

KKCC Inc has received funds from the Department of Ageing, Disability and HomeCare to purchase a modified bus for HACC (Home and Community Care) projects in the Cessnock LGA. The bus will be used to transport clients to and from the Community Centre.

The bus is proposed to be kept on Council parking land adjacent to the Community Centre.

REPORT

Council approved a licence for 5 years to KKCC Inc over premises used for the Community Centre operations in Lang Street Kurri Kurri. The licence commenced on 3 June 2006.

KKCC Inc has obtained funding for the purchase of a bus for community service. Adjacent car parking land in Bruncker Street, Lot 1 Sect. 19 DP 758590 is seen by KKCC Inc as the most suitable parking site for the bus and it has requested approval to use part of the site.

Council's parking site is classified as Operational Land.

Licensing for bus parking could be achieved by reference to the community centre licence so the two occupations are consistent and inter-related.

Some upgrade will be required to the space provided by Council. This will be undertaken by KKCC Inc in consultation with Council, at no cost to Council and by obtaining the necessary DA approvals.

The car park over which the licence agreement is proposed is included within the enclosure document.

CONSULTATION

The proposed bus parking licence is supported by Council's;

Recreation Services Manager
Infrastructure Services Manager
Economic Development Manager.

STRATEGIC LINKS

a. Management Plan

N/A

b. Other Plans

There are no Parking Plans associated with the property. The application of parking land to a specific use will not cause a significant or adverse impact on local parking.

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

The licence will ensure suitable public liability insurance protection is provided for the Licensee and Council.

b. Financial Implications

A nominal rent of \$1.10 applies to the Community Centre licence. This will constitute Council's financial involvement in and commitment to the proposal. All costs associated with construction of a shelter for the bus will be borne by KKCC.

c. Legislative Implications

Council is authorised to grant the licence of its own volition having regard to the land classification. The term of licence will not exceed 5 years.

d. Risk Implications

Public risk is accounted for by virtue of insurance provisions of the licence. The bus parking will not interfere with or cause additional risk to operation of the car park generally. Another part of the site is occupied by the VRA and its free access will be preserved.

e. Other Implications

The proposed licence is consistent with the authorised land use.

OPTIONS

The proposal facilitates KKCC Inc operations and obviates the necessity for more remote private parking.

CONCLUSION

The parking proposal has merit and is worthy of Council support.

RECOMMENDATION that:-

1. Council approve the granting of a licence agreement over part of Lot 1 Sect. 19 DP 758590 Brunner Street Kurri Kurri to Kurri Kurri Community Centre Inc for bus parking interdependent with the Licence held for the Kurri Kurri Community Centre.

Director Corporate & Community Report No. 24/2008

2. Council authorise the implementation of this by means of a variation to the current licence in place for the Kurri Kurri Community Centre.

To: ***Ordinary Council Meeting***
10 December 2008

C BENNETT
DIRECTOR CORPORATE & COMMUNITY
20 November 2008

**DIRECTOR CORPORATE & COMMUNITY
REPORT NO. 25/2008**

**SUBJECT: NOTICE OF MOTION - WIRELESS INTERNET FOR VINCENT &
COOPER STREETS, CESSNOCK**

Information Systems Manager, Mr S J Hepple, reports:-

INTRODUCTION

To respond to a "Notice of Motion" (reference Minutes of the Ordinary Council Meeting 22 October 2008) from Councillor Pynsent.

SUMMARY

At the Ordinary Council meeting of 22 October 2008, Council resolved "Council investigates making Wireless Internet available for Vincent & Cooper Streets in Cessnock. This availability would be based on the Hamilton model. Council seeks funding from State or Federal Governments to fund the project".

BACKGROUND

There are two options available for the set up of Wireless Internet in the Cessnock CBD area. The first is the model used in Hamilton. The second is the model used in other Council areas, such as Gilgandra, which has received awards from the Shires Association.

REPORT

The Cessnock CBD is currently serviced by broadband Internet. Telstra provide wireless Internet access with their Next G mobile service. Cabled broadband is available in the CBD and is used by many businesses including Council. Free Internet access is provided as a service by Council at Cessnock Library.

Currently, there is no Federal and State funding schemes available for wireless Internet where services are already available (e.g. Telstra Next G). State Government funding is available for up to 50% of the marketing cost of a wireless network. The network equipment and the installation must to be covered from other sources.

Hamilton businesses provide free wireless Internet to customers using a privately owned wireless network. Some businesses in the area utilise this service as their primary Internet connection. The installation of the network was undertaken and funded by the Hamilton Chamber of Commerce. Installation took place over an 18 month period that included ironing out bugs and coverage dead spots. The network was upgraded twice during this period. Ongoing running costs for the network are paid for by the Chamber of Commerce through a levy on the local businesses. No Federal or State funding was available for the installation of the network equipment. Marketing for the network was funded 50% by the Chamber of Commerce and 50% through a State Government grant from the Department of State and Regional Development. Hamilton Chamber of Commerce engaged a consultant from cre8inggrowth to manage the project and develop the funding application for the marketing program.

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To provide Council with an alternative to the Hamilton solution a proposal was requested from a wireless network provider (myKP) that is used heavily in NSW by Council's looking to provide a wireless service to the community. The solution provider uses a model where they retain ownership of the network equipment but utilise Council properties for the installation. The clock tower on the Council Administration building is an excellent location for a wireless network access point for the CBD. The solution provider approaches local businesses to advertise on the wireless portal home page. Combined with a contribution from Council the advertising funds the ongoing running of the service. If local businesses do not embrace the service and purchase advertising the provider will look to engage national companies. The wireless network is managed and uses logons to control misuse. Support is predominately provided by the wireless company, however they look to engage local IT businesses to provide minor onsite requirements e.g reboot wireless network device.

The projected coverage map of the myKP wireless solution is included in the enclosures.

The technology used in the Hamilton solution is superior to that included in the myKP solution. Hamilton utilises technology that allows people to roam whilst maintaining their wireless connection. The myKP solution uses technology which performs best when people connecting to the wireless network are stationary.

Provision of free wireless network services in the Cessnock CBD has the potential to impact on visitor numbers to the Cessnock Library. Use of the free Internet services in the library, which generates income, may reduce. To offset this people may use the library as a place to sit and access the wireless service. Overall, it is expected that any impact on library visitor numbers will be minor.

CONSULTATION

The following Council Officers have been consulted during the preparation of this Council report:

Economic Development Officer
Grants Officer
Community and Cultural Programs Manager
Finance and Administrative Services Manager

STRATEGIC LINKS

a. Management Plan

Nil

b. Other Plans

Nil

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

Council does not have a budget allocation for the provision of a wireless network solution in the Cessnock CBD.

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The solution implemented by the Hamilton Chamber of Commerce had an installation cost in excess of \$35,000. The ongoing monthly running cost is \$1,200.

The wireless solution proposed by myKP has an installation cost of \$8,400. The ongoing monthly cost is \$120.

c. Legislative Implications

Nil

d. Risk Implications

Nil

e. Other Implications

Nil

OPTIONS

Council has the following options in addition to the recommendation made by officers:-

1. Implement the Hamilton solution at a one off cost of approximately \$35,000 plus a monthly running cost of \$1,200.00.
2. Implement the myKP solution at a one off cost of \$8,400.00 plus a monthly running cost of \$120.00.
3. Do nothing.

CONCLUSION

Currently, no Federal or State government funding exists for the installation of a wireless network in the Cessnock CBD. The Hamilton service was driven, funded and continues to be operated by the Hamilton Chamber of Commerce. A grant from the Department of State and Regional Development funded 50% of the marketing cost for the network.

The myKP model is an alternative model to Hamilton which is lower in cost and the ongoing running costs can be supported by advertising income.

There is no budget allocation for either service in the current Council budget.

RECOMMENDATION that the information be noted.

To: **Ordinary Council Meeting**
10 December 2008

C BENNETT
DIRECTOR CORPORATE & COMMUNITY
27 November 2008

**DIRECTOR CORPORATE & COMMUNITY
REPORT NO. 26/2008**

SUBJECT: REQUEST FOR DONATION

Social Planner, Ms N Drage, reports:-

SUMMARY

On 6 September 2006, Council resolved to adopt a Donations Policy. Since this time Council has funded various donation requests. The policy was amended at Council's meeting held on 19 November 2008.

This report details two (2) requests for donation that Council has received from We Help Ourselves and R&R Homestead Productions. The aim of the donation request from We Help Ourselves is to provide clients of the service with an opportunity to participate in physical activity programs. The R&R Homestead Productions request for donation is for the 15th Annual Reg Lindsay Wine Country Rodeo & Music Re-Union. Both requests for donations are being submitted under criterion three (3) of the Donations Policy, 'Charitable projects directly focussing on Cessnock Local Government Area'.

BACKGROUND

We Help Ourselves

Correspondence was received 19 November 2008 from We Help Ourselves, seeking a charitable donation for the purpose of delivering recreational programs to the clients of the service. The We Help Ourselves Organisation has been operational in the Cessnock LGA for over eight (8) years. The organisation's focus is to work with people who are experiencing substance abuse, in a residential setting. The organisation delivers service to people who live both within and outside the Cessnock LGA. We Help Ourselves is a not-for-profit charitable organisation.

A donation of \$1400.00 is being requested of Council for the purpose of providing clients with an opportunity to participate in recreational programs. The budget provided in the donation request advises that clients of the service will be provided with three (3) pool passes. The total cost of the pool passes has been costed at \$300.00. The remaining \$1100.00 would be used to purchase a rowing machine that would be utilised by the clients of the service. We Help Ourselves is a registered charity. The organisation receives funding from the Commonwealth Government and is partly funded through the contributions of its residents.

If Council were to provide We Help Ourselves with a charitable donation, an acknowledgement of Council's contribution would occur. The organisation would acknowledge the donation through the provision of a thank you letter to Council and if funds were provided for the purpose of purchasing a rowing machine, an acknowledgement as being provided by Cessnock City Council would occur.

R & R Homestead Productions

Correspondence received 19 November 2008 from R & R Homestead Productions, seeking a donation for the 15th Annual Reg Lindsay Wine Country Rodeo & Music Reunion community event. The event is being celebrated in the Cessnock LGA, 14 March 2009. In addition to

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showcasing country music culture and a rodeo, the event serves as a fundraiser for charitable organisations that provide direct service provision within the Cessnock LGA. For instance, the intended beneficiaries of the event include the Westpac Helicopter Service, Lions Club of Cessnock and the St Johns Ambulance Service.

A donation of \$1500.00 is being requested of Council for the purpose of assisting with promotions and advertising for the event. Council has been advised that the promotions for the event will occur within the LGA, in addition to it being promoted at the national level. In previous years the event has been well attended by people from both within and external to the Cessnock LGA. At present, R & R Homestead Productions are in contact with a range of business groups, requesting further project funding. The outcome of the funding request is yet to be confirmed.

If Council were to provide R & R Homestead Productions with a charitable donation, an acknowledgement of Council's contribution would occur in several ways. For instance, displaying Council's logo on promotional activity and via a public, verbal announcement on the day. Additionally, a banner which aims to promote the event, could display the logo of Cessnock City Council.

Copies of both requests are attached.

CONSULTATION

The following Council Officers have been consulted during the preparation of this Council report:

Community and Cultural Programs Manager
Recreation Services Manager

STATUTORY IMPLICATIONS

Legislative Implications

Section 356 of the Local Government Act 1993 allows a Council to financially assist others by contributing money or granting financial assistance to persons for the purpose of exercising its functions.

Financial Implications

There is presently \$13,520.36 remaining in the Donations Budget for Council's consideration. (This is the balance after the donations have been deducted as per Council's resolution at its meeting on 19 November 2008).

Policy Implications

Both requests have been assessed as meeting criterion three (3) of the Donations Policy No. F12.14, 'Charitable projects directly focused on Cessnock Local Government Area'.

CONCLUSION

The request for donation, submitted by We Help Ourselves would assist in the delivery of recreational, rehabilitation programs benefiting the clients of the service.

A donation in response to the request submitted by R & R Homestead would assist in the operational costs associated with the event. Additionally it would assist in the delivery of a charitable project which has direct focus on the Cessnock LGA.

RECOMMENDATION that correspondence be submitted for determination.

To: **Ordinary Council Meeting**
10 December 2008

C BENNETT
DIRECTOR CORPORATE & COMMUNITY
26 November 2008

**DIRECTOR CORPORATE & COMMUNITY
REPORT NO. 27/2008**

**SUBJECT: REPORT OF THE CESSNOCK CITY COUNCIL ACCESS
 COMMITTEE HELD ON 3 NOVEMBER 2008**

A meeting of the Cessnock City Council Access Committee was held on 3 November 2008 and reports as follows:-

Attendees at the meeting included Ms Natalie Drage (Social Planner) in the chair, Cr Cordelia Burcham, Ms Nicole Benson (Recreation Services Manager), Ms Tracy Sharp (Senior Planning Officer), Ms Jessica Forbes (Community Worker), Mr Grant Hamilton (Senior Planning and Assessment Officer), Mr Owen Partridge, Mr Anthony Brooks (Lower Hunter Temporary Care).

Apologies tendered on behalf of The Mayor, Cr Davey, Cr Hawkins, Cr McCudden, Mr Simon Eade, Ms Maureen Donnelly and Mr Mark Trehwella.

GUEST SPEAKER

1. ANTHONY BROOKS – LOWER HUNTER TEMPORARY CARE

Lower Hunter Temporary Care has been in operation for the past 20 years. The service is a support service for people with disabilities and their families. It is not-for-profit and is based in Kurri Kurri but services the Cessnock LGA, Maitland LGA, Port Stephens LGA and some parts of Dungog. Lower Hunter Temporary Care at any time has approximately 100 families that it services with the help of 40-45 volunteers. The service continually seeks the support of volunteers. Lower Hunter Temporary Care offers 6 different services, listed below:-

Host Family Respite Care

This service assists people with a moderate to severe functional disability and their carers. Volunteer host families provide the respite care.

Saturday Fun Club

This service provides out-of-home respite care for school aged children with a disability who have moderate to high support needs and their families/carers. The children are encouraged to actively participate in activities such as games, craft, cooking, music and outdoor play at a centre based venue. They are also encouraged to participate in age appropriate activities such as camps, youth groups and community based recreational and educational activities.

Integrated Vacation Care

This service aims to assist school aged children who have a disability and their families by facilitating the inclusion of children with disabilities into local mainstream vacation care services. Each child is encouraged to actively participate in all aspects of the vacation care centre's program through the assistance of Integration Workers employed by Lower Hunter Temporary Care.

Flexible Respite Options Service

This service aims to provide a comprehensive range of respite support services that are tailored to the needs of the person with a disability (including intellectual, physical, acquired brain injury, dual diagnoses and sensory impairment) and their family/carers. Rather than offering just one type of respite care, a mix of a few different types of respite care can be developed, in response to the individual needs of the person, their carer or family. The respite options may include in-home respite, out-of-home overnight respite, holiday respite, recreational activities and emergency respite care. This service is available to adults and children with a disability aged between 0 – 65 years with moderate to high support needs.

13-17YO

This program is a social support service that aims to assist people aged between 13 and 17 years who have a moderate to severe functional disability. Assistance is given by a worker to help a person access community services or facilities. The service is primarily directed towards meeting the person's need for social contact and in the participation of community life.

Aged Parents Respite Options

This service aims to increase access to respite services for older parents who provide primary care for a son or daughter with a disability. The service is specifically for parent carers aged 65 years and over and Indigenous parent carers over the age of 45 years. The service is flexible and responsive to the needs of ageing parent carers and can include the provision of own home, host family and peer support respite.

BUSINESS ARISING FROM PREVIOUS MINUTES

1. UPDATE – ENTRANCE TO CESSNOCK EX-SERVICES CLUB

The committee were informed that an inspection of the entrance ramp has occurred. It was found that the ramp was not compliant with the Building Code of Australia. The club has been notified and amendments to the ramp are being made.

RECOMMENDED that the committee be notified of the outcome of the final inspection of the ramp.

2. ACCESS FROM THE CESSNOCK CINEMA TO ACCESSIBLE PARKING AREA

The committee were informed that correspondence has been received from the Traffic Committee advising that Council does not own the identified car park and hence it is the responsibility of the owner to alter the car park area.

RECOMMENDED that a Council Officer write a letter to the owner of the car park expressing concern in regards to the accessible car park area.

CORRESPONDENCE

A newsletter from ParaQuad was tabled for the committee to peruse.

RECOMMENDED that the information be noted.

GENERAL BUSINESS

1. ACCESS TO TOILET FACILITIES AT THE BASIN, MOUNT VIEW ROAD

The committee were informed that no upgrade works have been planned in the immediate future. However, it is Council's philosophy that access to amenities are improved when upgrade works are undertaken. In addition, all Plans of Management for Council's facilities

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are being updated at the present time. It was further stated that an inspection of the site has occurred and accessibility issues were acknowledged.

RECOMMENDED that formal comment be provided by Council Staff at the next meeting with regards to a timeframe for when the upgrade may occur.

QUESTIONS WITHOUT NOTICE

1. SENSORY GARDEN AT PEACE PARK, WESTON

The concept of a sensory garden at Peace Park, Weston was put forward to the committee. It was discussed that this idea could be factored into the concept plan for Peace Park.

RECOMMENDED that Council investigate the development of a Sensory Garden at Peace Park, Weston and report back to the next meeting.

RECOMMENDATION that Council endorse the report of the Cessnock City Council Access Committee meeting held on 3 November 2008.

To: **Ordinary Council Meeting**
10 December 2008

C T BENNETT
DIRECTOR CORPORATE & COMMUNITY
26 November 2008

DIRECTOR CORPORATE & COMMUNITY REPORT NO. 28/2008

SUBJECT: REVISED CODE OF MEETING PRACTICE

SUMMARY

Council's Code of Meeting Practice (included within enclosure documents) has not been reviewed since its adoption date of 21 June 2000. This report details a very comprehensive review and updating of the Code of Meeting Practice.

The Revised Code of Meeting Practice (included within enclosure documents) has been reviewed in accordance with the provisions of the Local Government Act, 1993, the Local Government (General) Regulation, 2005, the Department of Local Government's Meeting Practice Note of 2005 and the Department of Local Government's Model Code of Conduct, 2008.

All of the proposed amendments to the current Code of Meeting Practice have been highlighted.

BACKGROUND

A Council Briefing on the **significant** changes or amendments to the current Code of Meeting Practice was held on Wednesday 26 November 2008.

All changes (including significant changes) are highlighted in the Revised Code of Meeting Practice.

REPORT

PROPOSED AMENDMENTS

The following significant amendments/additions are now proposed to the current Code of Meeting Practice :

Proposed Mandatory Changes

Required by the Local Government Act, 1993 and the Local Government (General Regulation) 2005.

Clause 7(1) of the current Code of Meeting Practice under the heading of Extraordinary Meetings (page 5) states "The Mayor may call an Extraordinary Meeting of Council, where, in the opinion of the Mayor, such meeting is deemed necessary and expedient for the conduct of Council business. This is not allowed under section 366 of the Local Government Act, 1993.

The following clause (7.4(1)) has been inserted into the revised Code of Meeting Practice (Page 24). "If the Mayor receives a request in writing signed by at least two Councillors, the Mayor **must** call an Extraordinary Meeting of the Council as soon as practicable but within 14 days after receipt of request." The Mayor may be one of the two Councillors making the written request but the Mayor cannot call Extraordinary Meetings by himself or herself without having written request with another Councillor's signature.

Director Corporate & Community Report No. 28/2008

Clause 7(2) of the current Code of Meeting Practice under the heading of Extraordinary Meetings (page 5) currently states "If the Mayor receives a request, in writing, signed by at least 2 Councillors, the Mayor must call an Extraordinary Meeting of the Council as soon as practicable but within 21 days after receipt of request". This is not allowed under section 366 of the Local Government Act 1993. Section 366 requires the Extraordinary Meeting to be called by the Mayor within **14 days of the request**. The Revised Code of Meeting Practice has the correct days allocated (Page 24).

Clause 8(1) of the current Code of Meeting Practice under the heading of Notice of Meetings (Page 5) states "The General Manager of the Council must send to each Councillor, at least 6 days before each meeting of the Council, a notice specifying the time and the place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting." This is not correct. Section 367(1) of the Local Government Act 1993 states the following "The General Manager of a Council must send to each Councillor, at least **3 days** before each meeting of the Council, a notice specifying the time and place at which and the date of which the meeting is to be held and the business proposed to be transacted at the meeting".

Recommended Changes

Clause 7.8(3) on page 26 of the Revised Code of Meeting Practice now allows the public to address Council for 7 minutes (down from 15 minutes) and allows Councillors 3 minutes to ask questions (down from 15 minutes).

Clause 10.1 (5) on page 34 - Order of Business has been amended so that the information flows in a more efficient manner.

Clause 11 (1) on page 40 - Conflicts of Interests has had the following words inserted "**reasonable and informed person**"

Clauses 11.9 on pages 42, 43 and 44 - (Political Donations exceeding \$1,000), 11.10 (Disclosure required for reportable political donations or gifts) and 11.11 (Register of decisions of Council) are all new additions required by the Department of Local Government and the Department of Planning.

Clause 13.17(1) on page 56 - time Limit on debate, now allows the mover of the motion **three minutes** right of reply (down from 5 minutes).

Clause 18.13 on page 76 – Requests for Verbal Submissions to Council now allows **3 minutes** (down from 10 minutes) for Verbal Submissions to Council.

Clause 18.14 on page 77 – Addressing Committees now allows the public **7 minutes** (down from 15 minutes) to address the Committee and **3 minutes** (down from 15 minutes) for Committee Members to ask questions.

CONSULTATION

Office Co-ordinator
Project Manager
General Manager
Director City Planning
Director Infrastructure and Services

STRATEGIC LINKS

a. Management Plan

N/A.

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

Council currently has a Code of Meeting Practice. The Revised Code of Meeting Practice will replace the current version. The Revised Code of Meeting Practice will be in line with the Local Government Act, 1993, the Local Government (General) Regulation, 2005 and the guidelines produced by the Department of Local Government in 2005.

b. Financial Implications

There are no financial implications associated with this report.

c. Legislative Implications

Section 361 of the Local Government Act, 1993 requires Council's in NSW to prepare a draft (revised) Code of Meeting Practice, give public notice of the draft (revised) Code, advertise and place the draft (revised) Code on public exhibition for at least 28 days and allow 42 days for the public to provide submission on the draft (revised) Code.

Section 363 of the Local Government Act, 1993 requires a Council to amend a current Code of Meeting Practice by adopting another Code after following the requirements of the Local Government Act, 1993.

d. Risk Implications

Nil.

e. Other Implications

Nil.

OPTIONS

Council could choose not to revise the current Code of Meeting Practice.

CONCLUSION

Council is required to adopt a Code of Meeting Practice which is in accordance with the Local Government Act, 1993 and the Local Government (General) Regulation, 2005.

The Revised Code of Meeting Practice enclosure complies with this requirement.

Director Corporate & Community Report No. 28/2008

RECOMMENDATIONS that:-

1. Council adopt in principle the Revised Code of Meeting Practice and place it on public exhibition for 28 days in order to seek public comment, as required by section 361(2) and 361(3) of the Local Government Act, 1993.
2. Council receive public submissions on the Revised Code of Meeting Practice for the mandatory 42 days, as required by section 361(4) of the Local Government Act, 1993.
3. A further report be brought back to Council in February 2009 to consider any submissions and to adopt the Revised Code of Meeting Practice.

To: **Ordinary Council Meeting**
10 December 2008

C BENNETT
DIRECTOR CORPORATE & COMMUNITY
28 November 2008

DIRECTOR CORPORATE & COMMUNITY REPORT NO. 29/2008

SUBJECT: REQUEST FOR DONATIONS

Community Worker, Ms J Forbes, reports:-

SUMMARY

On 6 September 2006, Council resolved to adopt a Donations Policy. Since this time Council has funded various donation requests. The policy was amended at Council's meeting held on 19 November 2008.

This report details two (2) requests for donations that Council has received from the Sponsorship Coordinator of the Cessnock Show and from the Christian Christmas Dinner Committee. The Cessnock Show seeks Council's sponsorship of the event. The aim of the request from the Christian Christmas Dinner Committee is to ensure that a Christmas dinner is provided to people in the Cessnock Local Government Area (LGA) who are in need on Christmas Day. Both requests for donations are being submitted under criterion three (3) of the Donations Policy, 'Charitable projects directly focussing on Cessnock Local Government Area'.

BACKGROUND

Cessnock Show

Applicant Details

Kim Hillery
Sponsorship Coordinator
Cessnock Show
Kim1@idl.net.au

Outline of Purpose of Donation Request

Correspondence was received from the Sponsorship Coordinator of the Cessnock Show on 25 November 2008 seeking sponsorship towards the show. The show is scheduled to be held on 13-14 March 2009 at Cessnock Showgrounds. The show has a history of attracting many visitors each year since 1925, making this event the largest community event in Cessnock. The show will seek to value and promote the Cessnock community in terms of local businesses, local industry and the local environment.

Fundraising from the event will be donated to charitable organisations that provide direct service provision to the Cessnock LGA. For instance, the intended beneficiaries of the event at this stage include the Hunter Volunteer Rescue Association, Cessnock Lions Club and Cessnock Rotary Club. However, more community groups are being sought at this time to be involved in the event.

Project Budget including Details of other Contributions

The correspondence asks that Council consider sponsorship of \$4,000 towards the event. The advertising budget for the show includes \$4,400 for NBN, \$4,650 for print advertising (the Advertiser, the Herald, Regional Show Publishers) and \$1,500 in additional Advertising such as posters and promotion leaflets for sponsors. The total advertising budget, including in-kind sponsorship, amounts to approximately \$10,500.

Director Corporate & Community Report No. 29/2008

At this stage the Sponsorship Coordinator of Cessnock Show has only approached Council for sponsorship. However, it is anticipated that the majority of local businesses that are located centrally in Cessnock will also be asked to sponsor the event.

Marketing Intentions and Acknowledgement of Cessnock City Council's Contribution

The correspondence states that the requested \$4,000 will allow Council to be included in Press and Advertising, to be promoted by the ring announcer throughout the two (2) day event, to be given twenty (20) Free Entry passes for management, staff, clients and customers of Council and to be given five (5) Ride all day passes which are valued at \$40.

Christian Christmas Dinner

Applicant Details

Alan Amos
Secretary
Christian Christmas Dinner Committee
204 Cessnock Road, Neath

Outline of Purpose of Donation Request

Correspondence was received from the Christian Christmas Dinner Committee on 5 November 2008. The request seeks donation towards the annual Christian Christmas Dinner that is held at 12pm on Christmas Day. The dinner is for residents of the Cessnock LGA who are lonely, isolated and in need.

The Christian Christmas Dinner has been running for some years and numbers have continued to increase. Previous dinners have provided for up to one-hundred (100) people and have proven to be a very uplifting experience for all individuals who give their time and effort to be involved. The dinner is provided free of charge to anyone in the community that is in need. The venue for the dinner is the Catholic Hall on Cumberland Street, Cessnock.

Project Budget including Details of Other Contributions

The cost of running the dinner is expected to amount to \$1,300-\$1,400 for food and drinks, \$300-\$400 on consumables and \$50 on pamphlets and postage. Local Catholic Churches are providing in-kind contributions by way of food.

Marketing Intentions and Acknowledgement of Cessnock City Council's Contribution

The correspondence states that any donation Council makes will be acknowledged in the Advertiser and by the local radio station.

A copy of these requests have been included with the Enclosure Documents.

CONSULTATION

The following Council Officers have been consulted during the preparation of this Council report:

Social Planner
Community and Cultural Programs Manager

STRATEGIC LINKS

a. Management Plan

Both requests for donations meet two (2) objectives in Council's Management Plan. These objectives are outlined in Council Services and Activities. They are that Council facilitate community development through coordination of funding for community programs and that Council resource support for key community groups.

b. Other Plans

Nil

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

Both requests have been assessed as meeting criterion three (3) of the Donations Policy No. F12.14, 'Charitable projects directly focused on Cessnock Local Government Area'.

b. Financial Implications

There is presently \$11,520.36 remaining in the original Donations Budget for Council's consideration. (This is the balance after the donations have been deducted as per Council's resolution at its meeting on 19 November 2008 and in taking into account the committed funds to go towards the Beyond Blue program). This figure may be reduced further taking into account any donations that may have been allocated as a result of the other Donations Report considered earlier in the meeting.

c. Legislative Implications

Section 356 of the Local Government Act 1993 allows a Council to financially assist others by contributing money or granting financial assistance to persons for the purpose of exercising its functions.

d. Risk Implications

Nil

e. Other Implications

Nil

OPTIONS

Council has the option of making or not making a donation and if it does elect to make a donation it is able to determine the amount awarded.

CONCLUSION

A donation to the Cessnock Show would assist to run an event that raises the profile of the Cessnock LGA and seeks to raise money for charities that provide direct service provision to the community.

Director Corporate & Community Report No. 29/2008

A donation in response to the Christian Christmas Dinner would assist to ensure that a Christmas dinner is provided to people in the Cessnock LGA who are in need at Christmas time.

RECOMMENDATION that correspondence be submitted for determination

To: **Ordinary Council Meeting**
10 December 2008

C BENNETT
DIRECTOR CORPORATE & COMMUNITY
10 December 2008

**DIRECTOR CORPORATE & COMMUNITY
REPORT NO. 30/2008**

**SUBJECT: ADOPTION OF A POLICY FOR THE COMPLETION AND PROCESSING
 OF CORPORATE CREDIT CARD STATEMENTS**

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

SUMMARY

Council currently operates with a small number of Corporate Credit Cards issued to specified staff and the Mayor. Currently no formal guidelines exist in relation to the issue, usage and responsibilities of cardholders.

BACKGROUND

The cards are used for specified purchases made in the course of their roles within Council and are mainly utilised for small purchases, purchases whilst not within the local government area (eg conference meals and accommodation) and some purchases where payment by credit card expedites the transaction (eg IT software purchases where international payment is required).

The cards were issued to streamline the process involved in purchasing such items and have helped to reduce staff resource time in the areas of purchasing and creditors in the processing of such orders and accounts and enables specified cardholders to more conveniently and productively manage their workflows and job functions.

REPORT

Currently there exist no formal policy governing the roles and responsibilities of existing cardholders, financial accounting staff and the cardholder's supervisor, nor are there clear guidelines on the application process for the issue of a new Corporate Credit Card. It is the intention of this policy to formalise the guidelines regarding the issue and usage of a card and the roles and responsibilities of both the cardholder and supervising officers.

The Completion and Processing of Corporate Credit Card Statements Policy commences with objectives. The objectives detail what the purpose of the policy is.

The scope details who the policy applies to, whilst the procedures section of the policy details how each officer is to treat the Corporate Credit Card Statement.

The Policy Statements section of the policy details the responsibilities of the key stakeholders.

The Risk Management and Fraud Control section of the policy details the mechanisms and processes put in place to manage risk and to prevent fraudulent activity by the cardholders.

The first attachment to the policy the "acknowledgement and acceptance of conditions of use of Corporate Credit Card" form is designed to ensure that all cardholders understand their obligations and sign that they have read the policy and understand the conditions of use.

The second attachment the "application for the issue of a Corporate Credit Card" form provides staff with a mechanism in which to apply for a Corporate Credit Card. The application must be signed by the applicant, endorsed by the officer's supervisor, approved

Director Corporate & Community Report No. 30/2008

by the General Manager and finally an officer from Finance is required to process the application.

Council's total credit limit for cards as agreed with Councils principal banker is currently \$60,000. Each individual card has varying credit limits. The limits are detailed in the table below. Corporate Credit Cards are issued to a responsible officer. The officer's name appears on the card and has been issued after seeking authorisation from the General Manager.

Cards currently issued at Cessnock City Council are :

| Authorised Officer | Card Limit |
|---------------------------------------|-------------------|
| Mayor | \$10,000 |
| General Manager | \$10,000 |
| Director City Planning | \$10,000 |
| Director Corporate & Community | \$8,000 |
| Cultural & Community Services Manager | \$5,000 |
| Human Resources Manager | \$3,000 |
| Environmental & Waste Manager | \$1,000 |
| TOTAL | \$47,000 |

The Corporate Credit Cards have currently been operating without any formal policy to guide the users in the correct or appropriate use of the cards. The adoption of the policy by Council will address this.

CONSULTATION

General Manager
Director City Planning
Director Infrastructure and Services

STRATEGIC LINKS

a. Management Plan

Purchases made with Corporate Credit Cards are to be for Council related business in line with the goals and funding allocations contained within the Management Plan.

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

Currently no policy exists governing the use of Corporate Credit Cards.

b. Financial Implications

There are no financial implications associated with this report.

c. Legislative Implications

There are no legislative implications associated with this report.

d. Risk Implications

In the absence of formal procedures and protocols there exists the risk of misuse, fraud or inappropriate purchases being made with Corporate Credit Cards.

e. Other Implications

There are no environmental, social, community, or insurance implications associated with this report.

OPTIONS

Not Applicable

CONCLUSION

The adopted policy framework will govern the use of Corporate Credit Cards and provide clarity in both the use and authorisation of purchases made with the cards.

RECOMMENDATIONS that:-

1. Council adopt the enclosed Completion and Processing of Corporate Credit Card Statements Policy, effective immediately.
2. The policy be applied retrospectively with existing card holders being subject to the provision of the policy and signing the acceptance of the policy provisions.

To: **Ordinary Council Meeting**
10 December 2008

C BENNETT
DIRECTOR CORPORATE & COMMUNITY
27 November 2008

**DIRECTOR CORPORATE & COMMUNITY
REPORT NO. 31/2008**

SUBJECT: KURRI KURRI VISITOR INFORMATION CENTRE – FEASIBILITY STUDY

Councils Economic Development Manager Ms Kavita Payall reports:-

SUMMARY

Towns With Heart Inc has developed a proposal to operate a Visitor Information Centre (VIC) in Kurri Kurri.

A feasibility study has been completed and received by Council staff. The study took a strategic perspective in assessing the viability/feasibility of a VIC in Kurri Kurri. A summary of its recommendations is outlined in this report. Council is requested to note those recommendations and approve the distribution of the completed study to stakeholders.

BACKGROUND

At its meeting held 13 December 2006 Council considered a report on the Kurri Kurri Ambulance Hall (Director Strategic and Community Services Report Number 176/2006).

Council resolved that :

1. Council gives in principle support for a feasibility study in conjunction with Kurri Kurri Towns With Heart to be conducted by Council, or a Consultant engaged by Council, to investigate the establishment of a Visitor Information and Community Showcase in Kurri Kurri.
2. A further report to be prepared for Councils consideration following the completion of the feasibility study to be co-ordinated by Kurri Kurri Towns With Heart.

A copy of this report is in the enclosure documents.

All stakeholders acknowledged the need for a feasibility study and Towns with Heart Inc requested Council support to coordinate an independent study. In February 2007 the Economic Development Manager was requested by Towns with Heart Inc to consider financial support for the feasibility study.

As part of the 2007/2008 budget preparation process, Council's Economic Development Manager presented a Discretionary bid that viewed the Towns with Heart Inc proposal from a strategic perspective and as such proposed that the scope for the feasibility study look at possible locations within Kurri Kurri as opposed to the Ambulance Hall exclusively.

Council endorsed this request for the 2007/08 financial year. A draft brief looking at aspects of viability and feasibility for a Visitor Information Centre at Kurri Kurri was prepared with a view to engaging a suitable consultant. In August 2008 Andrews Neil Urban Design Group were selected to implement the feasibility study.

REPORT

Towns with Heart Inc is proposing to provide a community managed Visitor Information Centre, in an existing Council owned building. The Visitor Information Centre would be managed by a paid staff member in addition to 30 local volunteers. The volunteers would be provided with an opportunity to work 1 day per month. The Centre would open 7 days a week and cater for the influx of visitors, increases in mural tours and the annual Nostalgia Festival. The Centre would also provide office space for the Town Co-ordinator (Towns With Heart), a training room for volunteers and a meeting point for Mural Guided Tours and visitor enquiries.

In order for Towns With Heart Inc to further investigate the establishment of a Visitor Information Centre an independent feasibility study was to be conducted. As such Towns With Heart Inc sought Council's support to coordinate and fund the feasibility study.

Andrews Neil Urban Design Group was engaged to conduct the feasibility/viability study.

The methodology for the feasibility study operated under the following process:

- Consultation with local Key Stakeholders (Kurri Kurri Community Centre, Towns With Heart Inc, Hunter Valley Wine Country Tourism Inc, Girl Guides, Kurri Kurri Tidy Towns, HEZ, Kurri Kurri Rotary Club, Hunter Region Business Enterprise Centre, Kurri Kurri Chamber of Commerce, Kurri Kurri High School, Representatives from Kurri Kurri Business Community, Coordinators of Previous VIC, Cessnock Council Mayor and Councillors)
- Inspection of Kurri Kurri, Cessnock and surrounding areas
- Liaison with relevant Government Agencies
- Desktop research – Guidelines and regulations
- Recommendations

The study notes that at the outset it became clear that the Kurri Kurri community are enthusiastic and have a high regard for their town. However it was difficult to differentiate between the office space needs of the Towns with Heart group and the design, location and demand for a VIC.

Several locations were raised throughout the consultation process and some comment is made on each option as a suggestion for Towns with Heart Inc to consider. These have been listed in the options section of this report.

CONSULTATION

The following staff have been consulted in the coordination of this feasibility study :

Recreation Services Manager
General Manager

Separate to this council's current Community and Cultural Programs Manager was consulted during the preparation of the December 2006 report.

STRATEGIC LINKS

a. Management Plan

Support of strategic planning for Towns With Heart Inc is endorsed by the Council Management Plan

| | | |
|--------|---|---|
| 3.1.13 | Oversee implementation of Strategic Plan for Towns With Heart (Kurri Kurri) | * Co-ordinate a feasibility study evaluating the need for a Visitor Information Centre in Kurri Kurri |
|--------|---|---|

b. Other Plans

Nil

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

N/A

c. Legislative Implications

N/A

d. Risk Implications

N/A

e. Other Implications

Nil

OPTIONS

Several locations were raised throughout the initial briefing and consultation.

The stakeholders were divided as to the preferred location for a VIC. The old Ambulance Hall was mentioned by a number of stakeholders as being the ideal location, whilst others were under the impression that anything north of Mitchell Ave would not benefit the town as it is too far from the town centre and would be likely to only attract visitors travelling into the town from one direction.

Below are the possible locations and a preliminary assessment that Andrews Neil Urban Design group have suggested for Towns with heart Inc to consider:

(a) Ambulance Hall:

This site is located on the North side of Mitchell Ave and is on one of the main entry roads into Kurri Kurri. There is on street parking, however most only have a 15 min limit. According to anecdotal evidence traffic gets congested when a funeral is taking place.

The premises is currently being used as a before and After School Care/ Vacation Care Centre. Sharing the premises will require further studies in regards to child safety regulations and would require funding to make alterations to the structure. Locating a VIC on this site would require employment of staff (either paid or voluntary) to operate.

Director Corporate & Community Report No. 31/2008

(b) Kurri Kurri Community Centre:

Located further into the town, this site will require signage (both around and outside of the town) to direct visitors to the centre. There is only limited on street parking situated close to the centre.

The premises are currently used as a Community Centre i.e. after school activities (gym), staff offices for employees who assist in the running of Community Centre activities, such as the before and after school care located within the Ambulance Hall. This site would require employment of some staff (either paid or voluntary) but may have the opportunity to job share with employees of the library to operate the VIC.

(c) Old Posties (Funeral Parlour):

This site is privately owned and in operation as a funeral parlour. To consider using this site would require acquisition of the site.

Being located at a major intersection, it is visible from the major roads in Kurri Kurri. Whilst on street parking is available it does have a 15 min limit. Additional off street parking is also available.

Traffic congestions occurs in the adjoining streets when a funeral is taking place. However, this would not be an issue if the funeral parlour is no longer in operation.

Locating a VIC on this site would require employment of staff (either paid or voluntary) to operate the VIC.

(d) Old Baby Health Clinic:

This site is located on one of the main entry roads into Kurri Kurri. There is on street parking, however most only have a 15 min limit and traffic gets congested when a funeral is taking place.

These premises are currently used as a long daycare centre. Sharing the premises would require further assessment in regards to child safety regulations. Also additional funding would be required to undertake alterations to the structure.

Locating a VIC on this site would require employment of staff (either paid or voluntary) to operate the VIC.

(e) Old Centrelink office:

This site is located on the south side of Mitchell Street and is visible from 3 major roads in Kurri Kurri. It has murals on more than one wall of the building.

The building is currently privately owned. The current tenant, Centrelink is relocating to the other end of town into a new building. There may be a possibility for rental (short or long term) of the premises. Site has off street parking to the rear of the premises, bus and caravan parking is available along Mitchell Street.

Locating a VIC on this site would require employment of staff (either paid or voluntary) to operate the VIC.

CONCLUSION

Given the assessment provided by the feasibility report, the following actions are recommended for action by the proponents of the Visitor Information Centre project ie Towns with Heart Inc:

- (a) Prepare a Tourism Facility Strategy to plan for the design, cost and location of VIC services,
- (b) Liaise with the owner of the centrelink building to determine possible costs for a short term lease for a VIC,
- (c) Consult the Area Assistance Program manager to determine whether any grant funds can be used as per (b) above, and
- (d) Consider a town centre improvement program for Kurri Kurri similar to actions taken to improve Cessnock.

The feasibility report is included within enclosure documents

RECOMMENDATION that:-

- 1. The completed study be noted by Council.
- 2. Council provide the completed feasibility study to Towns with Heart Inc, Kurri Kurri Community Centre, Kurri Kurri Chamber of Commerce, Hunter Valley Wine Country Tourism Inc, Hunter Region Tourism Organisations and Department of State and Regional Development to assist all organisations with their strategic planning process.

To: **Ordinary Council Meeting**
10 December 2008

C BENNETT
DIRECTOR CORPORATE & COMMUNITY
25 November 2008

DIRECTOR CORPORATE & COMMUNITY REPORT NO. 32/2008

SUBJECT: INVESTMENTS REPORT – NOVEMBER 2008

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

SUMMARY

Clause 212 of the Local Government (General) Regulation 2005 requires a monthly report to Council detailing all money invested under Section 625 of the Local Government Act 1993.

BACKGROUND

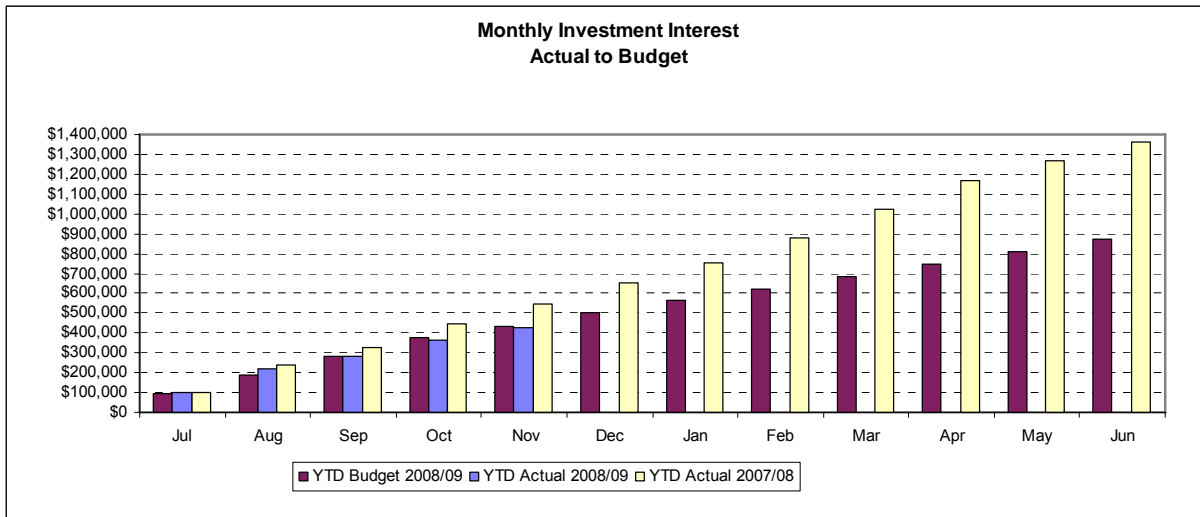
As Responsible Accounting Officer, I, Robert Maginnity, hereby certify that this report is produced in accordance with Clause 212 of the Local Government (General) Regulation 2005 and that all investments have been made in accordance with the Local Government Act 1993, the Local Government (General)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

REPORT

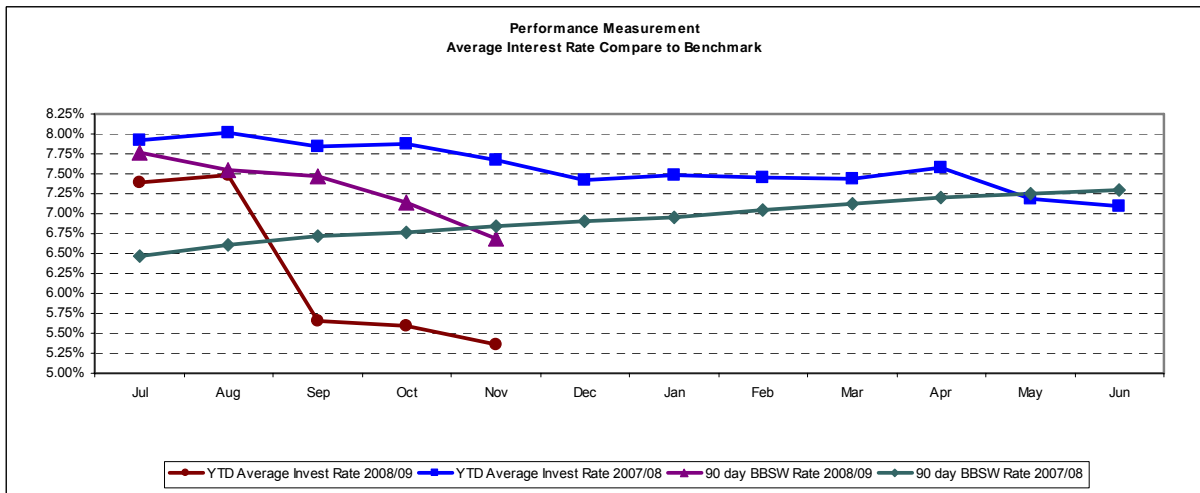
Details of investments held by Council as at 30 November 2008 are set out below.

| Inv. No. | Form Held With | Type | Coupon Term (Days) | Next Coupon Date | Maturity Date | Current Coupon Rate | LTD Interest Rate | Par Value \$'000 |
|-----------------|----------------------------|-------------|---------------------------|-------------------------|----------------------|----------------------------|--------------------------|-------------------------|
| | Commonwealth Bank | Cash | | | | 5.10% | | 685 |
| | Commonwealth Bank | At Call | | | | 5.40% | | 2,013 |
| 1010q | Wide Bay Capricorn BS | FRN | 91 | 15-Dec-08 | 15-Dec-08 | 8.94% | 7.87% | 500 |
| 1020r | Credit Suisse First Boston | CDO | 92 | 05-Feb-09 | 05-May-11 | 7.14% | 8.25% | 1,000 |
| 1029r | Credit Suisse First Boston | CDO | 92 | 05-Feb-09 | 05-May-11 | 7.14% | 8.25% | 1,500 |
| 1069o | RIMsec | CDO | 92 | 08-Jan-09 | 08-Oct-11 | 0.00% | 7.76% | 2,000 |
| 1102k | Commonwealth Bank | AN | 91 | 16-Dec-08 | 16-Dec-10 | 0.00% | 3.71% | 500 |
| 1132h | JP Morgan Australia Ltd | CDO | 91 | 22-Dec-08 | 20-Dec-09 | 0.00% | 7.99% | 500 |
| 1133a | Commonwealth Bank | ELD | 364 | 22-Dec-08 | 20-Dec-09 | 3.00% | 7.87% | 1,000 |
| 1138a | Commonwealth Bank | ELD | 365 | 05-Mar-09 | 05-Oct-10 | 3.00% | 3.00% | 500 |
| 1142f | Lehman Brothers | CDO | 91 | 22-Dec-08 | 20-Mar-11 | 0.00% | 6.85% | 1,000 |
| 1143b | ANZ Banking Group | ELD | 365 | 30-Jun-09 | 30-Mar-13 | 0.00% | 1.95% | 500 |
| 1147a | Commonwealth Bank | ELD | 365 | 05-Jun-09 | 07-Oct-10 | 3.00% | 3.00% | 500 |
| 1177b | Maitland Mutual BS | TD | 49 | 04-Dec-08 | 04-Dec-08 | 6.79% | 6.79% | 500 |
| 1182b | Illawarra Mutual BS | TD | 49 | 15-Jan-09 | 15-Jan-09 | 5.55% | 5.55% | 500 |
| 1184a | Newcastle Permanent BS | TD | 49 | 11-Dec-08 | 11-Dec-08 | 6.60% | 6.60% | 500 |
| 1187a | Newcastle Permanent BS | TD | 84 | 05-Feb-09 | 05-Feb-09 | 6.00% | 6.00% | 500 |
| 1189a | Newcastle Permanent BS | TD | 70 | 29-Jan-09 | 29-Jan-09 | 5.57% | 5.57% | 500 |
| 1190 | Newcastle Permanent BS | TD | 93 | 05-Feb-09 | 05-Feb-09 | 6.54% | 6.54% | 500 |
| 1191 | Savings & Loan CU | TD | 90 | 05-Feb-09 | 05-Feb-09 | 7.50% | 7.50% | 800 |
| 1192 | Illawarra Mutual BS | TD | 64 | 22-Jan-09 | 22-Jan-09 | 5.75% | 5.75% | 500 |
| 1193 | Illawarra Mutual BS | TD | 71 | 29-Jan-09 | 29-Jan-09 | 5.80% | 5.80% | 500 |
| 1194 | Maitland Mutual BS | TD | 41 | 08-Jan-09 | 08-Jan-09 | 5.65% | 5.65% | 500 |
| 1195 | Maitland Mutual BS | TD | 48 | 15-Jan-09 | 15-Jan-09 | 5.65% | 5.65% | 500 |
| | | | | | | | | 17,998 |

The following graph compares actual YTD interest earned to budgeted YTD interest earned and last years actual interest earned:



The following graph compares actual YTD average percentage interest rate to last years actual YTD average percentage rate and compares both of these against the current 90 day BBSW and last years 90 days BBSW rate:



The following table provides information on interest rates and earnings this year compared to last year as well as a comparison of investment balances from this year to last year:

| Performance Measures | This Year | Last Year |
|--|-------------|-------------|
| Portfolio Average Interest Rate (YTD) | 5.36% | 7.67% |
| BBSW Average Interest Rate (YTD) | 6.69% | 6.84% |
| Actual Investment Interest Earned (YTD) | \$425,518 | \$543,792 |
| Budgeted Investment Interest (YTD) | \$435,871 | \$455,656 |
| Original Budget Investment Interest (Annual) | \$1,110,800 | \$1,025,000 |
| Revised Budget Investment Interest (Annual) | \$870,800 | \$1,090,000 |

| Investment Balances (Par Value) | This Year | Last Year |
|---------------------------------|--------------|--------------|
| Opening Balance 1 July | \$20,100,000 | \$17,607,000 |
| Current Balance | \$17,998,000 | \$19,188,000 |

The following table provides information on the financial institutions that Council has invested its money in, the amount invested with each financial institutions and the percentage invested with each financial institution compared to the total investments portfolio held by Council:

Director Corporate & Community Report No. 32/2008

| Financial Institution | Amount \$'000 | % of Portfolio |
|--------------------------------------|--------------------------|---------------------------|
| Commonwealth Bank of Australia | 5,198 | 28.89% |
| Credit Suisse First Boston Int. | 2,500 | 13.89% |
| RIMsec | 2,000 | 11.11% |
| Newcastle Permanent Building Society | 2,000 | 11.11% |
| Illawarra Mutual Building Society | 1,500 | 8.33% |
| Maitland Mutual Building Society | 1,500 | 8.33% |
| Lehman Brothers International | 1,000 | 5.56% |
| Savings & Loan Credit Union | 800 | 4.44% |
| ANZ Banking Group | 500 | 2.78% |
| JP Morgan Chase Bank | 500 | 2.78% |
| Wide Bay Capricorn Bldg Society | 500 | 2.78% |
| TOTALS | 17,998 | 100.00% |

The following table provides information on investment types including a risk assessment and the amount and percentage invested compared to the total Council investment portfolio:

| Investment Type | Risk Assessment | | Amount \$'000 | % of Portfolio |
|------------------------------------|------------------------|-----------------|--------------------------|---------------------------|
| | Capital | Interest | | |
| Cash | Low | Low | 2,698 | 14.98% |
| Collateralised Debt Obligation CDO | High | High | 6,000 | 33.34% |
| Floating Rate Note FRN | Low | Low | 500 | 2.78% |
| Term Deposit TD | Low | Low | 5,800 | 32.23% |
| Equity Linked Deposit ELD | Low | Medium | 2,500 | 13.89% |
| Accrual Note AN | Low | Medium | 500 | 2.78% |
| TOTALS | | | 17,998 | 100.00% |

The official cash rate as set by the Reserve Bank of Australia (RBA) was 5.25% as at 30 November 2008. Market expectations are that the RBA December meeting will reduce the cash rate by either 50 or 100 basis points and that by early 2009 the cash rate will be 3.25%.

As previously advised Investment 1143 (ANZ Aspritt II ELD for \$500,000) will not be making any future coupon payments due to a number of credit defaults with the investment being liquidated under the Trust Deed. The Trustee has invested the remaining funds in an ANZ term deposit to ensure the full amount of capital is available for return at maturity. Staff met with ANZ representatives on December 4 to discuss issues with this investment. A future Council report will discuss any outcomes from the meeting.

Some concerns still exist in relation to 2 CDO's known as Coolangatta (Investment 1142) and Kakadu (Investment 1132) which are affected by the Lehman Brothers US bankruptcy. At this stage no further advice has been received in relation to these two investments.

Investment 1069 (known as Generator) had suffered a number of credit events and only part payment of the last coupon was made in October. Advice received was that a catch-up was to be included in the next scheduled coupon payment in January 2009.

Council staff are currently in consultation with an external advisory firm to provide specialist advice on those investments held under a structured credit basis (CDO's). This advice will deliver an in-depth analysis of each structured debt investment (including market valuation, assessment of the credit risk, and review of the credit quality) and provide an overall quantitative and qualitative assessment of risk and the likelihood of payment of cash flows.

CONSULTATION

The following Council Officers were consulted during the preparation of this report:

Senior Finance Officer

STRATEGIC LINKS

a. Management Plan

Nil

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

Investments are made in accordance with Council's Investment Policy Number F12.3.

b. Financial Implications

All returns on investment are included in Council's Management Plan. Amendment to budgeted interest income is effected through the Quarterly Budget Review process. Council's investment performance on its portfolio is detailed within the report with comparisons to prior year and budget. A portion of the portfolio and its associated investment income is restricted as it relates to funds held from section 94 developer contributions and Domestic Waste Management and is not available for operational projects.

The cost associated with the structured credit review is able to be funded from the existing legal budget within the Corporate Administration area.

c. Legislative Implications

Report meets Councils statutory obligations under Clause 212 of the Local Government (General) Regulation 2005 and Section 625 of the Local Government Act 1993.

d. Risk Implications

There is no risk implications associated with this report.

e. Other Implications

There are no environmental, community, consultative or other implications to this report.

CONCLUSION

The report details investments held by Council and satisfies statutory reporting obligations.

Director Corporate & Community Report No. 32/2008

RECOMMENDATION that the report be received and noted

To: ***Ordinary Council Meeting***
10 December 2008

C BENNETT
DIRECTOR CORPORATE & COMMUNITY
1 December 2008

GENERAL MANAGER'S REPORT NO. 60/2008

SUBJECT: STATUS OF OUTSTANDING QUESTIONS WITHOUT NOTICE AND NOTICES OF MOTION

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

OUTSTANDING QUESTIONS WITHOUT NOTICE

INFRASTRUCTURE & SERVICES

| Outstanding Questions Without Notice | | | |
|--------------------------------------|--|--------------------------|-------------|
| Asked By | Councillor Davey | Meeting Date | 4 June 2008 |
| Question Asked | Grandstand Baddeley Park | | |
| Department | I & S | Expected due Date | Complete |
| Current Status | CRMS 13318350 This matter was investigated by Council's Acting Logistics and Waste Operations Manager, Renae Leayr and Recreation Services Manager, Mrs Nicole Benson. The Building Code of Australia (BCA) does not require the installation of hand rails in the access ways in the grandstand at Baddeley Park and the structure is deemed to be compliant with the BCA. The cost to install the hand rails has been estimated at \$30,000 and there is currently no budget to complete these works. | | |

| Outstanding Questions Without Notice | | | |
|--------------------------------------|---|--------------------------|--------------|
| Asked By | Councillor Ryan | Meeting Date | 18 June 2008 |
| Question Asked | Majors Lane Road Works | | |
| Department | I & S | Expected due Date | 21/1/09 |
| Current Status | CRMS 13463187 Referred to I&S Finance Coordinator to provide DI&S information. | | |

| Outstanding Questions Without Notice | | | |
|--------------------------------------|--|--------------------------|----------------|
| Asked By | Councillor Ryan | Meeting Date | 20 August 2008 |
| Question Asked | Roadworks Majors Lane | | |
| Department | I & S | Expected due Date | Complete |
| Current Status | CRMS 14197353 Close out and refer to above. | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|------------------|
| Asked By | Councillor Maybury | Meeting Date | 3 September 2008 |
| Question Asked | Sandstone Blocks | | |
| Department | I & S | Expected due Date | Complete |
| Current Status | CRMS 14430153 Recreation Services Manager & Recreation Coordinator have organised for a number of blocks be collected by Councillor Maybury at the Depot and pass on as requested. Complete | | |

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|------------------|
| Asked By | Councillor Olsen | Meeting Date | 3 September 2008 |
| Question Asked | Quarrybylong Street – Pavement Fatigue | | |
| Department | I & S | Expected due Date | 10/12/08 |
| Current Status | CRMS 14430382 Referred to Bryce Jamieson for investigation. Bryce Jamieson and John Booth to investigate. Bryce to prepare a reply report. To be reported to Council 10/12/08. Report No. 32/2008 | | |

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|----------------|
| Asked By | Councillor Smith | Meeting Date | 8 October 2008 |
| Question Asked | Main Road, Cliftleigh | | |
| Department | I & S | Expected due Date | Not I&S |
| Current Status | CRMS 14879254 Refer to Tracey Sharp's department for investigation. | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|-----------------|
| Asked By | Councillor Ryan | Meeting Date | 5 November 2008 |
| Question Asked | Flood Meeting | | |
| Department | I & S | Expected due Date | Complete |
| Current Status | CRMS 15199995 Letters to be sent to government agencies inviting them to attend the Weston / Abermain public meeting. Councillors TBA when the meeting is programmed. The South Cessnock meeting has been scheduled for 2/12/08 and Swamp Creek will be early in 2009. | | |

| Outstanding Questions Without Notice | | | |
|--------------------------------------|---|--------------------------|-----------------|
| Asked By | Councillor Parker | Meeting Date | 5 November 2008 |
| Question Asked | Street Lighting – Electricity Charges | | |
| Department | I & S | Expected due Date | 21/1/09 |
| Current Status | <p>CRMS 15199731</p> <p>Referred to Infrastructure Services Manager for a reply regarding a follow-up with the group in Sydney and a letter regarding status of the review Energy Australia Pricing.</p> <p>Chris Eddy is preparing a report to be completed by Council meeting in January.</p> | | |

| Outstanding Questions Without Notice | | | |
|--------------------------------------|---|--------------------------|-----------------|
| Asked By | Councillor Smith | Meeting Date | 5 November 2008 |
| Question Asked | Subsidence – Surveyor Creek Bridge | | |
| Department | I&S | Expected due Date | Complete |
| Current Status | <p>CRMS 15199520</p> <p>Referred to Council's RTA Maintenance Coordinator for investigation. Councillor Smith has been informed that the site has been inspected and no evidence of mine subsidence was found, only minor settlement of the bridge abutment. He was also advised that Council cannot see this causing any difficulty to motorists at this stage.</p> <p>This road is inspected weekly and if any defects are found they are recorded and actioned as necessary.</p> | | |

| Outstanding Questions Without Notice | | | |
|--------------------------------------|--|--------------------------|-----------------|
| Asked By | Councillor Olsen | Meeting Date | 5 November 2008 |
| Question Asked | Blocked Drains – Leonard/Boomerang/View Streets, Cessnock | | |
| Department | I & S | Expected due Date | Complete |
| Current Status | <p>CRMS 15199148</p> <p>This matter was referred to Council's Civil Maintenance Coordinator, Mr Colin Reid for investigation.</p> <ul style="list-style-type: none"> • Council received a request from a resident at 33 View Street Cessnock on 4 June 2008. • The pipe drainage was programmed for pressure cleaning on 12 August 2008 and works were completed on 9 October 2008. The reason for the delay was it was necessary to build up a number of job sites for pressure cleaning prior to engaging a Contractor. • Unfortunately pressure cleaning did not resolve the blockage which is believed to be a collapsed pipe. • This is considered a priority but unfortunately due to circumstances beyond my control resources were redeployed to higher needs. • Intersection of Leonard Street and View Street is programmed for 24 November 2008. | | |

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|-----------------|
| Asked By | Councillor Burcham | Meeting Date | 5 November 2008 |
| Question Asked | Subsidence – Quorrobolong | | |
| Department | I & S | Expected due Date | 5/12/08 |
| Current Status | <p>CRMS 15199309</p> <p>Referred to Council's Civil Maintenance Manager for investigation. Council was made aware of the subsiding pavement in Quorrobolong Road by a resident CRMS request. An inspection was undertaken and it was found that the subsidence was over a culvert. Possible cause was probably movement in the culvert joints. Warning signs were erected and works programmed to patch the subsidence and repairs. At this stage it is likely to be completed by week ending 5 December 2008.</p> | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|-----------------|
| Asked By | Councillor Olsen | Meeting Date | 5 November 2008 |
| Question Asked | Tree Pruning on Footpaths | | |
| Department | I & S | Expected due Date | Completed |
| Current Status | <p>CRMS 15199253</p> <p>This matter was referred to Council's Recreation Services Manager, Mrs Nicole Benson for investigation. The pruning of trees on footpaths is primarily undertaken by Council and mainly in response to a customer request to do so. Some species or streets are scheduled to be pruned on an annual basis. For example streetscapes of Crepe Myrtles in Cessnock, Bellbird and Weston, bottle brush trees in Desmond Street (Cessnock), Rowan trees in Francis Street (Cessnock) etc. On occasion Energy Australia or their contractors undertake pruning of footpath trees that are on or near electrical wires either in the street or on private property. Preliminary investigations are underway regarding the development of a tree strategy for the city. Such a strategy would aim to provide a framework and guidelines to ensure that all street trees are managed in accordance with industry best practice subsequently maximising their benefits to Council and the community. Inspections of the Hospital Hill area will be undertaken with a view to prune street trees causing sight distance problems or limiting pedestrian access.</p> | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|------------------|
| Asked By | Councillor Hawkins | Meeting Date | 19 November 2008 |
| Question Asked | Edden Street Bellbird | | |
| Department | I & S | Expected due Date | 21/1/09 |
| Current Status | <p>CRMS 15337732</p> <p>Referred to Civil Maintenance Manger for investigation.</p> | | |

CORPORATE & COMMUNITY

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|-----------|
| Asked By | Councillor Parsons | Meeting Date | 20 August |
| Question Asked | Surveillance Cameras in Vincent Street | | |
| Department | C & C | Expected due Date | Completed |
| Current Status | <p>CRMS 14196093</p> <p>The Social Planner is aware of funding opportunities for Crime Prevention if there is an endorsed crime prevention plan. However, Social Planner will revisit funding opportunities so to be informed of the current situation. This matter will be discussed as part of the Crime Prevention Plan briefing on 3/12/08.</p> | | |

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|------------------|
| Asked By | Councillor Ryan | Meeting Date | 19 November 2008 |
| Question Asked | Questions Without Notice | | |
| Department | C & C | Expected due Date | Completed |
| Current Status | <p>CRMS 15337309</p> <p>The matter has been investigated and it has been concluded that it is better to leave the deadline as it is to allow time for the response to be included in the Business Paper.</p> | | |

CITY PLANNING

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|-----------------|
| Asked By | Councillor Maybury | Meeting Date | 27 March 2008 |
| Question Asked | Hydro Committee | | |
| Department | CP | Expected due Date | To be Confirmed |
| Current Status | <p>The Committee was run by Hydro, Acting Regulatory Services Manager to identify willingness of Hydro to reconvene this Committee.</p> <p>Acting Regulatory Services (Environmental Health) Manager advised that at this stage external participants are showing lack of interest.</p> <p>Newly appointed Health & Building Manager Colin Davis to contact Mr Paul Wenta of Hydro Aluminium asking if there is any interest in reconvening this Committee. Once the response is received from Hydro a brief report will be presented back to Council.</p> | | |

| Outstanding Questions Without Notice | | | |
|--------------------------------------|--|--------------------------|-----------------|
| Asked By | Councillor Ryan | Meeting Date | 6 August 2008 |
| Question Asked | Clearing Investigation HEZ Land | | |
| Department | CP | Expected due Date | To be Confirmed |
| Current Status | CRMS 14041373 – The HEZ Business Unit are currently seeking legal advice from Council's Solicitor and are making further enquiries with Hunter Water regarding the clearing of land at HEZ. | | |

| Outstanding Questions Without Notice | | | |
|--------------------------------------|---|--------------------------|------------------|
| Asked By | Councillor Smith | Meeting Date | 3 September 2008 |
| Question Asked | Kurri Kurri Bowling Club – Flashing Neon Sign | | |
| Department | CP | Expected due Date | To be Confirmed |
| Current Status | CRMS 14435437 – Referred to Development Compliance Officers for further investigation. The Director City Planning advised the signage at Kurri Kurri Bowling Club had been looked at and that he had staff look at it at night when it is worse. The sign is located on the Club's land but the question has been asked of the RTA in terms as to whether they consider it to be a traffic hazard due to its effect at night. At this stage we have not had a response from the RTA. | | |

| Outstanding Questions Without Notice | | | |
|--------------------------------------|--|--------------------------|------------------|
| Asked By | Councillor Ryan | Meeting Date | 3 September 2008 |
| Question Asked | Hanson Concreting – Relocating | | |
| Department | CP | Expected due Date | To be Confirmed |
| Current Status | CRMS 14435219 Pending response from RTA. Matter raised with RTA on 13/11/2008 – No response to date. | | |

| Outstanding Questions Without Notice | | | |
|--------------------------------------|--|--------------------------|------------------|
| Asked By | Councillor Pynsent | Meeting Date | 3 September 2008 |
| Question Asked | Vineyard Grove – Interallotment Drainage | | |
| Department | CP | Expected due Date | 18 February 2009 |
| Current Status | CRMS 14435961 Reallocated to Darryl Fitzgerald Subject properties inspected by Council Building staff and it was confirmed that the drainage for all dwellings is connected to the interallotment drainage system. The problem arising with overland stormwater flows would appear to be the result of cut/fill, landscaping and hard paving on individual properties which has altered surface flows. | | |

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|------------------|
| Asked By | Councillor Smith | Meeting Date | 8 October 2008 |
| Question Asked | Main Road, Cliftleigh | | |
| Department | CP | Expected due Date | 18 February 2008 |
| Current Status | <p>CRMS 14879254 RTA have been advised of concerns raised by the residents in relation to the proposed intersection as part of the 908 lot subdivision (DA8/2007/901/1). Council is waiting for comments from the RTA as to whether the intersection design can be amended to accommodate some of the concerns raised by the residents.</p> <p>Development Application to be reported to Council in Jan/Feb 2009.</p> | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|-----------------|
| Asked By | Councillor Ryan | Meeting Date | 5 November 2008 |
| Question Asked | Abernethy Rezoning – Land & Environment Court | | |
| Department | CP | Expected due Date | Complete |
| Current Status | <p>CRMS 15200098 Action: - Completed Councillors have been advised that a further Hearing date has yet to be set by the Court. Report going to Council Meeting - 10 December 2008.</p> | | |

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|-----------------|
| Asked By | Councillor Olsen | Meeting Date | 5 November 2008 |
| Question Asked | Development Applications | | |
| Department | CP | Expected due Date | Complete |
| Current Status | <p>CRMS 15199094 – Procedure developed for Councillors to be emailed/faxed a List of DA's submitted for the week. Procedure commenced on 14/11/2008</p> | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|------------------|
| Asked By | Councillor Olsen | Meeting Date | 19 November 2008 |
| Question Asked | Wentworth Hotel Extended Trading Hours Trial | | |
| Department | CP | Expected due Date | Complete |
| Current Status | <p>CRMS 15337664 – Answer given at Council Meeting. Report to Council Meeting of 10 December 2008.</p> | | |

GENERAL MANAGER/MAYOR

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|-------------------------|
| Asked By | Councillor Pynsent | Meeting Date | 3 September 2008 |
| Question Asked | Transport Minister – Meeting Request | | |
| Department | GM | Expected due Date | Completed 27/11/2008 |
| Current Status | CRMS 14432736 - letter sent to State Member for Cessnock 27/11/2008. | | |

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|-------------------------|
| Asked By | Councillor Ryan | Meeting Date | 3 September 2008 |
| Question Asked | Rural Fire Service – Possible Relocation | | |
| Department | GM | Expected due Date | Completed 27/11/2008 |
| Current Status | CRMS 14432860 - letter sent to RFS Zone Manager Hunter 27/11/2008. | | |

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|-------------------------|
| Asked By | Councillor Ryan | Meeting Date | 8 October 2008 |
| Question Asked | Services within LGA | | |
| Department | GM | Expected due Date | Completed 28/11/2008 |
| Current Status | CRMS 14879553 - letter sent to State Member for Cessnock 28/11/2008. | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|-------------------------|
| Asked By | Councillor Gorman | Meeting Date | 8 October 2008 |
| Question Asked | Ambulance Service within City | | |
| Department | GM | Expected due Date | Completed 27/11/2008 |
| Current Status | CRMS 14879497- letter sent to State Member for Cessnock 27/11/2008. | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|-------------------------|
| Asked By | Councillor Olsen | Meeting Date | 8 October 2008 |
| Question Asked | Cessnock Police Station | | |
| Department | GM | Expected due Date | Completed 27/11/2008 |
| Current Status | CRMS 14878149 - GM met with Supt Gralton, Central Hunter LAC in October 2008 and raised issues. Follow up letter sent 27/11/2008. | | |

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|-------------------------|
| Asked By | Councillor Burcham | Meeting Date | 5 November 2008 |
| Question Asked | School Bus Passes | | |
| Department | GM | Expected due Date | Completed 19/11/2008 |
| Current Status | CRMS 15199464 – letter sent to State Member for Cessnock 19/11/2008. | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|---------------------|
| Asked By | Councillor Smith | Meeting Date | 5 November 2008 |
| Question Asked | Mayor's Vehicle | | |
| Department | GM | Expected due Date | Completed 5/11/2008 |
| Current Status | CRMS 15199684 – the Mayor responded at the meeting, no further action needed. | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|------------------|
| Asked By | Councillor Smith | Meeting Date | 19 November 2008 |
| Question Asked | Australia Day Ceremony | | |
| Department | Mayor | Expected due Date | Completed |
| Current Status | CRMS 15337888 – the Mayor responded at the meeting, no further action needed. | | |

| Outstanding Questions Without Notice | | | |
|---|---|--------------------------|----------------------|
| Asked By | Councillor Olsen | Meeting Date | 19 November 2008 |
| Question Asked | Councillors Christmas Function | | |
| Department | GM | Expected due Date | Completed 24/11/2008 |
| Current Status | CRMS 15337523 – invitation list forwarded to all Councillors. | | |

| Outstanding Questions Without Notice | | | |
|---|--|--------------------------|----------------------|
| Asked By | Councillor Burcham | Meeting Date | 19 November 2008 |
| Question Asked | School Bus Passes | | |
| Department | GM | Expected due Date | Completed 24/11/2008 |
| Current Status | CRMS 15337419 – letter sent to State Member for Cessnock 19/11/2008, copy of which was distributed to all Councillors 24/11/2008 together with response from State Member. | | |

OUTSTANDING NOTICES OF MOTION

| Outstanding Notices of Motion | | | | | | | | | |
|--------------------------------------|--|--------------------------|-----------|-------|--------------------------|-------|---------|-------|---|
| Notice of Motion | that Council organise a public meeting with the residents of South Cessnock to discuss the flooding issues of the area and come to an agreement on action to be taken to alleviate the problems. | | | | | | | | |
| Meeting Date | 8 October 2008 | | | | | | | | |
| Department | I & S | Expected due Date | Complete. | | | | | | |
| Current Status | <p>CRMS 14876442</p> <p>Public Meeting organised to be held 2/12/08 at 6.30 pm.</p> <p>Letter sent to residents and also memo to Councillors as follows:</p> <p>Council resolved at its meeting of 8 October 2008, to organise a public meeting with residents of South Cessnock to discuss the flooding issues of the area and come to an agreement on action to be taken to alleviate the problems.</p> <p>You are invited to attend the meeting which has been scheduled as follows:</p> <table border="1" data-bbox="485 936 1393 1043"> <tr> <td>Date:</td> <td>Tuesday, 2 December 2008</td> </tr> <tr> <td>Time:</td> <td>6.30 pm</td> </tr> <tr> <td>Venue</td> <td>Council Chambers - 62-78 Vincent Street, Cessnock</td> </tr> </table> <p>Items to be discussed at the meeting will include:</p> <ol style="list-style-type: none"> 1. Opening Welcome. 2. Short overview of floodplain development manual and management of flood liable lands. 3. Introduce Grantley Smith of Council's Consultant DHI Pty Ltd (Danish Hydraulic Institute). 4. DHI's presentation on Black Creek Flood Study (incorporating South Cessnock). 5. Review of "where to from here" – timetable for completion of Floodplain Risk Management Study and Plan following completion of Flood Study – community inputs to Floodplain Risk Management Study and Plan and expected outcomes. 6. Input from attendees on local drainage issues and inclusion in Council programs. 7. Questions from the floor. <p>If you require any further information, please do not hesitate to contact Council's Roads, Bridges & Drainage Manager, Mr John Booth on telephone 4993 4258 or myself on telephone 4993 4274.</p> | | | Date: | Tuesday, 2 December 2008 | Time: | 6.30 pm | Venue | Council Chambers - 62-78 Vincent Street, Cessnock |
| Date: | Tuesday, 2 December 2008 | | | | | | | | |
| Time: | 6.30 pm | | | | | | | | |
| Venue | Council Chambers - 62-78 Vincent Street, Cessnock | | | | | | | | |

| Outstanding Notices of Motion | | | |
|--------------------------------------|---|--------------------------|--------|
| Notice of Motion | <ol style="list-style-type: none"> 1. Council organise a public meeting with the residents of Weston and Abermain so that flooding issues can be discussed and that they can be informed of current progress and future plans on the rehabilitation of Swamp Creek. 2. Prior to the public meeting Council and interested parties (CMA, DECC, Department of Land) meet to gather information for the meeting. | | |
| Meeting Date | 22 October 2008 | | |
| Department | I & S | Expected due Date | 4/3/08 |
| Current Status | CRMS 14992545 Public Meeting to be held in the New Year after the South Cessnock meeting in CRMS 14876442. | | |

| Outstanding Notices of Motion | | | |
|--------------------------------------|---|--------------------------|-----------|
| Notice of Motion | that Council investigates making Wireless Internet available for Vincent & Cooper Streets in Cessnock. This availability would be based on the Hamilton model. Council seeks funding from State or Federal Governments to fund the project. | | |
| Meeting Date | 22 October 2008 | | |
| Department | C & C | Expected due Date | Completed |
| Current Status | CRMS 14994544 Report going to 10 December 2008 meeting. | | |

| Outstanding Notices of Motion | | | |
|--------------------------------------|--|--------------------------|-------------------------|
| Notice of Motion | <ol style="list-style-type: none"> 1. Cessnock Council adopt the Donations Policy as attached in order to reduce our current policies from two to one and to give the Council greater discretion in making donations while still giving priority to the Cessnock LGA. 2. Further that Policies F12.11 and F12.12 are deleted from Council's Policy Register. | | |
| Meeting Date | 19 November 2008 | | |
| Department | GM | Expected due Date | Completed 27/11/2008 |
| Current Status | CRMS 15333895 – Policy incorporated into Council's Policy Register as Policy F12.14 and placed on website. Policies F12.11 and F12.12 deleted. | | |

| Outstanding Notices of Motion | | | |
|--------------------------------------|--|--|----------------------|
| Notice of Motion | 1. | Cessnock Council acknowledges the significant environmental, economic and social benefits to ratepayers of adopting a Container Deposit Scheme in NSW. | |
| | 2. | Cessnock Council write to the Premier urging him to implement such a scheme in NSW. | |
| Meeting Date | 19 November 2008 | | |
| Department | GM | Expected due Date | Completed 28/11/2008 |
| Current Status | CRMS 15333905 – letter sent to State Member for Cessnock 28/11/2008. | | |

RECOMMENDATION that the report be received and the information noted.

To: **Ordinary Council Meeting**
10 December 2008

B R MORTOMORE
GENERAL MANAGER
1 December 2008

GENERAL MANAGER'S REPORT NO. 61/2008

SUBJECT: STAFF APPOINTMENTS, RESIGNATIONS & TRANSFERS

SUMMARY

Report on resignations, appointments and transfers.

| Staff Resignations | | | |
|---------------------------|---------------------------------|----------------------------|-------------------------|
| Employees Name | Position | Date of Resignation | Years of Service |
| Yvette Pallett | Rates Officer – Job Share | 29/10/2008 | 2yrs 11 mths |
| Melissa Duncan | Information Services Officer | 7/11/2008 | 5 mths |
| Dale Dickey | Manager Transport & Road Safety | 21/11/2008 | 7yrs 2 mths |
| Chris Callegos | Carpenter | 28/11/2008 | 4yrs 6 mths |
| | | | |

| Staff Appointments | | |
|---------------------------|--|-----------------------------|
| Employees Name | Position | Date of Commencement |
| Thomas Baker | Planning Officer (Temporary) | 3/11/2008 |
| John Peebles | Environmental Health officer | 3/11/2008 |
| Denise Harvey | Administration Support Officer – Job Share | 10/11/2008 |
| Phil Miles | Manager Infrastructure Strategy | 27/10/2008 |
| Karen Pont | Ranger | 27/10/2008 |
| Paul Barrow | Ranger | 27/20/2008 |
| | | |

| Internal Staff Transfers | | | |
|---------------------------------|---|---------------------------------------|-------------------------|
| Employees Name | From | To | Date of Transfer |
| Colin Davis | Senior Development & Assessment Officer | Health & Building Manager | 10/11/2008 |
| Jacqui Tupper | Executive Planner | Development Services Manager | 24/11/2008 |
| Kavita Payall | Economic Development Manager | | 17/11/2008 |
| Simon Eade | Cultural Services Manager | Community & Cultural Programs Manager | 17/11/2008 |
| | | | |

RECOMMENDATION that the report be received and the information noted.

To: **Ordinary Council Meeting**
10 December 2008

B R MORTOMORE
GENERAL MANAGER
1 December 2008

GENERAL MANAGER'S REPORT NO. 62/2008

SUBJECT: PERFORMANCE AGREEMENTS OF SENIOR STAFF

SUMMARY

This report provides Council with information on the Performance Agreements of Senior Staff.

BACKGROUND

Council at the Committee of the Whole Meeting of 3 September 2008 considered General Manager's Report No.2/2008 regarding Contractual Conditions of Senior Staff and resolved in part that:

"2. A further report be brought to Council by 31 December 2008 detailing the performance agreements of the Senior Staff."

REPORT

Included as Enclosure 1 are copies of the Performance Agreements for the Director Infrastructure & Services, Director Corporate & Community and Director City Planning for the 2008-2009 year.

These action plans are reflective of Council's Management Plan and are supplemented by other documents such as the agreed responses to the Promoting Better Practice Review, the IT Health Check and the Fraud and Corruption Review.

It is likely that the Section 430 Report from the Department of Local Government will provide recommendations that will also require additions to these actions plans.

In regard to the Director Infrastructure & Services action plan, discussion has also taken place regarding the development of a long term infrastructure strategy and a program for ensuring construction staff are adequately skilled to deliver infrastructure projects. A timeframe for delivery of these actions was deferred until the Infrastructure Strategy and Infrastructure Works Managers were appointed to allow them to have input into the process.

It is anticipated that an action plan for delivery on these matters will be finalised by late February.

CONSULTATION

The Director Infrastructure & Services, Director Corporate & Community and Director City Planning have been consulted.

STRATEGIC LINKS

a. Management Plan

The action plans reflect Council's Management Plan.

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

N/A

c. Legislative Implications

N/A

d. Risk Implications

N/A

e. Other Implications

N/A

OPTIONS

N/A

CONCLUSION

It is recommended that the action plans be noted at this time.

RECOMMENDATION that the report be noted.

To: **Ordinary Council Meeting**
10 December 2008

B R MORTOMORE
GENERAL MANAGER
1 December 2008

GENERAL MANAGER'S REPORT NO. 63/2008

SUBJECT: COMMON SEAL OF CESSNOCK CITY COUNCIL TO BE AFFIXED TO TRANSFER DOCUMENT- SALE TO COMPASS HOUSING SERVICES COMPANY LIMITED - 60 & 62 LIGHTFOOT STREET, CESSNOCK

SUMMARY

This report is required to obtain the consent of Council to affix the Common Seal of Cessnock City Council and for the signatures of the Mayor and General Manager to the Transfer document for the sale of land Numbers 60 and 62 Lightfoot Street, Cessnock to Compass Housing Services Company Limited.

BACKGROUND

At the Ordinary Meeting of Cessnock City Council held on 2 July 2008, Council resolved to sell land being Numbers 60 and 62 Lightfoot Street, Cessnock to Compass Housing at no cost subject to; each party being responsible for their own legal costs and Compass Housing developing the land for the provision of affordable housing or the proceeds from the sale of the lots being used to provide affordable housing in the Cessnock Local Government Area.

REPORT

This report is required to obtain the consent of Council to affix the Common Seal of Cessnock City Council and the signatures of the Mayor and General Manager to the Transfer document for the sale of land Numbers 60 and 62 Lightfoot Street, Cessnock to Compass Housing Services Company Limited in accordance with the resolution 921 of the Ordinary Council Meeting held on 2 July 2008.

CONSULTATION

Casual Senior Property Officer – Mrs Sue Brinkworth
Economic Development Manager – Ms Kavita Payall
Director Corporate & Community

STRATEGIC LINKS

a. Management Plan

N/A

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

N/A

c. Legislative Implications

Section 50(1)(b) of the Interpretation Act, 1997 requires Council to have a seal. Clause 400 of the Local Government (Regulation) 2005 sets out the required use of Council's Seal.

d. Risk Implications

N/A

e. Other Implications

N/A

OPTIONS

N/A

CONCLUSION

The Transfer Document is required to be executed under the Common Seal of Cessnock City Council to finalise the sale of land Numbers 60 and 62 Lightfoot Street, Cessnock to Compass Housing Services Company Limited.

RECOMMENDATION that

1. Council authorise the Common Seal of Cessnock City Council to be affixed to the Transfer Certificate of Title – Auto Consol 6695/197 between Cessnock City Council and Compass Housing Services Company Limited relating to the sale of land numbers 60 and 62 Lightfoot Street, Cessnock in accordance with Resolution 921 of the Ordinary Council Meeting held on 2 July 2008.
2. Council authorise the Mayor and General Manager to execute the Transfer Certificate of Title – Auto Consol 6695/197 between Cessnock City Council and Compass Housing Services Company Limited relating to the sale of land numbers 60 and 62 Lightfoot Street, Cessnock.

To: **Ordinary Council Meeting**
10 December 2008

B R MORTOMORE
GENERAL MANAGER
2 December 2008

QUESTIONS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

Councillor Parker

Has the RTA been contacted yet concerning lights on New England Highway at Nelson St., Greta?

Councillor Parker

Does the council have a recycling system for old electronic and mobile phone equipment and if so how are residents informed, because I have had few ask about the possibility of this service.

Councillor Parker

To Director of Infrastructure. Since the information that I was after concerning rehabilitation of work in Swamp Creek doesn't appear to exist, can we look into the formation of an information trail from the directions given by department experts to the Council for forwarding to Outdoor staff. And if advice can be shown to have been carried out as per instruction, surely this would be of benefit to council in the case of litigation.

ANSWERS TO QUESTIONS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 35/2008

**SUBJECT: QUESTION OF WHICH WRITTEN NOTICE HAS BEEN GIVEN - CRMS
No. 15448805**

QUESTION

Has the RTA been contacted yet concerning lights on New England Highway at Nelson Street., Greta?

ANSWER

Please be advised that this request was first received from a resident of Greta by email on 30 June 2008. On that date, a reply was sent to the resident advising that the matter was referred to the Roads & Traffic Authority's Hunter Region Office in Newcastle as the New England Highway is a State Road under their care and control and that the RTA was also the determining authority for the installation of traffic signals. A referral was sent to the RTA, also on 30 June 2008, requesting their investigation of the matter.

As a follow-up, the matter was also listed for consideration by Council's Local Traffic Committee at the meeting of 21 July 2008, with the recommendation being that the matter be referred to the RTA for investigation.

Council's records indicate that a reply has not yet been received from the RTA in regard to this matter. As such, a follow-up referral was sent to the RTA on 4 December 2008, reflecting your representations and Council's decision from the meeting of 5 November 2008, as follows:

1. *The Roads & Traffic Authority be requested to investigate the provision of traffic signals (incorporating dedicated pedestrian phases) on the New England Highway Greta at the Nelson Street intersection;*
2. *The Roads & Traffic Authority also be requested to undertake a review of the existing pedestrian traffic signals at Wyndham Street, with a view to relocating the signals easterly to the Wyndham Street intersection.*
3. *The Roads & Traffic Authority be made aware of the statistics involved and also the near miss that occurred recently. Also bring to the attention of the Roads & Traffic Authority that in 1993 one of the local residents took a petition up asking for lights to be put on that corner and for that petition he received approximately 240 signatures.*

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 36/2008

**SUBJECT: QUESTION OF WHICH WRITTEN NOTICE HAS BEEN GIVEN - CRMS
No. 15445290**

QUESTION

Does the Council have a recycling system for old electronic and mobile phone equipment and if so how are residents informed, because I have had few ask about the possibility of this service.

ANSWER

At present Council goes some way to offering electronic waste recycling via the "Lifecycle Service" (which is an extension to the kerbside recycling collection service) was introduced earlier this year. Although this is limited to small portable electronic equipment i.e: CD players, DVD players, irons, toasters etc. Computers & other e-waste is not included at this point. Obviously the limitations are that it is only available to those residents receiving the domestic waste service.

Details are available on the Council website under Council Services; Environment, Waste & Recycling.

There are other specific e-waste schemes/services that have been trailed by other Councils at cost which have proven popular and I am currently giving thought to as a budget consideration in 2009/10. The at cost service is usually based around service establishment cost (ie: bins, staffing related costs approx \$600 - \$1,000) + cost per kilo rate (approx \$0.35 - 0.50).

The Hunter Resource Recovery (HRR) group is currently looking at options that could build onto the back of the current recycling program looking at collection drop off points & collection across the three member LGA's (LMC, MCC & CCC). The aim would be to have something to offer next year.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 37/2008

**SUBJECT: QUESTION OF WHICH WRITTEN NOTICE HAS BEEN GIVEN – CRMS
NO. 15445290**

QUESTION

To Director of Infrastructure Since the information that I was after concerning rehabilitation of work in Swamp Creek doesn't appear to exist, can we look into the formation of an information trail from the directions given by department experts to the Council for forwarding to Outdoor staff. And if advice can be shown to have been carried out as per instruction, surely this would be of benefit to council in the case of litigation.

ANSWER

It is agreed that a more rigorous process for issuing instructions to Outdoor staff following directions given by government departments can be implemented. The process will be formulated following consultation with Mangers and Outdoor Staff and implemented with the approval of the General Manager as part of the operational activities of Council.

To: **Ordinary Council Meeting**
10 December 2008

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
27 November 2008