



Vincent Street
CESSNOCK 2325.

10 November 2008

To All Councillors

You are hereby notified that the next Ordinary Meeting of the Council will be held in the Council Chambers, on Wednesday, 19 November 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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(3) DECLARATIONS OF INTEREST.

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(6) OFFICERS' REPORTS.

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(9) QUESTIONS WITHOUT NOTICE.

(10) REPORT OF THE COMMITTEE OF THE WHOLE MEETING HELD ON 19 NOVEMBER 2008

DECLARATIONS OF INTEREST

GENERAL MANAGER'S REPORT NO. 55/2008

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**
19 November 2008

B R MORTOMORE
GENERAL MANAGER
10 November 2008

BUSINESS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

NOTICE OF MOTION

It is my intention to move at the meeting of 19 November 2008 the following:

Motion

That 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.

Further that Policies 12.11 and F12.12 are deleted from Councils Policy Register.

Rationale

Cessnock presently has two Donations policies, F12.11 and F12.12. The first is open ended and prescribes an amount of \$30,000 to be spent each year with \$5000 kept for 'one off' donations. The second Policy is prescriptive and often causes debate over the merits of supporting good causes versus only supporting Cessnock individuals or groups/activities.

The blended proposal seeks to direct most donations to the Cessnock LGA while giving Councillors discretion for special events and causes. The Proposal also recommends Council Staff make recommendations on the amounts to be donated for non-controversial applications.

Sgd: Clr James Ryan

Date: 11 November 2008

NOTICE OF MOTION

It is my intention to move at the meeting of 19 November 2008 the following:

Motion

That Cessnock Council acknowledges the significant environmental, economic and social benefits to ratepayers of adopting a Container Deposit Scheme in NSW.

That Cessnock Council write to the Premier urging him to implement such a scheme in NSW.

Rationale

NSW has a recycling rate of around the 40% mark for beverage containers.

South Australian has maintained a Container Deposit Scheme for the last 33 years. Enacted in 1975 under the *Beverage Container Act 1975* and later incorporated into the *Environment Protection Act 1993 (SA)*, CDL has been instrumental in the South Australia Government achieving a recycling rate of 70-80% in relation to beverage containers and providing a new income stream for community organisations and the States' most disadvantaged groups.

Container Deposit Legislation has the potential to:

- Reduce the volume of litter in our parks, beaches and roadsides by 12-15%;
- Significantly reduce the number of turtles, lizards, seals and birds killed by litter across Australia;
- Achieve a 6% diversion of all -Municipal Solid Waste ("**MSW**") waste away from landfill;
- Reduce Australia's greenhouse gas emissions by over 1.3 million tonnes of CO₂e per year (equivalent to 197,000 homes switching to 100% renewable energy);
- Save enough water to permanently supply over 24,000 Australian homes;
- Deliver the same level of Australian air quality improvements as taking 140,000 cars off the road;
- Provide 250,000+ Australian homes with access to recycling services for the first time;
- Save rate payers over \$59.8 million per annum; and
- Increase Australia's recycling by over 630,000 tonnes p.a.

An independent study of container deposits by Dr. Stuart White in 2001 states that;

"Local Government would realise financial benefits from the introduction of CDS through reduced costs of kerbside collection and through the value of unredeemed deposits in the material collected at kerbside"

Sgd: Cllr James Ryan

Date: 11 November 2008

OFFICER'S REPORTS

DIRECTOR CITY PLANNING REPORT NO. 6/2008

SUBJECT: 'THE VINTAGE' : UNAUTHORISED USE OF APPROVED DWELLING-HOUSES FOR TOURIST ACCOMMODATION

SUMMARY

Council has received several complaints over the past six months regarding the use of approved dwelling-houses at 'The Vintage' for the purposes of tourist accommodation.

Council's solicitor, on behalf of the Council, has advised Vintage management that the use of these dwelling-houses for the purposes of tourist accommodation is unlawful because development consent has not been obtained.

Vintage management has responded with the claim that the 'master approval' for a major tourist recreation facility permits a range of residential uses, including holiday accommodation, and accordingly, owners of the land are not in breach of the Environmental Planning and Assessment Act, 1979 (the Act). Council's solicitor does not agree with this view.

At this point, individual land owners have not been consulted regarding the breach as it was considered appropriate to consult with Vintage management in the first instance to address the issue in a holistic manner. However, following legal advice, it is recommended that Council notify individual land owners who are in breach of Council's LEP (and also, therefore, the Act), requiring them to cease operating in the first instance. Furthermore, Council should advise those owners seeking to subsequently utilise dwelling-houses for the purposes of tourist accommodation that development applications need to be lodged for Council's consideration and determination. Only when development consent has been provided by Council can a dwelling-house be lawfully used for the purposes of tourist accommodation.

BACKGROUND

Development consent was granted permitting the use of the land at 'The Vintage' for a major tourist recreation facility with associated residential subdivision (DA 118/695/147) on 13 December 1996. The consent required that separate development applications for each stage of the proposed development be submitted for Council's subsequent consideration.

Since that time, Council has issued various development consents over the land for the purposes of residential subdivision and tourist-related activities. Following the sale of land by Vintage Developments to various parties in the 'residential precincts', Council has subsequently issued development consent for dwelling-houses on land which is held in individual ownership.

During July of this year, Council started to receive complaints from owners of land within various 'residential precincts' about the use of dwelling-houses for the purposes of tourist accommodation. Council has received 4 written and 2 verbal complaints from permanent residents at 'The Vintage' in this regard. The complaints have centred on the use of dwelling-houses for short term holiday accommodation including the associated impacts of noise, security, parking and traffic generation. In particular, permanent residents have raised concerns about the changing character of 'residential precincts' within 'The Vintage'. The change in character is understood to be occurring through the increased patronage of dwelling-houses by tourists and their associated behaviour.

Vintage Realty actively markets the letting of dwelling-houses for short term holiday accommodation. A search of the Vintage Realty website (November, 2008) has revealed that 21 homes are currently being advertised for holiday letting (67% or 14 of these homes are located within the 'Jacaranda' residential precinct). The total number of approved, constructed (including partial construction) dwelling-houses at 'The Vintage' is between 125 and 130. The original development consent provides for a maximum of 482 residential allotments and 40 rural-residential allotments, each having a dwelling-house entitlement. The complainants have raised concerns about the subsequent potential for significantly more holiday lettings occurring within the residential precincts as a result. Permanent residents have expressed the concern that they are living in neighbourhoods which are evolving to contain a high proportion of transient population which display behaviour typical of holiday makers (late nights, party activity, higher than average household population numbers including greater numbers of vehicles etc.).

RELEVANT ISSUES (S79C (b) & (d)) Environmental Planning & Assessment Act, 1979:

Cessnock Local Environmental Plan 1989

Land occupied by 'The Vintage' development is located within the 1(v) Rural (Vineyards) Zone. The land is also affected by Clause 17 of the Cessnock Local Environmental Plan (CLEP) 1989. The intent of clause 17 is to facilitate (with the consent of Council) the subdivision of the land and the erection of dwelling-houses, villas, duplexes and the like on the allotments so created where the subdivision is an integral part of a major tourist recreation facility.

Council has issued development consent for dwelling-houses within the 'The Vintage' residential precincts.

Tourist accommodation is permissible with Council consent in the 1(v) Rural (Vineyards) zone: clause 9 of Council's LEP requires development consent for 'tourist accommodation units' and 'tourist accommodation buildings'. Tourist accommodation units and tourist accommodation buildings are defined in CLEP as follows:

***"tourist accommodation building** means a building or part of a building containing one or more tourist accommodation units.*

***tourist accommodation unit** means premises used for the temporary accommodation of up to 4 tourists in a maximum of 2 bedrooms for up to 42 consecutive days or, in aggregate, 150 days in any 12-month period, but does not include bed and breakfast accommodation".*

The owners/occupiers of dwelling-houses which are being used for tourist accommodation purposes do not have development consent for this purpose and are, therefore, operating in breach of Council's LEP.

Any development application lodged with will also need to address the development standards in clause 52 of Cessnock LEP 1989 in relation to tourist development densities within the 1(v) Zone.

Vintage Development: Advice and Legal Opinion

A copy of advices received from Vintage Developments and their legal counsel (Sparke Helmore) are enclosed under separate cover for Councillors information.

Vintage Developments has stipulated that: *'The Vintage' has provided tourist accommodation within all forms of its built product since its inception in 2001*".

Each residential precinct is accompanied by a 'community management statement'. Vintage Developments cite the provisions (in part) of the community management statements (for each residential precinct) which provide that the letting agent (being Vintage Realty) has the exclusive right to the letting of property. This includes the letting of 'residential dwellings'. Vintage Developments is of the opinion that the inclusion of this by-law in the community management statements infers that it is lawful to let residential property for the purposes of tourist accommodation. Vintage Developments is of the view that they enjoy a 'global' approval for the use of all residential lots as either permanent or tourist accommodation and that approval of dwelling-houses for the purposes of tourist accommodation is not required on a lot by lot basis.

Sparke Helmore is of the opinion that the effect of the development consent issued for DA 118/695/147 authorises the use of all of 'The Vintage' land for the purpose of a major tourist recreation facility with associated residential subdivision as a staged development. Specifically, Sparke Helmore is of the view that they do not agree that the buildings which have been approved as dwelling-houses are only to be used as dwelling-houses and for no other purpose without the specific consent of the Council. Sparke Helmore also cites Council's endorsement of the various community management statements. They cite the inclusion of the by-law referred to above stating what they believe is its clear intention of the letting of dwelling-houses for short term use.

Council's Legal Opinion

Council's solicitor (Mallik Rees) has provided advice on the matter, a copy of which is enclosed under separate cover for Councillors information.

Mallik Rees is of the opinion that the buildings that have been approved as dwelling-houses can only be used as dwelling-houses and for no other purpose without the specific consent of the Council. Furthermore, they are of the opinion that even though the original project was approved as a '*tourist recreation facility*' this does not mean that dwelling-houses can be used for temporary accommodation without specific approval for such use.

CONCLUSION

Having regard to the provisions of Council's LEP and the advice received from Council's solicitor, it is considered that the owners/occupiers of dwelling-houses at 'The Vintage' who are currently utilising their dwelling-houses for the purposes of tourist accommodation, are doing so unlawfully. Whilst dialogue has occurred between Council and Vintage management in an attempt to reconcile this situation and provide a holistic path forward, no satisfactory resolution has transpired and, as such, it is considered prudent to rectify breaches of Council's LEP (and the Act) in this regard with the individual land owners.

RECOMMENDATION that:

- A. Council notify in writing the individual owners of land within 'The Vintage' who are unlawfully using dwelling-houses for the purposes of tourist accommodation, requesting them to cease operating for that purpose; and

- B. Council advise those land owners seeking to utilise dwelling-houses for the purposes of tourist accommodation that a “tourist accommodation building” requires development consent within the 1(v) Rural (Vineyards) Zone and that any development applications must address the relevant provisions of Cessnock DCP 2006 and Cessnock LEP 1989, and having specific regard to clause 52 of the LEP.

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

D FITZGERALD
DIRECTOR CITY PLANNING
7 November 2008

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. 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
- 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.

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.

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.

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> <p>(i). Site plan, map and/or surveys (ii). Soil and Water Management Plan</p> <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

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 19/2008

SUBJECT: RTA SINGLE INVITATION MAINTENANCE CONTRACT RENEWAL

Civil Maintenance Manager, Mr B Jamieson, reports:-

BACKGROUND

The Minister for Roads announced on November 30, 1999 that all road maintenance works on the National and State road networks would be undertaken by a Single Invitation Maintenance Contract (SIMC) by Councils or the Roads & Traffic Authority (RTA) Road Services.

The aim of the contract was to establish best practice benchmarks and prices enabling the RTA to negotiate improvements in respect to performance to time, cost, quality, environmental and intervention standards.

Council's staff considered the issues involved with undertaking the contract along with the loss of twelve direct jobs. It was felt that the contract was the correct direction to head, particularly in the areas of environment, quality and safety and that the standards should be adopted for the whole Council. Council staff would need to be thoroughly trained in the contract conditions and requirements, which would lead to improvements to Council's operations.

Council has worked with the SIMC for the last nine (9) years and it has been successful improving the quality of the works undertaken in both for the RTA and Council works in the construction and maintenance activities. All staff have undergone training in most aspects of the contract however; more is required in the Safety and Environmental areas.

REPORT

Cessnock City Council's current SIMC contract expired on 30 September 2008, however due to Council elections the date has been extended to 31 October 2008. The RTA is intending to replace the SIMC contract with a Road Maintenance Council Contract (RMCC).

The major differences between the current SIMC and the proposed RMCC are:

1. The RTA will only pay actual costs for all routine maintenance works with no allowance for defects liability (rework), which was previously allowed. The RTA will now pay for any rework. The actual costs are made up of direct costs and indirect costs. Direct costs include plant, material, labour and site supervision. Indirect costs include Works Depot operation costs, organisation support costs and contract management costs. The indirect costs are to be charged as an organisation overhead.

Under the RMCC, all direct costs and overheads are to be detailed separately for the RTA. The SIMC only required totals to be provided.

2. Pricing will be requested from Council by the RTA for any specific ordered work projects which can include an allowance for defects liability and a margin, as has previously occurred, however, under the RMCC any allowance must now be declared in the submitted pricing. The RTA may offer the work to its' internal providers, private contractors or neighbouring councils on the basis of best value for money.

3. For ordered works undertaken by Council, where the majority of the works are to be undertaken by subcontractors, the RTA will now pay the value of the subcontracted work plus an agreed amount for Council to manage and supervise the subcontractors. On this basis, there will be no allowance for defects liability or a margin on these ordered works as was the case under the SIMC. However the RTA will pay for rework by subcontractors.
4. Some of the works previously undertaken as 'ordered works' under the SIMC will become routine items under the RMCC and therefore must be undertaken at actual cost with no allowance for defects liability or a margin.

SUMMARY

Under the RMCC routine maintenance activities are to be done on a at cost basis. Ordered Work will have a profit allowance but will be agreed on before the projects commencement, Council has to allow the RTA access to its projects costing.

It is considered to be to Council's advantage at this stage to enter a Road Maintenance Council Contract (RMCC) with the RTA. As Council's rolling works program has been growing each year, and after considering the changes to the contract being made by the RTA, the utilisation of Council's operational staff and resources needs to be reviewed in relation to Council undertaking works for the RTA.

FINANCIAL IMPLICATIONS

The acceptance of a RMCC contract with the RTA will continue to provide a source of work for Council staff. The value of these works over the past four (4) years has ranged between \$434,510 and \$5,698,487, primarily depending upon the amount of Ordered Works requested by the RTA each year.

The RTA has offered Council a new contract for a four (4) year period which will run until 30 June 2012. While there are staff employment benefits, remuneration compared to previous contracts may be restricted.

Council currently reallocates labour indirect costs (RTA oncosts) to corporate overheads with the "profits" from projects transferred into Councils RTA Single Invitation Contract Surplus Reserve.

Over the past nine (9) years Council has used the SIMC reserve to fund Cessnock Mainstreet Upgrade, purchase of major plant to establish the additional rural maintenance team, upgrading of the facilities at Council Works Depot, timber bridge replacement and write off for collateralised debt obligation (CDO) investments.

The SIMC Reserve has been a major income source for Council and has generated net income above expenditure in excess of around \$6M over the past nine (9) years (this excludes the RTA oncosts to corporate overheads).

Under the new terms for the RMCC it is imperative that all indirect costs to be allocated through the RMCC accounts and that the reallocation of RTA oncost to corporate overheads be included in the estimates for jobs. This will ensure a coordinated approach of the RMCC and maximise Council funds to meet internal costs.

As this is an operational issue the General Manager has signed the contract documents which will also be signed by the RTA to take affect from 1 October 2008.

RECOMMENDATION that:-

1. Council note the acceptance of the RTA RMCC for the maintenance of the state roads within the Cessnock City Council local government area for the period of 1 October 2008 to 30 June 2012.
2. All direct and indirect costs be managed through the RMCC process and the RTA Single Invitation Contract Surplus Reserve in accordance with this report.

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

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
7 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 20/2008

**SUBJECT: PROPOSED CLOSURE OF RIGHT-OF-WAY OFF CHURCH STREET
EAST BRANXTON**

Traffic Engineering Officer, Mr J Carey, reports:-

PURPOSE

To seek Council's concurrence to the closure to vehicular traffic and sale of the land, of land parcel titled Lot 3 Section B DP 1846 No.45A Dalwood Road East Branxton 2335, situated with dual frontages to Dalwood Road and Church Street and located 100m east of Gordon Street.

BACKGROUND

Council has received representations from Councillor Chris Parker, on behalf of two residents of Church Street East Branxton, to investigate the closure, to vehicular traffic, of an existing laneway linking Church Street to Dalwood Road, located 100m east of Gordon Street at East Branxton. Independent representations from a third resident of East Branxton regarding the same matter have also been received.

A brief overview of the two resident's concerns is provided below:

"[Two local residents] have alerted me to a potentially dangerous situation in their area. Situated between View Street and Gordon Street and joining Dalwood and Church Street, East Branxton is a dirt "Right-Of-Way" and there are no properties fronting this "Right-Of-Way". Over recent times, this dirt road has been used by irresponsible motorists who travel at excess speeds, endangering the safety of residents, particularly at the Church Street end. These residents fear that if this practice continues, the safety of residents, particularly children who use this road for access to school buses, will be severely compromised. I have interviewed the majority of residents on this issue and all agree that a log placed across the Church Street end would allow safe pedestrian access and restrict vehicular movement. As this "Right-Of-Way" is in the middle of a normal town block, none of the residents will be inconvenienced by its closure."

From the third resident:

"There are quite a few young drivers that test their supposed 'skills' in this lane at all hours of the day and night. Perhaps consideration might be given to blocking vehicular through traffic (depending on residential access) to this lane with pedestrian through access only. I reside [near the laneway] and have seen skid and drift marks on numerous occasions. School buses drop children off in Dalwood Road and they walk down this lane to Church Street where they reside."

INFORMATION

A check of Council's records indicates that the lot is a parcel of Council owned "operational" land 12.72m wide, is of 1214m² in area and was acquired for the purposes of road construction, however the land was not gazetted as dedicated public road. Notwithstanding that the land is not dedicated public road, the land is open for use as a road link and in accordance with the Roads Act 1993, any proposal to close the lot to vehicular traffic is required to follow statutory requirements, including all submissions being considered by Council's Local Traffic Committee and referral the Traffic Committee's recommendations to Council for final decision.

As advised by the adjoining residents, the land is currently used as an informal link by vehicles and pedestrians between Dalwood Road and Church Street. The trafficable carriageway is a gravel formation 3m wide, with the remainder of the lot being grassed. From site inspection, the adjoining residents continue to maintain the grassed section of the land in a reasonable condition. The two residents who currently front Dalwood Road gain access to the rear of their properties from the lot, whereas the residents who front Church Street do not have access.

Site inspection, confirmed by public utility enquiry, indicates that a 100mm diameter watermain (its maintenance remains the authority of Hunter Water Corporation) exists along the eastern side of the subject lot. This is the only public utility that exists within the boundaries of the land.

In order for the watermain to remain on the land (should the land ultimately be sold), an easement over the watermain would need to be created, which would reduce the area available for practical development on the lot. It would be preferable, from Council's point of view, for Hunter Water Corporation to abandon the watermain, considering that the existing water mains in Dalwood Road and Church Street are fed from other inter-connections in Gordon Street and View Street.

If Council were to decide to request abandonment the water main, it is likely that Council would in turn be requested by Hunter Water Corporation to fund the works (likely to involve capping the main at its connection with the mains in Dalwood Road and Church Street).

In terms of closing the lot to through vehicular traffic, the most cost effective method would be to erect a series of bollards (to act as vehicle barriers) at a point approximately mid-way between Dalwood Road and Church Street, because:-

- It would require only one set of bollards;
- It would permit the adjoining residents to continue to maintain the grassed sections of the lot;
- It would permit the adjoining residents that currently have rear access from the lot to be maintained;
- It would allow Council's Parks Staff to access the lot from either Dalwood Road or Church Street during times when maintenance is required;
- It would allow pedestrians to continue to use the lot as an informal pedestrian access without conflict with through vehicular traffic.

The possible dedication of the land for public road and formal road construction is not recommended as the existing road network is functioning satisfactorily. Possible subdivision and sale of the land is considered a reasonable, long-term outcome for Council and can be investigated by Council's Property Officer.

RECOMMENDATION that:-

1. Hunter Water Corporation be requested to investigate abandoning the existing 100mm diameter watermain, as a live connection, on Lot 3 Section B DP 1846 No.45A Dalwood Road East Branxton;
2. The closure, to through vehicular traffic, by the erection of a central vehicle barrier, of Lot 3 Section B DP 1846 No.45A Dalwood Road East Branxton be investigated in accordance with statutory requirements under the Roads Act 1993;
3. Possible future subdivision and sale of Lot 3 Section B DP 1846 No. 45A Dalwood Road East Branxton be investigated by Council's Property Officer if the lot is closed to through vehicular traffic.

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

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
7 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 21/2008

**SUBJECT: PAYNES CROSSING ROAD, WOLLOMBI – PROPOSED ROAD
WIDENING ACQUISITIONS**

Infrastructure Services Manager, Mr K Dillon reports:-

INTRODUCTION

As part of Council's 2008/09 Capital Works Program, funding has been provided for reconstruction works on Paynes Crossing Road at Wollombi. The proposed works necessitate acquisition of road widening from two properties to contain the proposed widened carriageway, footway and batters.

An area of on one of the affected properties is also intended to be leased temporarily for construction activities as no alternative suitable Council-owned area is available.

BACKGROUND

During 2007 Council entered into a funding agreement with the Federal Department of Transport and Regional Services (DOTARS) to reconstruct, widen and seal the remaining 600 metres unsealed section of Paynes Crossing Road situated between Cunneens Bridge and Williams Bridge at Wollombi. Federal Government funding of \$560,000 has been provided under the Auslink Strategic Regional Program towards this project. This project is required to be completed by 30 June 2010. This project forms part of the \$3M co-sponsored works with Singleton Shire Council to upgrade Paynes Crossing Road/Wollombi Road between Wollombi and Broke.

REPORT

The project design has been developed sufficiently to enable identification of the areas of road widening acquisition necessary to contain the scope of works. The project is situated adjacent to several relics of convict origin which cannot be disturbed by the proposed widening works, as well as adjacent to a significant rock escarpment. Consequently the design standards have been compromised from typical carriageway and road shoulder treatments on rural roads to incorporate a minimum road pavement width plus kerb and guttering to formalise a footpaths along the narrowest section in lieu of a road shoulder and table drain treatment. A typical cross section of the proposed road along the narrowest section is shown in the Enclosure to this report – Attachment 'A'. The batters associated with this design together with provision of nominal verges requires acquisition of the following road widening:

Property: Lot 12, DP 755217 ('Kalamondah')
Acquisition Area: 750 square metres

Property: Lot 1, DP 745676 ('The Grange')
Acquisition Area: 900 square metres.

A plan of the proposed areas of road widening acquisition is shown at Attachment 'B' and 'C' respectively.

Preliminary negotiations have commenced with each owner of the affected properties regarding possible compensation for these acquisitions. Both owners have been very cooperative and it is envisaged that other measures will be accepted in lieu of the payment of compensation. These include erection of new stock fencing and gates, replacement of stock yards and closure and transfer of areas of surplus road reserve adjacent to Lot 12. The scope of the proposed acquisitions will require erection of considerable replacement boundary fencing and some adjustment to the stock yards on Lot 1 in any case. Therefore the additional compensatory measures suggested in this regard do not represent an anomaly.

The proposed areas of road closure are also shown in the Enclosure to this report - Attachment 'B' and comprise two areas totalling 235 square metres.

It is recommended that the General Manager pursue these negotiations with the owners of the affected properties in lieu of payment of compensation for the proposed acquisitions.

The project will involve a significant volume of rock excavation works (approximately 4000cu.m) which needs to be undertaken expeditiously to minimise the duration of disruption to traffic along this section of Paynes Crossing Road. Consequently the excavation works will involve bulk removal of the rock which will need to be processed off-site (crushed and screened) to enable its re-use for road formation works on the nearby Cunneens Bridge project and/or Thompsons Bridge project.

A suitable stockpile area comprising 6000 square metres has been identified within Lot 1, DP 745676 for this activity. The proposed location is also shown in the Enclosure to this report is Attachment 'C'. The proposed acquisition compensation negotiations with the owner of Lot 1 have included compensatory measures in lieu of rental payment for use of this stockpile area for a period of 12 months. Should the stockpile area be required for longer than 12 months, a nominal rental of \$500 per annum has been suggested.

COMMENT

The timeframe limits imposed on this project by the DOTARS funding agreement means that the proposed acquisitions need to proceed promptly to avoid construction delays. The alternative bases for compensation proposed results in mutually beneficial outcomes which are considered highly desirable and conducive to effecting timely acquisitions.

Funding for all aspects of the acquisition such as surveys, legal fees and compensatory works will be funded from the project allocation.

RECOMMENDATION that:-

1. Acquisition of 750 square metres of road widening from Lot 12, DP 755217, as shown on Attachment 'B,' be approved.
2. Acquisition of 900 square metres of road widening from Lot 1, DP 745676, as shown on Attachment 'C,' be approved.
3. Closure of 235 square metres of surplus road reserve, as shown on Attachment 'B' and its consolidation with Lot 12, DP 755217, be approved in lieu of part payment of compensation for the proposed road widening acquisition in Recommendation 1 above.
4. The General Manager pursue negotiation of compensatory measures with the owners of Lot 12, DP755217 and Lot 1, DP745676 in lieu of the payment of compensation for the proposed acquisitions in Recommendations 1 and 2 above.

5. A suitable stockpile area be leased from the owner of Lot 1, DP 745676 with the General Manager to negotiate rental payment arrangements.
6. Council authorise the Common Seal of Cessnock City Council to be affixed to the contracts for acquisition and sale in regard to properties Lot 12, DP 755217 and Lot 1 DP 745676.
7. Council authorise the Mayor and General Manager to execute the contracts for acquisition and sale in regards to properties Lot 12, DP 755217 and Lot 1 DP 745676.

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

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
7 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 22/2008

SUBJECT: EXTENSION OF LOAN TO CESSNOCK DISTRICT HOCKEY ASSOCIATION

Recreation Services Manager, Ms N Benson, reports:-

BACKGROUND

Upon the establishment of the Cessnock Hockey Centre in 1997, there was a funding partnership between Cessnock City Council, Cessnock District Hockey Association (CDHA) and NSW Department of Sport and Recreation (DSR). The partnership culminated in the construction of a \$257,000 facility funded from various sources which included the following:

Cessnock City Council	\$60,000	capital works program
CDHA	\$45,000	fundraising and savings
DSR	\$80,000	grant
Cessnock City Council	\$60,000	loan to CDHA
CDHA	\$12,000	bank loan
Total	\$257,000	

Council's loan to CDHA in 1997 was in line with its policy provision of loans to community and sporting organisations and was repaid over a seven (7) year period which concluded in August 2005. Additionally, CDHA repaid its bank loan and funded the expansion of the irrigation system, purchased new goals and constructed safety netting for the field at an estimated cost of \$25,000.

In August 2005, following a tender period and negotiations with synthetic sporting surface companies Council engaged TEAM Sports Surfacing to replace the synthetic surface at Cessnock regional hockey centre in Baddeley Park. The cost to replace the existing second hand surface with a brand new one was \$273,000 (exc GST). The following financial summary indicates how the project was funded:-

Cessnock City Council	\$150,000	contribution through capital works program
Cessnock City Council	\$100,000	loan to CDHA
CDHA	\$23,000	loan to CDHA from TEAM Sports Surfacing
Total	\$273,000	

In April 2007 CDHA sought an extension to the period of their loan with Council as they were experiencing difficulties making loan repayments to Council and TEAM Sports Surfacing. CDHA advised Council that if it maintained its loan repayment of \$8,115 to Council due on 1 May 2007 it would be unable to pay the first instalment (\$10,000) owed to TEAM Sports which was originally due on 13 December 2006. Conversely, if TEAM Sports was paid, the balance of association funds would not be adequate to make Council's loan repayment. At that time and based on the Association's financial plan and previous excellent record in terms of loan repayments Council resolved to extend the period of the loan to Cessnock District Hockey Association to November 2013.

REPORT

A copy of the current Cessnock City Council loan memorandum of agreement and payment schedule with CDHA has been included within the Enclosure to this report. Members of the association's executive met with Council in June 2008 regarding the loan funds owed to Council and advised that following payment of the final loan instalment of \$13,000 to TEAM Sports it was not able to make Council's May 2008 or November 2008 loan repayment of \$8,369.

On 23 September 2008 Council officers attended the CDHA Annual General Meeting to assist with election of a new executive committee. A new committee was elected and Council's Recreation Services Manager addressed the meeting and highlighted the importance of repaying the loan to Council; and discussed ways in which Council could assist the newly appointed executive committee regenerate hockey in Cessnock and subsequently increase use of the synthetic turf at Baddeley Park. As such Council committed to form a partnership with the new committee and provide assistance with facilitation of monthly committee meetings; marketing and promotion of the facility; administration assistance; attendance at local primary and high schools to promote hockey and the facility at Baddeley Park; and liaison with Hockey NSW regarding development.

Hockey NSW has indicated its support for the Cessnock area and registrations for a summer competition are currently being taken with numbers expected to increase due to the above mentioned newly formed partnership and initiatives. The association and Council will apply to host State Championships in 2009 as well as other future regional competitions. The majority of the club's income is derived from a combination of registration fees, kiosk takings, carnivals, sponsorship and advertising. Several club members also volunteer time on a weekly basis to work in the kiosk, train new players as a means to develop the club and the sport, and maintain the grounds etc.

Taking into consideration that CDHA have no other debts apart from Council's loan and the partnership mentioned above, combined with the expected increase in participants; as well as consultation with the Financial and Administrative Services Manager, it is proposed to extend the period of the current loan with Council by one (1) year. The extension will enable the association to save adequate funds to recommence loan repayments in May 2009. Deferment of loan repayments due in 2008 would result in additional interest charges of \$3,049 which would be spread over the remaining term of the loan. This would mean that when repayments recommence in May 2009 each payment would be \$8,623 instead of the current \$8,369. Cessnock District Hockey Association has advised Council that they are supportive of the extension and acknowledge the increase in payments due to the interest on the loan.

RECOMMENDATION that Council extend the period of the loan to Cessnock District Hockey Association to November 2014.

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

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
7 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 23/2008

SUBJECT: REIMBURSEMENT OF EMERGENCY WORKS BY DEPARTMENT OF COMMERCE FOLLOWING THE JUNE 2007 STORM

Financial Co-ordinator, Infrastructure & Services, Mr B Hughes, reports:-

BACKGROUND

Following the storm on June 8, 2007 and the subsequent damage, the NSW Government declared the event a natural disaster on June 13, 2007. This provides funding for Councils under the Natural Disaster Relief Program (NDRP).

Under this program, funding is administered by the Roads & Traffic Authority (RTA) for restoration works involving roads, bridges and crown lands and by the Department of Commerce (DOC) for emergency works and other assets.

Council has claimed and been paid in the vicinity of \$2,450,000 by the RTA for restoration works to roads and bridges but has received nothing from the DOC.

Back in June 2007 the DOC appointed a Liaison Officer to liaise with Council. Council's officer responsible for Emergency Management is the Civil Construction & Emergency Services Manager.

As well as appointing the Liaison Officer the DOC supplied Council with a flyer and "Conditions of Financial Assistance" document setting out the basic requirements for obtaining funding for the disaster.

The DOC Representative met with Council's Civil Construction & Emergency Services Manager in the last week of June 2007 to assess the damage and discuss the requirements for the claim. It was reported that the DOC had relaxed its criteria to include work done during normal hours as well as callouts. The DOC Representative confirmed this in an email on 10 July 2007 stating "I have recently been given advice that the NDRF (Natural Disaster Relief Fund) conditions have been relaxed as follows:-

- Actual cost of the removal of debris, rubbish, vegetation etc from council property plus the removal of private property rubbish from council property where the debris is directly a result of the natural disaster is included.
- Eligible council costs include the actual cost of plant to undertake emergency or restoration works activities. It also involves the actual cost of employees directly involved in emergency or restoration works activities. Normal maintenance and administration costs are ineligible"

Council was requested to keep a spreadsheet and references to either photos or CRMS's to support our claim.

On 21 August 2007 Council submitted its initial claim to the DOC for \$1,048,829 including the Certificate of Expenditure along with the spreadsheet detailing the emergency works completed by Council. The DOC requested further detail which was supplied on August 27, 2007 then in September 2007 requested more detail, which was supplied on September 11, 2007.

In November 2007, Council contacted the DOC Liaison Officer seeking a timeframe for payment of the claim, however a timeframe could not be given. Council then contacted the District NDRF Co-ordinator who could not recall seeing Cessnock's claim but promised to get things back on track ASAP.

Council's next recorded communication with the DOC in March 2008 stating that some of the works listed in the spreadsheet didn't fit under the DOC NDRF guidelines. Council then revised it's claim reducing it for works relating to the State Roads and for works reimbursed by insurance claims. After several revisions an amount of \$854,411 was claimed on May 15, 2008.

Because of the delay in receiving payment Council's Finance section telephoned six other Lower Hunter Council's and were informed that none of them had received any payment from the DOC.

A meeting was organised with the DOC's Liaison Officer and District NDRF Coordinator on 2 July 2008, and they requested more detail advising what was eligible and/or ineligible to be claimed. The spreadsheet was revised and submitted on August 4, 2008 to the DOC for their review.

On 5 September 2008 Council received an email from the DOC stating that they had received advice from the NSW Treasury that only Council's "additional costs' for debris cleanup type work is eligible. That is, only overtime, extra shifts, contractors engaged etc for debris cleanup is eligible. Work done and equipment used in normal operating times is not eligible"

They then asked Council to revise it's documentation/certification. Council was then contacted by Lake Macquarie Council and a meeting was held on September 9, 2008 with invitations extended to Cessnock, Dungog, Upper Hunter, Maitland, Newcastle, Great Lakes, Gloucester, Port Stephens, Muswellbrook and Singleton Councils to discuss the ramifications.

The meeting, which was attended by Council's Acting Director Infrastructure & Services and Council's Financial Coordinator, Infrastructure & Services, resolved to collate financial information for all of the affected Councils, record issues, comments and history of dealings with the DOC and to send a delegation of representatives to discuss these issues with the relevant State Ministers.

Council's Officers were also made aware that some of the other Councils had been provided with a Natural Disaster Relief Program manual which detailed and gave examples of what was eligible and ineligible to be claimed from the DOC. Newcastle City Council have since sent us a copy of the manual.

On 23 September 2008 the DOC advised that NSW Treasury have announced "that due to the severity of the event and the resultant volume of household contents damaged by the storms and floods, Councils may include the cost of collecting household debris from footpaths and its disposal in the council claims administered by Commerce". "Councils are asked to clearly identify and document the cost of removing household debris in their claims".

As a result of this Council staff have reviewed all the timesheets to try to provide some auditable claim for the DOC. Based on the latest instructions from the DOC and the revision following the receipt of the NDRP guidelines, the amount claimable would be approximately \$230,000, leaving a shortfall of \$620,000. Some of this shortfall is attributable to work done on roads which is not claimable from the DOC. In order to maximise the value achieved by the work teams while doing restoration works, some additional work was done to improve the roads to better than pre-storm condition.

Further information was received from the delegation that met with the Minister for the Hunter, Jodi McKay on 10 October 2008. The Minister was very receptive to our issues and agreed to set up a further meeting with the Minister for Commerce. The Representative from the DOC who was present, was adamant that we are incorrect in our interpretation of the relaxed guidelines. It was put to the DOC, how could 9 Hunter Council's individually come to the same interpretation. One of the objectives of the delegation is to clarify the interpretation of "normal operations". The delegation's view is that emergency works and restoration works are anything but normal operations.

RECOMMENDATION that:-

1. Council note the report and continue to negotiate with the Department of Commerce.
2. Council write to the appropriate State and Federal Ministers seeking assistance in expediting the payment of the funds.

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

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
7 November 2008

DIRECTOR INFRASTRUCTURE & SERVICES REPORT NO. 24/2008

**SUBJECT: REPORT OF THE CESSNOCK CITY COUNCIL LOCAL TRAFFIC
 COMMITTEE MEETING HELD ON 20 OCTOBER 2008**

A meeting of the Cessnock City Council Local Traffic Committee was held on 20 October 2008 and reports as follows:-

Attendees at the meeting included Councillor J Hawkins, Councillor J Maybury, Senior Constable M Bernard, Mr G Warnick, Mr M Kerr, Mr K Dillon, Mr J Carey and Mr C Eddy.

In line with RTA requirements, the items presented for consideration are listed into "Formal Matters" and "Informal Matters". "Formal Matters" are those items where Council is required to exercise its delegated powers for approval of traffic facility items. "Informal Matters" are those items where Council is not required to exercise this function but are presented to the Council for information. Items raised as General Business are included at the end of the report.

FORMAL MATTERS

**ITEM NO: 08/098 DARWIN STREET CESSNOCK - "NO STOPPING" AT
 SUPPORTERS CLUB**

The "No Stopping" signs near the entry to the Supporters Club are unfair. Parking existed there in the past and was well used. Also, signs don't appear to be correctly located for visibility.

Darwin Street was inspected by Council and the NSW Police on 2 September 2008, confirming that there is a considerable length of "No Stopping" covering the pedestrian crossing at Big W, the entrance to the Wine Country Motel and the entrance to the Supporters Club.

The installation of two (2) parking spaces mid-way between the entrances to the Supporters Club and the Wine Country Motel (respectively) would not impact on sight distance at these points.

RECOMMENDED that:-

1. Two (2) parking spaces, located mid-way between the entrances to the Supporters Club and the Wine Country Motel (respectively) be installed in Darwin Street Cessnock;
2. The existing "No Stopping" restrictions be adjusted accordingly.

ITEM NO: 08/103 WYNDHAM STREET EAST BRANXTON – SCHOOL BUSES

Original Matter:-

Councillor J Maybury made representations on behalf of an East Branxton resident regarding school buses parking in Wyndham Street across the frontage of her property. Concerns were raised that buses were standing close to the travelling lane and were causing congestion, especially when parents were waiting to collect school children.

Council resolution of 2 July 2008:-

"The provision of school bus zones on both sides of Wyndham Street to the north of Dalwood Road be investigated."

Hunter Valley Buses were consulted in regard to bus operation times, with the following information provided.

- The earliest morning school bus to arrive at the Wyndham Street bus shelter is 6.45 am and the last morning school bus to depart is 8.05 am;
- The earliest afternoon school bus to arrive at the Wyndham Street bus shelter is 3.25 pm and the last afternoon school bus to depart is 4.40 pm.

Additional information indicates that both school and services buses are using the unrestricted parking area opposite the Wyndham Street bus shelter:-

- The earliest weekday service bus arrives at 9.30am and the last service bus departs at 5.56pm;
- The earliest Saturday service bus arrives at 11.24am and the last Saturday service bus departs at 5.24pm.

In order to formalise suitable areas for school buses to park during school morning and afternoons, as well as to cater for the needs of service buses and the residents opposite the bus shelter, the following measures are recommended:-

1. The existing “Bus Zone” in Wyndham Street, on the west side at the existing bus shelter, remain a 24 hour Bus Zone;
2. “No Stopping” restrictions be installed in Wyndham Street, on the west side, over the turning area opposite the Dalwood Road intersection;
3. A new “School Bus Zone 6am to 8.15am 3pm to 5pm” be established in Wyndham Street, on the west side, for approximately 40m in length, immediately north of Dalwood Road;
4. A new “School Bus Zone 6am to 8.15am 3pm to 5pm” be established in Wyndham Street, on the east side, for approximately 30m in length, immediately north of Dalwood Road;
5. The existing statutory “No Stopping” areas at the Dalwood Road intersection be signposted;
6. The existing unrestricted parking area in Wyndham Street, on the east side, opposite the bus shelter be converted to a timed “Bus Zone 9.15am to 6pm Monday To Friday, 11.15am to 6pm Saturdays” (approximately 25m in length).

The installation of a timed “Bus Zone” over the residential frontages opposite the bus shelter provides a balance between the parking needs of the residents and the servicing needs of Hunter Valley Buses. In addition, both properties have off-street parking available.

RECOMMENDED that the installation of timed “Bus Zones”, “School Bus Zones” and “No Stopping” restrictions in Wyndham Street East Branxton between the New England Highway and George Street and in Dalwood Road at Wyndham Street, be approved in accordance with Item No.08/103 of the Traffic Committee report.

ITEM NO: 08/105 NELSON STREET GRETA – PEDESTRIAN FACILITIES ON ANVIL CREEK BRIDGE

I wish to bring to your attention to the above that was before Council Meeting on 2 July 2008. There were matters of discrepancy regards to the recommendation: “2. Council write to the Australian Rail Track Corporation seeking information on the provision of pedestrian facilities on Anvil Creek Bridge.”

I was informed that this was a clerical error and that it should read “RTA”: I am requesting that this be amended.

Also, I requested that one of the signs that were placed on private property in front of a power pole on SRA property, which is directing traffic through my front yard. Could this be removed and placed in the proper vicinity.

The concerns raised by the applicant regarding pedestrian facilities on the Anvil Creek Bridge were part of an address to the Committee by the applicant prior to the Traffic Committee meeting of 19 May 2008. The recommendation to Council from that meeting should have made reference to the RTA, instead of the Australian Rail Track Corporation, as Anvil Creek Bridge is jointly funded by the RTA and Council and Nelson Street is a Regional Road.

Secondly, the sign located near a power pole on SRA property is a Chevron Alignment Marker (CAM), so positioned in the SRA car park to provide guidance for northbound vehicles on the right hand curve (near the applicant's property) between the rail overhead bridge and Anvil Creek. The area was inspected by Council officers at the time the concern was raised and it was confirmed that the CAM is correctly located, is away from all vehicle movements between Nelson Street and the SRA car park and does not direct approaching traffic towards the applicant's access.

RECOMMENDED that:-

1. Council write to the RTA seeking information on the provision of pedestrian facilities on Anvil Creek Bridge on Nelson Street Greta;
2. The existing Chevron Alignment Marker in the SRA car park remain in its current location.

ITEM NO: 08/107 BIMBADEEN ROAD MT. VIEW - POOR SIGHT DISTANCE

Applicant requested Council to inspect the section of Bimbadeen Road Mt View on the steep and narrow 300m section west of 80 km/h signs. Traffic has to partly leave the road on the crest of a hill and visibility is poor.

Council has received concept design plans to re-align the Mt. View Road / Bimbadeen Road intersection (and the respective approaches over a distance of approximately 110m, providing 6.4m carriageway with sealed shoulders), however over the remaining 490m of Bimbadeen Road under review, narrow road reserves and steep cut / fill batters offer no scope for reasonable road widening to support centreline linemarking.

All of the curves in the section under review have Chevron Alignment Markers installed, however they do not have advance warning or supplementary speed advisory signage installed.

RECOMMENDED that advance warning signs (with supplementary speed advisory plates) be installed on Bimbadeen Road Mt. View from Mt. View Road to 600m east of Mt. View Road.

ITEM NO: 08/108 GOVERNMENT ROAD WESTON - "NO STOPPING" AT THOMAS & COFFEY PARK ENTRANCE

The applicant is requesting that some "No Standing" signs be erected on both side of the entrance to Thomas & Coffey Park along Government Road, Weston. Cars are parking right up to the entrance, making it hazardous for the drivers of cars that are leaving the park because vision is impaired.

The installation of “No Stopping” restrictions over the driveway entrance to the park will not impact on resident parking and only affects parking across the frontage of the park. It is recommended that the proposed restrictions be provided over two parking spaces to the north and one space to the south of the access (a distance of approximately 25m).

RECOMMENDED that “No Stopping” restrictions be installed in Government Road Weston, on the east side, for two spaces to the north and one space to the south of the access to Thomas & Coffey Park.

ITEM NO: 08/109 PAYNES CROSSING ROAD WOLLOMBI – CHICANE TREATMENTS AT CUNNEENS BRIDGE

Council has had concrete barrier traffic chicanes installed on both approaches to Cunneens Bridge Wollombi since March 2008 and these were installed to restrict vehicles over 10m in length from using the bridge. These vehicles were likely to exceed the 9 tonne load limit, although shorter vehicles were still able to pass and potentially be over the 9 tonnes load limit.

Council officers have personally witnessed a Class 8 heavy vehicle (a petrol tanker) cross the bridge on Monday 29 September 2008 and there were other reported sightings of coaches and other heavy vehicles using the bridge, which are [believed to be] exceeding the 9 tonne load limit.

Council is requesting permission to move the barriers closer together by 200mm to restrict the turning movements through the chicanes to further reduce the likelihood of an over-dimensional vehicle crossing the bridge. This narrowing will be a test to see if this tightening action is enough to restrict long vehicles from crossing the bridge.

Additional chicanes are planned for the northern side of Williams Bridge and it is also proposed to relocate the southern bridge chicane to Negro Street. These narrowing treatments are part of an ongoing attempt to maintain the structural integrity of the bridge until the replacement bridge and approaches are constructed.

The proposed adjustment to the existing chicane treatments on Paynes Crossing Road involves the following works:-

1. Relocation of the existing chicanes (and their associated approach signposting) from their existing location (approximately 55m south of Cunneens Bridge) to a point 50m south of Aleppo Street;
2. Relocation of the existing chicanes (and their associated approach signposting) from their existing location (approximately 50m north of Williams Bridge) to a point 120m north of Williams Bridge;
3. Narrowing of the trafficable width through the chicane treatments to 2.9m;
4. Installation of new chicane treatment at Williams Bridge.

The proposal is expected to provide an increased level of control of heavy vehicle movements across Cunneens Bridge (in order to preserve the structural integrity of the bridge until its replacement is constructed and open to traffic), as well as better usage of available turning areas where heavy vehicles can make u-turn movements prior to reaching the bridge.

It is recommended that the proposed amendments to the chicane treatments be approved, in accordance with Item 08/109 of the Traffic Committee report and Design Plan 08/09/:4237 // Project Number 4433.

RECOMMENDED that the proposed amendments to the chicane treatments on Paynes Crossing Road Wollombi, between Wollombi Road and Williams Bridge be approved, in accordance with Item 08/109 of the Traffic Committee report and Design Plan 08/09/:4237 // Project Number 4433.

**ITEM NO: 08/110 CHARLES STREET ABERMAIN - "NO STOPPING"
OUTSIDE ABERMAIN HOTEL**

Cars are parking outside the Abermain Hotel in Charles Street, making it difficult for cars turning right from William Street to drive between the new lane dividers (flaps) and the parked car. Drivers have to drive over the flaps to get around the parked car.

The existing lane dividers (flaps) were recently installed to complement the short lengths of double unbroken (BB) centreline markings in the Charles Street north and William Street east approaches. The new BB markings were installed to indicate to motorists the extent of the statutory "No Stopping" area, however the installation of signposting is required to complement the existing treatments and ensure that these areas remain clear of parked vehicles.

RECOMMENDED that the statutory "No Stopping" areas in Charles Street Abermain, on the northern approach to William Street be signposted.

**ITEM NO: 08/111 BARTON STREET KURRI - DISABLED PARKING AT
CATHOLIC HALL**

Installation of two 'Disabled Parking' spaces in the 'closed-off' section of Barton Street (between Merthyr Street and Victoria Street) outside the Catholic Hall (which fronts Victoria Street).

There is scope to install two 'Disabled Parking' spaces in Barton Street at the Catholic Hall, with a new space located on either side of an existing driveway (servicing the rear of the Hall). Installation of the spaces will include the installation of associated signposting and pavement markings and orienting the spaces in a "90 Degree Angle Parking Rear To Kerb" format.

In addition to the 'Disabled Parking' spaces it is also recommended that the following works be undertaken:-

- The existing parking format on the southern side of Barton Street between Victoria Street and Holy Spirit Primary School be formalised as "90 Degree Rear To Kerb" format and marked spaces be installed;
- The installation of "No Stopping" restrictions at Victoria Street be installed to provide a clear space for turning movements;
- The times of the existing "School Bus Zone" at Holy Spirit Primary School be changed to operate between 8am-9.30am and 2.30pm-4pm (consistent with the 40 km/h School Zone).

RECOMMENDED that the following works be approved in Barton Street Kurri, on the southern side between Merthyr Street and Victoria Street:-

1. Two suitably signposted and pavement marked 'Disabled Parking' spaces be installed outside the Catholic Hall;
2. Marked "90 Degree Rear To Kerb" parking spaces be installed between Holy Spirit Primary School and Victoria Street;
3. "No Stopping" restrictions be installed at Victoria Street to provide a suitable turning area;
4. The times of the "School Bus Zone" at Holy Spirit Primary School be changed to operate between 8am-9.30am and 2.30pm-4pm".

INFORMAL MATTERS

ITEM NO: 08/097 CESSNOCK ROAD ABERMAIN – TIMED PARKING RESTRICTIONS

I am writing regard to the parking directly in front of the store. It is becoming more and more common for people to be parking directly out the front of the store for extended periods which is very frustrating as these parks are essential for our business to operate successfully. I feel that a time limit of 15 minutes for these parks would be a fair solution for both this store and the take-away directly next door. After the recent road works (which were very hard on the store) we have returned to our normal and better sales levels but this issue often makes it very hard on a small business in this location.

Cessnock Road is a State Road and it is recommended that the request be referred to the RTA for investigation.

RECOMMENDED that the RTA be requested to investigate the installation of timed parking restrictions on Cessnock Road Abermain between Orange Street and Charles Street.

ITEM NO: 08/099 VINCENT STREET CESSNOCK – PEDESTRIAN CROSSING AT BADDELEY PARK

Customer has complained about a lack of pedestrian facilities at Baddeley Park and says that he was unable to see pedestrians.

Council undertook an inspection of Vincent Street at the Cessnock Sportsground (Baddeley Park), confirming that the numbers of pedestrians crossing versus traffic volumes passing this point do not meet the RTA's warrant for marked pedestrian crossings. Sight distance on both approaches to Baddeley Park remains good.

RECOMMENDED that no action be taken.

ITEM NO: 08/100 ALLANDALE ROAD CESSNOCK – PEDESTRIAN CROSSING AT JURD STREET

Crossing at corner of Jurd Street and Allandale Road needs more signage and maybe lighting or flashing lights. [There are] school bus stops close by and lots of children of all ages use this crossing.

Allandale Road is a State Road and it is recommended that the request be referred to the RTA for investigation.

RECOMMENDED that the RTA be requested to investigate the provision of upgraded signposting and pavement markings on Allandale Road Cessnock at Jurd Street.

ITEM NO: 08/101 VARIOUS ROADS CESSNOCK LGA – CESSNOCK TO MORISSET BUS-RAIL LINK

Applicant has provided a background paper on the proposal for a direct bus link between Cessnock and Morisset, which as discussed at a previous Lower Hunter Councils Transport Group (LHCTG) meeting on 21 August 2008. Rover Coaches at Cessnock has been pursuing this proposal with the Ministry Of Transport for some time. The Ministry has rejected the proposal as a normal route service, as it would increase the bus kilometres it would have to pay for. While the proposal for a normal route service is still feasible and should attract funding for additional bus km, the alternative proposal for it to operate as part of the CityRail network may be a viable alternative. The background paper examines this approach. I have written to Rover Coaches conveying the suggestions made at yesterday's meeting, especially the opportunities offered by the Lower Hunter Transport Needs Study.

The Traffic Committee had no objections to the concept of establishing a direct bus-rail link between Cessnock and Morisset when the matter was raised and Council has since sought representations to the Minister of Transport through the State Member for Cessnock, Mr Kerry Hickey MP.

The concept, once implemented, is likely to involve a re-distribution of service bus routes throughout the city, using existing bus stop / shelter infrastructure.

It is recommended that the concept proposal be supported in principle and that the matter be returned to the Traffic Committee for further consideration when a firm proposal (including routes, timetabling, etc) is received.

RECOMMENDED that Council support the introduction of a bus-rail link between Cessnock and Morisset Railway Station.

ITEM NO: 08/102 WYNDHAM STREET EAST BRANXTON - RE-LOCATE "STOP" SIGN & INSTALL LOAD LIMIT

Wyndham Street East Branxton (near traffic lights) has a large amount of traffic using the road. As a result of this, there are large potholes and the edge of the road is damaged as the road is too narrow. The applicant feels that there are several solutions for this problem:-

1. Take the "Stop" sign out of Dalwood Road and put it in Wyndham Street;
2. Make the section of Wyndham Street between Dalwood Road and George Street a 3 tonne load limit.

Relocation of the "Stop" restriction from Dalwood Road to the Wyndham Street northern leg of the intersection is not supported for several reasons:-

1. Sight distance in Dalwood Road at Wyndham Street is below the RTA requirements and requires the "Stop" control to remain;
2. An un-controlled left turn from Dalwood Road into Wyndham Street may increase the crash risk between left turning vehicles and stationary vehicles in Wyndham Street;
3. Travel speeds for the left turn would increase.

Secondly, the implementation of a load limit on Wyndham Street to the north of Dalwood Road (through the residential area) is not supported as the pavement is in good condition.

RECOMMENDED that no action be taken.

ITEM NO: 08/104 DORA STREET ELLALONG - DUST FROM ANTI-SOCIAL BEHAVIOUR

Resident near Dora Street has requested that the section of gravel road between Vulture Street and John Street be tarred to prevent local hooligans from doing donuts along the road. Some residents are elderly and suffer from respiratory problems. This section of road appears to be the only central section in Ellalong that is not tarred.

Dora Street Ellalong is a link road between Vulture and John Streets (which are both “No Through” roads) and there are no property frontages to Dora Street. There is evidence of anti-social behaviour (wheel tracks etc), although the gravel pavement is in good condition. While Council has identified three options to assist the residents (involving sealing the road at a cost of approximately \$10,000 or closing the road to vehicular traffic), the preferred option is to advise the resident to contact the NSW Police Force when instances of anti-social behaviour occur.

RECOMMENDED that the applicant be advised that instances of anti-social behaviour in Dora Street Ellalong should be referred to the NSW Police Force.

ITEM NO: 08/106 NEW ENGLAND HIGHWAY GRETA – PEDESTRIAN CROSSING FACILITIES

The applicant has lived in Greta for approximately thirteen months and both her and her daughter use the bus service three days out of five to travel to and from work. It is very difficult to cross that stretch of highway and since living in this area and waiting for buses at these stops, she has seen three major accidents. There are also approximately twenty school children who use these bus stops and more than half of them have to cross the highway to catch their buses. She has even seen some of the children miss their buses because they are on the opposite side of the highway waiting for a break in the traffic to allow them to cross over. Applicant believes this can and would be avoided if the F3 Link road was constructed.

The New England Highway is a State Road and the installation of suitable pedestrian crossing facilities on the Highway is the responsibility of the Roads & Traffic Authority.

RECOMMENDED that the RTA be requested to investigate the installation of pedestrian facilities on the New England Highway Greta at the Nelson Street intersection.

GENERAL BUSINESS

A number of matters were raised during General Business at the Traffic Committee meeting and these items are provided for information below.

1. Cessnock Road Weston – Councillor J Maybury advised that, for motorists intending to enter the car park on the southern side of Cessnock Road at Peace Park, the location of the new traffic island requires approaching traffic from Weston to slow down to a low approach speed. Councillor Maybury was concerned that the approach to the entry point does not permit traffic to move to the road shoulder whilst decelerating and has requested that a deceleration taper be constructed.

Councillor Maybury was advised that the matter would be listed for inspection for the next Traffic Committee meeting.

2. Paynes Crossing Road Wollombi – Council's Traffic Engineering Officer tabled plans detailing a proposal to reduce the width of the existing traffic chicane treatments on the approaches to Cunneens Bridge and Williams Bridge.

The proposal involves the following works:-

- Relocation of the existing chicanes (and their associated approach signposting) from their existing location (approximately 55m south of Cunneens Bridge) to a point 50m south of Aleppo Street;
- Relocation of the existing chicanes (and their associated approach signposting) from their existing location (approximately 50m north of Williams Bridge) to a point 120m north of Williams Bridge;
- Narrowing of the trafficable width through the chicane treatments to 2.9m;
- Installation of new chicane treatment at Williams Bridge.

The proposal is designed to provide an increased level of control of heavy vehicle movements across Cunneens Bridge, as well as better usage of available turning areas where heavy vehicles can make u-turn movements prior to reaching the bridge.

It is recommended that the proposed amendments to the chicane treatments be approved, in accordance with Item 08/109 of the Traffic Committee report and Design Plan 08/09/:4237 // Project Number 4433.

This item was considered as Item 08/109 at the meeting.

3. Various Roads Kurri & Weston - Council's Traffic Engineering Officer tabled an email from the RTA requesting Council comment on a proposal from Daracon to amend the restricted road status for oversize vehicles on Main Road 588 from Weston to Cessnock, which would allow oversize heavy vehicle movements between the Mitchell Avenue industrial area and Cessnock under general permit conditions (that is, without the need for a specific permit). Current Restricted Roads in the Cessnock LGA are:-

- MR588 from Cessnock to Kurri via Maitland Road, Cessnock Road, Station Street, First Street, Northcote Street and Mitchell Avenue;
- MR195 from Kurri to Maitland via Lang Street, Main Road and Cessnock Road.

Daracon proposes to use Mitchell Avenue from Northcote Street to Government Road (a regional road) and Government Road from Mitchell Avenue to Cessnock Road (which are regional and local roads (respectively) to avoid using Northcote Street, First Street and Station Street.

The Committee had concerns regarding the proposal and recommended that the matter be listed for the next Traffic Committee meeting.

4. Fourth Street Weston – Council's Traffic Engineering Officer tabled a request from a Weston resident to remove the existing four-way "Stop" signs (as an intersection control) at the Kline Street intersection.

There was some discussion about the operation of these types of intersections, however the Committee recommended that the matter be listed for the next Traffic Committee meeting.

5. Charles Street Abermain - Council's Traffic Engineering Officer tabled a request from an Abermain resident advising that *"cars are parking outside the Abermain Hotel, making it difficult for cars turning right from William Street to drive between the new lane dividers (flaps) and the parked car. Drivers have to drive over the flaps to get around the parked car."*

The existing lane dividers (flaps) were recently installed to complement the short lengths of double unbroken (BB) centreline markings in the Charles Street north and William Street east approaches. The new BB markings were installed to indicate to motorists the extent of the statutory "No Stopping" area, however the installation of signposting is required to complement the existing treatments and ensure that these areas remain clear of parked vehicles.

It is recommended that the statutory "No Stopping" areas on the Charles Street north approach to the intersection be signposted.

This item was considered as Item 08/110 at the meeting.

6. Barton Street Kurri - Council's Traffic Engineering Officer tabled a request from an Abermain resident for the installation of two new 'Disabled Parking' spaces in the 'closed off' section of Barton Street outside the Catholic Hall (which fronts Victoria Street).

There is scope to install two 'Disabled Parking' spaces in Barton Street at the Catholic Hall, with a new space located on either side of an existing driveway (servicing the rear of the Hall) which is considered suitable to be used as the necessary kerb ramp. Installation of the spaces will include the installation of associated signposting and pavement markings and orienting the spaces in a "90 Degree Angle Parking Rear To Kerb" format.

In addition to the 'Disabled Parking' spaces it is also recommended that the following works be approved:-

- The existing parking format on the southern side of Barton Street between Victoria Street and Holy Spirit Primary School be formalised as "90 Degree Rear To Kerb" format and marked spaces be installed;
- The installation of "No Stopping" restrictions at Victoria Street be installed to provide a clear space for turning movements;
- The times of the existing "School Bus Zone" at Holy Spirit Primary School be changed to operate between 8am-9.30am and 2.30pm-4pm (consistent with the 40 km/h School Zone).

It is recommended that the installation of two 'Disabled Parking' spaces at the Catholic Hall, marked and signposted "90 Degree Rear To Kerb" parking spaces, "No Stopping" restrictions and the change to the operational times of the "School Bus Zone" at Holy Spirit Primary School be approved.

This item was considered as Item 08/111 at the meeting.

7. Earp Street Heddon Greta - Council's Traffic Engineering Officer tabled a request from Councillor J Maybury for the permanent closure, to vehicular traffic, of Earp Street between Cessnock Road (Main Road 195) and Trenchard Street.

Councillor Maybury was advised that the request would be investigated in accordance with statutory requirements under the Roads Act 1993 and be advertised for comment in consultation with the adjoining residents.

This matter will be considered by the Traffic Committee at a future meeting, once the advertising and public consultation processes are completed.

RECOMMENDATION that Council endorse the report of the Cessnock City Council Local Traffic Committee meeting held on 20 October 2008.

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

L OLDFIELD
DIRECTOR INFRASTRUCTURE & SERVICES
7 November 2008

DIRECTOR CORPORATE & COMMUNITY REPORT NO. 17/2008

SUBJECT: FINANCIAL REPORTS FOR THE YEAR ENDED 30 JUNE 2008

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

SUMMARY

A report presenting the audited financial reports incorporating the auditor's reports for 2007/08 as per the requirements of Section 419 of the Local Government Act 1993 (The Act).

BACKGROUND

Council's Annual Financial Reports for 2007/08 have been completed and audited and are now presented to Council. A copy of the Auditors reports and selected extracts from the Financial Reports are contained within the Enclosure Documents for Councillors information. Any Councillor requiring a complete set of the Financial Reports and accompanying notes should contact the Management Accountant, Mr Paul Grosbernd. Additionally, the Financial Reports incorporating the auditors report are published on Councils website.

A report to the 8 October 2008 Ordinary Council Meeting of Council included extracts of the draft financial reports prior to audit. During the course of the audit process a number of minor changes were identified and altered which related mainly to presentation and categorisation. With the exception of an adjustment in relation to investments detailed later there were no material changes to the draft reports as presented to Council.

Council has historically held investments within its accounts at par (purchase) value, with investments usually held to maturity rather than being actively traded. With the volatility and uncertainty being experienced within global financial markets and in particular potential losses in relation to collateralised debt obligations (CDO's), the decision was taken to write-down the value of investments held as at 30 June 2008 to the individual indicative market value of each investment.

At the time of the audit no loss had been crystallised with the write-down representing unrealised losses at balance date and was a non cash year end adjustment only. Following consultation with the Senior Executive group, the write-down was funded from internal reserves as at 30 June 2008.

The investment write-down totalled \$2,990,700 and reflected the market value of those investments at the balance date of 30 June 2008. A majority of this relates to CDO's (par value \$7M) which accounted for \$2,868,250 of the total write-down. As previously advised both verbally and within the monthly investment reports to Council, once the situation becomes clearer in relation to all investments (i.e. either actual losses incurred or increases in market value back to par value) a separate report would be provided to Council. This report will detail funding options to Council in relation to the 30 June 2008 write-down and the effect on current and future operating budgets.

Financial Report Summary

As can be seen in the Income Statement, Council recorded a Net Operating Surplus for 2007/08 of \$1,492,000 (surplus of \$1,682,000 in 2006/07). The Net Operating Result before Capital Grants & Contributions for 2007/08 shows a deficit of \$1,951,000 (deficit of \$1,060,000 in 2006/07).

This change in the result was attributable to a number of factors, including:

- Increase in Rates & Annual Charges revenue of \$1,859,000
- Increase in User Charges and Fees of \$3,354,000
- Increase in Operating Grants & Contributions of \$2,302,000
- Increase in Capital Grants & Contributions of \$701,000
- Impairment of investments (market value recognition) of \$2,991,000
- Increase in Materials & Contracts expense of \$4,429,000
- Increase in Employee Costs of \$1,092,000

The factors contributing to the above increases & decreases are explained in more detail within the Audit Report contained within the Enclosure Document, but primarily relate to works associated with grant funding (RTA works, Department of Commerce) for roads, flood damage, bushfire and emergency services.

As can be seen in the Balance Sheet, the Total Equity (Council's Net Worth) was \$381,509,000 at 30 June 2008, a net increase of \$68,600,000 over the 2006/07 amount. This increase mainly relates to the revaluation of assets to fair value as at 30 June 2008 of \$67,108,000, with the balance of \$1,492,000 being the operating surplus for the year. The revaluation of assets to fair value (operational land, buildings, plant & equipment and office equipment) was required by Accounting Standard AASB116 "Property, Plant and Equipment" and the Local Government Code of Accounting Practice and Financial Reporting. These revaluation requirements are being undertaken on a staged basis with remaining infrastructure assets (roads, bridges, footpaths, drains, other structures) to be valued at fair value as at 30 June 2009 and community land the following year.

Working Capital

Working Capital is the traditional measure of Council's financial position. It is not solely made up of cash at hand but is represented by current assets that may be readily converted to cash if the need arose. Examples of these assets include sundry debtors, inventory and some rates debtors.

Council's estimated Working Capital position at 30 June 2008 is \$854,000, which is \$4,000 above Council's policy level of \$850,000.

Cash and Investments (Restricted Assets)

Cash and investments at 30 June 2008 totalled \$17,335,000, compared to \$17,680,000 at 30 June 2007. The amount reported is after the notional write-down to market value of investments of \$2,991,000. After funding of Restricted Assets (Reserves) unrestricted cash and investments was \$575,000 as compared to \$2,288,000 for the prior year.

Restrictions on cash and investments are divided into externally restricted assets where the funds are restricted in their use by externally imposed requirements and internally restricted assets where the funds are restricted in their use by resolution or policy of Council to reflect forward plans, identified programs of works, and are, in fact Councils' "Reserves".

Externally Restricted Assets totalled \$5,259,000 and consisted of unexpended developer contributions under Section 94, domestic waste management charges and specific purpose grants. Internally Restricted Assets totalled \$11,501,000 and details of these internally restricted assets, including the adjustments for the investment write-downs are shown below:

Internal Reserve	Balance Prior to Adjustment	Market Value Adjustment	Reserve at 30 June 2008
Employee Leave Entitlements	939,000	217,000	722,000
Replacement of Plant – Vehicles	1,961,000	452,000	1,509,000
Single Invitation Contracts	3,156,000	728,000	2,428,000
Residential Land Development	29,000	0	29,000
Land Purchases	261,000	60,000	201,000
Sanitary Operations	93,000	0	93,000
Computer Services	422,000	97,000	325,000
Bridge Replacement	472,000	109,000	363,000
Special Projects	167,000	0	167,000
Cemetery Operations	158,000	0	158,000
Insurance Provisions	444,000	102,000	342,000
Other Special Projects	87,000	0	87,000
Rezoning Fees	351,000	81,000	270,000
Waste Service Operations	4,961,000	1,145,000	3,816,000
Unexpended Loan Funds	991,000	0	991,000
Total Internal Restrictions	14,492,000	2,991,000	11,501,000

New loans totalling \$6,500,000 were raised during the year to fund the ongoing Urban Drainage Construction Program (\$500,000) and construction of the Performing Art Centre (\$6,000,000). Total debt repayment for the year was \$2,033,000 (principal \$1,542,000 and interest \$491,000), which represented a debt service ratio of 4.45% (4.35% in 2006/07) which compares favourably with the latest published NSW Department of Local Government Category average of 6.15% (2005/06 Comparative Information published 21 January 2008).

The Department of Local Government, in conjunction with the NSW Local Government Finance Professionals have developed a “Local Government Sustainable Finances Health Check”. The Health Check comprises seven (7) key financial performance indicators with a colour coding “traffic light” system:

- Green: current results and trends to date reveal that the performance is satisfactory.
- Amber: the indicator needs to be monitored and where deemed appropriate measures be implemented to produce a “green” or satisfactory result.
- Red: the performance is deemed to be unsatisfactory; it is recommended that measures be immediately implemented to improve the performance.

Included in the Enclosure Document is the completed Local Government Sustainable Finances Health Check for 2007/08 along with brief comments for each of the indicators.

No other significant changes were made to the draft financial reports as presented to Council; however the net effect of the above changes has changed some of the financial ratios, operating result and financial position as previously reported.

CONCLUSION

Council received an unqualified audit report in relation to the financial reports, although it is highlighted to Council the “emphasis of matter” detailed within the auditors report in relation to the effect of the global financial crisis on councils investments. Councillors are also referred to Note 23 “Events Occurring after Reporting Date” within the reports which highlights the issues relating to two (2) CDO’s held within Councils investment portfolio.

The audit was undertaken within the timeframes specified within Section 416 of The Act and the reports were forwarded to the Department of Local Government on 27 October 2008 meeting all statutory reporting deadlines.

Mr Paul Horne, a partner from Councils external auditors Prosperity Advisers will be available at the meeting to answer questions from Councillors in relation to the financial reports.

In accordance with the provisions of The Act, a summary of Council's financial reports were published in The Advertiser on 12 November 2008 giving notice that the financial reports and auditors reports would be presented to the Ordinary Council Meeting on 19 November 2008. The reports are available for public inspection at the Council's offices and written submissions thereon may be lodged up until 4.00 pm Wednesday 26 November 2008. The public summary as advertised is included within the Enclosure Documents to this report and the reports are available for viewing on Councils website.

CONSULTATION

The following Council Officers were consulted during the preparation of this report:

General Manager
Director City Planning
Director Infrastructure & Services
Management Accountant
Senior Finance Officer

STATUTORY IMPLICATIONS

Legislative Implications

Meets Councils statutory obligations in accordance with provisions of The Act for the presentation of the financial reports and auditors reports to Council (Section 419), the public notice of the presentation (Section 418) and time for preparation and submission of audited financial reports (Section 416).

Financial Implications

There are no financial implications associated with this report. Changes affected during the audit process are reflected within the budget review process. The notional write-downs on investments have been funded at year end from internal reserves and it is proposed to incorporate these changes within the comprehensive investment report to be presented to Council. This report once actual outcomes are known will identify options in relation to funding with changes being reflected within the December quarterly review process.

Policy Implications

This report has no direct policy implications

RECOMMENDATION that the Annual Financial Reports incorporating the Auditors Reports for the year ended 30 June 2008 be received and noted.

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

C T BENNETT
DIRECTOR CORPORATE & COMMUNITY
7 November 2008

DIRECTOR CORPORATE & COMMUNITY REPORT NO. 18/2008

SUBJECT: INVESTMENTS REPORT – OCTOBER 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

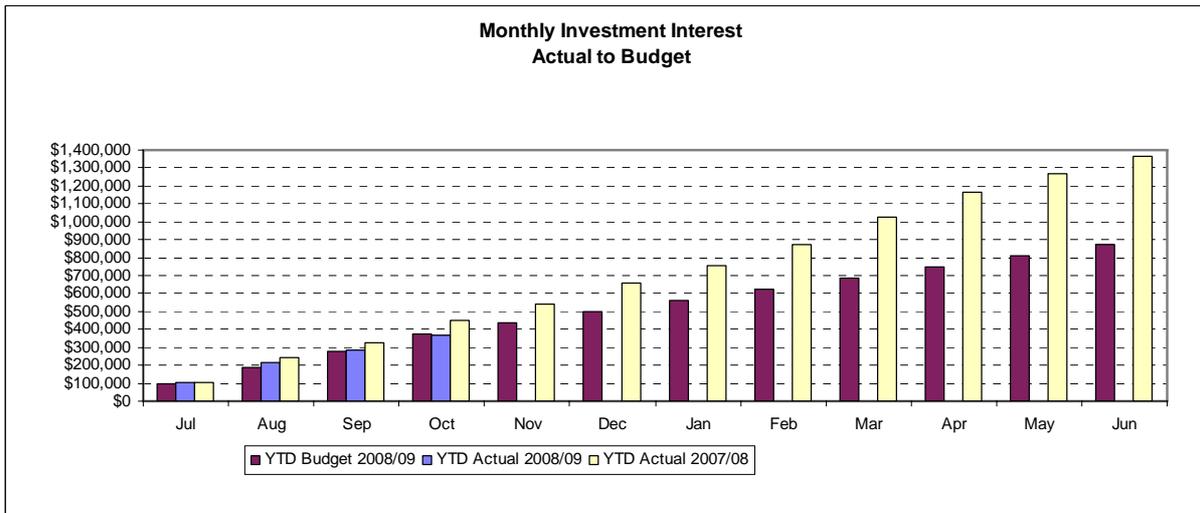
As Responsible Accounting Officer, I, Robert Maginnity, hereby certify that this report is produced in accordance with Clause 212 of the Local Government (General) Regulation 2005 and that all investments have been made in accordance with the Local Government Act 1993, the Local Government (General)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

REPORT

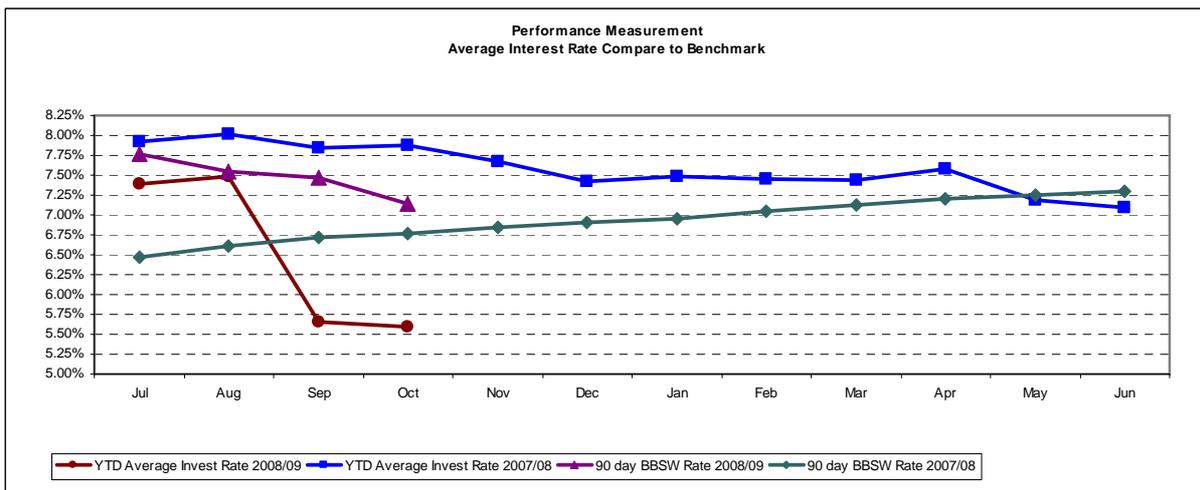
Details of investments held by Council as at 31 October 2008 are set out below.

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				5.85%		527
	Commonwealth Bank	At Call				6.15%		413
1001q	Greater Building Society	FRN	92	27-Nov-08	27-Nov-08	8.99%	7.99%	500
1010q	Wide Bay Capricorn BS	FRN	91	15-Dec-08	15-Dec-08	8.94%	7.87%	500
1020p	Credit Suisse First Boston	CDO	92	05-Nov-08	05-May-11	9.59%	8.17%	1,000
1029p	Credit Suisse First Boston	CDO	92	05-Nov-08	05-May-11	9.59%	8.17%	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
1126g	Commonwealth Bank	AN	92	06-Nov-08	06-Nov-11	9.25%	7.88%	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
1182a	Illawarra Mutual BS	TD	42	27-Nov-08	27-Nov-08	6.24%	6.24%	500
1184a	Newcastle Permanent BS	TD	49	11-Dec-08	11-Dec-08	6.60%	6.60%	500
1186	Illawarra Mutual BS	TD	57	06-Nov-08	06-Nov-08	7.54%	7.54%	500
1187	Newcastle Permanent BS	TD	64	13-Nov-08	13-Nov-08	7.57%	7.57%	500
1189	Newcastle Permanent BS	TD	51	20-Nov-08	20-Nov-08	7.95%	7.95%	500
14,440								

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)	5.60%	7.87%
BBSW Average Interest Rate (YTD)	7.14%	6.76%
Actual Investment Interest Earned (YTD)	\$366,698	\$447,784
Budgeted Investment Interest (YTD)	\$374,324	\$366,311
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	\$14,440,000	\$17,653,000

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:

Financial Institution	Amount \$'000	% of Portfolio
Commonwealth Bank of Australia	3,940	27.29%
Credit Suisse First Boston Int.	2,500	17.31%
RIMsec	2,000	13.85%
Newcastle Permanent Building Society	1,500	10.39%
Illawarra Mutual Building Society	1,000	6.93%
Lehman Brothers International	1,000	6.93%
Maitland Mutual Building Society	500	3.46%
ANZ Banking Group	500	3.46%
Greater Building Society	500	3.46%
JP Morgan Chase Bank	500	3.46%
Wide Bay Capricorn Bldg Society	500	3.46%
TOTALS	14,440	100.00%

The following table provides information on actual investment types, a risk assessment of each investment type and the amount and percentage invested compared to the total investment portfolio held by Council:

Investment Type	Risk Assessment		Amount \$'000	% of Portfolio
	Capital	Interest		
Cash	Low	Low	940	6.50%
Collateralised Debt Obligation CDO	High	High	6,000	41.55%
Floating Rate Note FRN	Low	Low	1,000	6.93%
Term Deposit TD	Low	Low	3,000	20.78%
Equity Linked Deposit ELD	Low	Medium	2,500	17.31%
Accrual Note AN	Low	Medium	1,000	6.93%
TOTALS			14,440	100.00%

COMMENTARY

Formal advice has been received that Investment 1146 (known as Palladin) for \$1M purchased through the CBA has been the subject of a Mandatory Redemption Notice as at 31 October with a zero return of capital to Council. This investment is the subject of a separate report to Council and has been removed from Councils investment portfolio.

Advice has been received from the ANZ (dated 31 October) that Investment 1143 (ELD for \$500,000) has experienced a number of credit events within the investment structure and that future coupon (interest) payments will not be made. This investment had been shown at a zero coupon rate for a number of months. The advice from the ANZ confirmed that the investment capital was guaranteed and would be returned to Council at final maturity date and stated:

“ANZ Trustees advise that due to deterioration in equity market conditions the value of the Asprit II investment has sharply declined. According to the Asprit II Trust Deed this has resulted in the occurrence of a Strategy De-Leverage Event. This requires the SAM Sustainable Leaders Australia Fund to be liquidated and invested in an ANZ Term Deposit which will repay the principal at maturity. This also means that there will be no future coupon payments for this investment”.

As detailed in last months investment report a number of investments are shown as receiving a zero coupon rate which reflects the uncertainty within global financial markets. These zero rates primarily relate to CDO type investments. With the capital loss associated with the Palladin CDO and the adjustments to reflect reduced coupon rates, it is expected that projected interest revenues from investments will be \$240,000 less than that budgeted.

This change has been reflected within the September review (to be presented to Council at this meeting). It is not expected that this shortfall will significantly affect Councils operations for the current year as the shortfall has been able to be offset by higher than anticipated rate revenues from the July levy.

Councillors should note that at this stage the probable capital loss on Palladin and the impairment of investments at 30 June (part of the audit process) has been funded from internal reserves as a interim measure only, to allow time to fully determine the effect on Councils investments and to prepare a range of funding options for presentation to Council. Further details in relation to these issues are included within separate reports to this council meeting titled “Financial Reports for the Year Ended 30 June 2008” and “Investment – Palladin Collateralised Debt Obligation”.

STATUTORY IMPLICATIONS

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.

Financial Implications

All returns on investment are included in Council’s Management Plan. Any 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 \$240,000 reduction on projected investment revenues (interest) from the capital loss on investment 1146 and the reduction in coupon rates on other investments has been recorded within the September review as presented to Council at this meeting. The loss has been offset by higher than anticipated rate revenues from the levy in July.

Policy Implications

Investments are made in accordance with Council’s Investment Policy Number F12.3.

RECOMMENDATION that the report be received and noted.

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

C T BENNETT
DIRECTOR CORPORATE & COMMUNITY
7 November 2008

DIRECTOR CORPORATE & COMMUNITY REPORT NO. 19/2008

SUBJECT: INVESTMENT – PALLADIN COLLATERISED DEBT OBLIGATION

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

SUMMARY

A report on the loss of a \$1 million investment being the collateralised debt obligation (CDO) known as “Palladin” purchased through the Commonwealth Bank of Australia.

BACKGROUND

Councils investment portfolio includes a range of investment products from cash at bank, funds held at call, term deposits, floating rate notes, equity linked deposits and CDO's. The last 12 to 15 months has seen considerable turmoil within global financial markets and dramatic fluctuations in coupon (interest) rates and “market value” (capital) of investments.

A number of investors have been impacted by these fluctuations with some having already experienced losses on capital and in Cessnock's case in relation to coupon rates. This effect on the coupon rate has been both positive and negative, with higher rates being earned on “cash” type investments offsetting recent lower coupon rates on some other investment types. Up to this time Council had not experienced any actual loss of capital, however as previously advised concerns were held on a small number of individual investments.

As part of the year end audit process Council's investments were “notionally” written down to indicative market values at 30 June 2008 (refer to report “Financial Reports for the Year Ended 30 June 2008” presented to this meeting). This resultant write down of \$2,990,700 was funded from internally restricted assets at balance date, with the intention of providing a range of long term funding strategies for the repayment of the reserves for Councils consideration at a later date. The write downs are shown below for councillor's information:

No.	Institution		Purchase Price	Fair Value 30/6/08	Impairment 30/6/08
1020	Credit Suisse	Tasman	1,000,000	810,000	190,000
1029	Credit Suisse	Tasman	1,500,000	1,215,000	285,000
1069	RIMsec	Generator	2,000,000	1,300,000	700,000
1132	JP Morgan	Kakadu	500,000	233,250	266,750
1142	Lehman Brothers	Coolangatta	1,000,000	207,000	793,000
1146	Merill Lynch	Palladin	1,000,000	366,500	633,500
	Sub-total CDO		7,000,000	4,131,750	2,868,250
1001	Greater BS		500,000	496,550	3,450
1010	Wide Bay BS		500,000	495,850	4,150
	Sub-total Floating Rate Notes		1,000,000	992,400	7,600
1102	Commonwealth Bank		500,000	436,950	63,050
1126	Commonwealth Bank		500,000	448,200	51,800
	Sub-total Accrual Notes		1,000,000	885,150	114,850
	Total Investments at Fair Value		9,000,000	6,009,300	2,990,700
	Term Deposits		6,000,000	6,000,000	0
	Equity Linked Deposits		2,500,000	2,500,000	0
	Total Investment Held to Maturity		8,500,000	8,500,000	0
	Total Investments		17,500,000	14,509,300	2,990,700

It is highlighted to Councillors that the impairment of the investments as “booked” does not necessarily mean that a capital loss has been or will be incurred. As an investment gets closer to final maturity the impairment will be reduced and the value will move closer to the purchase value. An example of this is the advice received from the CBA that investment 1126 was to be called on 6 November and council received the full amount of the coupon interest payment and the full amount of the capital of \$500,000 was returned. Accordingly, the \$51,800 write down for that investment as at 30 June 2008 can now be reversed.

REPORT

Verbal advice was received from the arranger of the Palladin CDO, the Commonwealth Bank of Australia (CBA) in early October that there was a high likelihood that a default by the collateral holder of the CDO (Sigma Finance Corporation) to make a counter party swap would result in the unwinding and default of the CDO and that any return to investors was unlikely. This advice has been verbally presented to Councillors and commented on in the September investment report to the effect that the capital of this note may be in jeopardy.

Following the initial notification various correspondence has been received in relation to this matter, with the most significant being (copies of which are in the enclosure document):

- CBA email 1st October advising “downgrading of Sigma Finance may have an adverse impact on the value of the Palladin CDO”.
- CBA email 3rd October advising “the collateral Issuer Sigma Finance Corporation has issued a statement that it has decided to cease trading and is expecting the appointment of a receiver” and that the CBA were monitoring the situation.
- CBA letter 21st October that a Notice of Early Termination had been issued and that “recovery to Securityholder may be zero”.
- Bank of New York Mellon email 29th October advice of Mandatory Redemption Notice and to “redeem all instruments at zero consideration on Friday 31 October 2008”.
- CBA letter 31st October advising of Mandatory Redemption Notice

It is now apparent that this investment is not going to be honoured and that the capital has been lost to Council. Indications from the CBA are that they were arrangers of the investment only and will not be making restitution to any note holders for the loss incurred. Documentation associated with the Palladin Note Series 56 indicated that the total raised on the issue of the note was \$19,100,000; however insufficient funds were raised from the sale of assets of Sigma Finance Corporation to return any funds to note holders. It is noted that the CBA recorded a net profit of over \$4.7 billion in the last financial year.

Until the initial advice from the CBA this investment was not considered to be at risk and in fact a scheduled quarterly coupon payment of \$22,706 was received during September. Following the earliest advice the September monthly investment report was amended to show a zero coupon rate as further returns were doubtful. The investment has been removed from the October investment report entirely.

The loss of this investment is expected to reduce budgeted interest returns by \$60,000 and the continuing uncertainty over some other investments (now showing a zero coupon rate) will further reduce income by \$180,000. This represents a budget shortfall for the 2008/2009 financial year of \$240,000 which is reported in the September Quarterly Budget review. It should be noted that this projected shortfall has been offset by higher than expected rate revenues from the initial rate levy in July.

Whilst the effect on the operating budget from the loss of interest revenues has been able to be offset, consideration is needed on how the capital loss can be funded. The investment was written down at 30 June to its market value of \$366,500. In the interim it is proposed to fund the remaining loss from existing internally restricted assets in the same way as the 30 June impairment adjustments. This will allow staff time to develop a range of strategies for dealing with the write downs and losses and to present Council a range of funding options at a later date once all details are fully known.

As a point of interest for Councillors information and to demonstrate the uncertainty and volatility of the global financial markets a positive result has eventuated in relation to the CDO marketed by Lehman Brothers (Grange Securities) known as “Federation”. This CDO had been the subject of considerable media attention over the last 12 to 18 months and became the face of the effects on council investments held not only in NSW but across the country.

This CDO had fallen to virtually a zero value and a number of councils had effectively written the CDO off as a loss of capital, however the bankruptcy of Lehman Brothers US led to the unwinding of the CDO and as the collateral was not affected by the bankruptcy a full repayment of capital and lost interest has been made to note holders.

A newspaper article in the Newcastle Herald on 31 October and a media release by Newcastle City Council on 30 October confirmed the receipt of the full amount of capital and interest even though the value of this CDO had been written-off by Newcastle City Council. Other articles across the state have also highlighted that other Councils expected to receive a return on this CDO (Northern Daily Leader article 1 October regarding Armidale Dumaresq, Uralla and Guyra councils). Although Cessnock City Council did not hold this particular CDO, the positive outcome does provide some refreshing news in relation to all similar investments held by Cessnock City Council and other investors.

Staff have arranged a meeting with representatives from the CBA to discuss issues in relation to this CDO, the impact on Council and the possible restitution of the capital loss incurred. Discussions are also planned with Councils legal representatives to consider options available for further action. Council will be informed when further information is available.

CONSULTATION

The following Council Officers were consulted during the preparation of this report:

General Manager
Management Accountant
Senior Finance Officer

STATUTORY IMPLICATIONS

Legislative Implications

Investments are made under Section 625 of the Local Government Act 1993. This investment was purchased in accordance with the Act, Councils investment policy and the Ministers Investment Order prevailing at the time of the purchase.

Meets the requirement under Clause 202 of the Local Government (General) Regulation 2005 for the Responsible Accounting Officer to report to Council any instance where the actual income or expenditure is materially different from its estimated income or expenditure.

Financial Implications

The loss of interest revenues from investment 1146 and concerns on other investments is expected to result in a budget shortfall of \$240,000, which is offset by higher than anticipated rate revenues. The capital loss in 2008/09 will be \$366,500 as an impairment of \$633,500 was recorded at 30 June 2008.

These changes are to be reflected in the September Quarterly Budget Review.

Policy Implications

This report has no direct policy implications. This investment was purchased in accordance with Council's Investment Policy Number F12.3.

RECOMMENDATION that:

1. The loss of investment 1146 known as Palladin for \$1,000,000 be noted.
2. As an interim measure funding for the capital loss of \$366,500 in 2008/09 be sourced from internally restricted assets.
3. A further report be submitted to council detailing funding strategies and options in relation to all investment impairment at 30 June 2008 and actual capital losses for investments incurred in 2008/09.
4. Council be advised of the results of efforts to recover the capital loss once final details are known.

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

C T BENNETT
DIRECTOR CORPORATE & COMMUNITY
7 November 2008

**DIRECTOR CORPORATE & COMMUNITY
REPORT NO. 20/2008**

SUBJECT: *QUARTERLY FINANCIAL STATEMENT AS AT 30 SEPTEMBER, 2008*

Management Accountant, Mr Paul Grosbernd, reports:-

SUMMARY

Quarterly financial report on progress against Council's 2008/2009 Management Plan.

REPORT

In the 2008/2009 Management Plan, Council adopted a balanced budget.

The quarterly financial review as at 30 September 2008 has been completed and is submitted for council's consideration. A summary of the review is included in the Enclosure documents for councillor's information.

The major impact in this quarter is the estimated loss of Investment Interest of \$240,000 due to the uncertainty of several investments as reported in separate report to this Council meeting. However, this loss of income has been offset by an increase in rates income levied over that budgeted by \$255,000. The increase was mainly attributed to new valuations on subdivided land and a categorisation change on an assessment with a high land value which occurred after the estimates had been set for the 2008/2009 year.

Overall, the September Quarter Review is forecasting a small surplus of \$2,019, with a summary of the major budget movements provided below:

<u>Increases in Income</u>	\$	\$
Internally Restricted Assets (Reserves) Income	190,000	
Financial Assistance Grant	201,492	
Rates Income	255,000	
Pensioner Rate Subsidies	40,000	
Waste Services Income	312,000	998,492
<u>Decreases in Income</u>		
Investment Interest	240,000	240,000
<u>Increases in Expenditure</u>		
Staffing Issues	90,000	
Staffing Issues	20,000	
Enterprise Risk Management Program	40,000	
Computer Equipment	20,000	
Administration Office Refurbishments	42,000	
Insurance Premiums	17,816	
Transfer to Internally Restricted Assets (Reserves)	201,492	
Waste Services	179,714	
Transfer to Waste Reserve	132,286	
Community Halls Utilities	20,359	
Parks Vandalism	10,000	
Public Amenities & Privies Vandalism	10,000	
Miscellaneous	37,862	821,529

Decreases in Expenditure

Councillor Expenses	8,556	
Rates Subsidies	9,500	
Board of Fire Commissioners Levy	15,000	
Vehicle Purchases	12,000	
Street Cleaning	10,000	
Street Sweeping	10,000	65,056

Net Surplus for the Quarter **2,019**

Below are brief explanations for the major budget movements shown above.

Increases in Income

- Internally Restricted Assets Income - \$190,000 drawn from reserves to fund Computer Equipment, Office Refurbishments, Enterprise Risk Management Program, Project Management & Corporate Planning positions.
- Financial Assistance Grant - \$201,492 additional grant received over budget and internally restricted for Special Projects (per Council Report 78/2008 8/10/2008).
- Rates Income - \$255,000 Continued development within the city and a categorisation change on a high land value property has resulted in additional rate income being received.
- Pensioner Rates Rebates - \$40,000 Rebates on general rates less than anticipated, partially offset by lower subsidy received from the Department of Local Government.
- Waste Services Income - \$312,000 Additional waste services income has been received over the original budget and internally restricted for waste management.

Decreases in Income

- Investment Interest - \$240,000 reduction in interest is anticipated due to the uncertainty of several investments.

Increases in Expenditure

- Staffing Issues - \$110,000 required to fund these positions with funding from internally restricted assets.
- Enterprise Risk Management Program - \$40,000 New Program to be funded from internally restricted assets.
- Computer Equipment - \$20,000 Equipment purchases to be funded from internally restricted assets.
- Administration Office Refurbishments - \$42,000 Refurbishments required following Council restructure and funded from internally restricted assets.
- Insurance Premiums - \$17,816 increase in premiums for 2008/9 mainly for property.
- Transfer to Internally Restricted Assets - \$201,492 Transfer of additional financial assistance grant to the Special Projects Reserve.
- Waste Services - \$179,714 additional expenditure required mainly for the new cell construction at the Waste Depot.
- Transfer to Waste Reserve - \$132,286 Transfer of additional waste services income less additional expenditure to internally restricted assets for waste services.
- Community Halls Utilities - \$20,359 increase in water, electricity and land rate charges expected for community halls.
- Vandalism -\$20,000 Additional funds required due to vandalism across the Local Government area.

Decreases in Expenditure

- Councillor Expenses - \$8,556 Fees payable and delegates expenses are anticipated to be less than that budgeted for
- Rates Subsidies - \$9,500 Actual subsidies given has resulted in savings on the budgeted amount due to the sale of a property in 2007/8 that received the subsidy.
- Board of Fire Commissioners Levy - \$15,000 Actual levy is less than the budgeted amount.
- Vehicle Purchases - \$12,000 savings due to anticipated vehicle changeover in Administration being less than the budget amount.
- Street Cleaning and Sweeping - \$20,000 anticipated savings expected in 2008/09.

Financial and Administrative Services Manager Commentary

The changes proposed within the budget review are predominantly those resulting from Council resolutions and those that reflect trends within expenditure items and revenue streams. A number of these changes relate to changes outside of the control of Council such as the effects of the global financial markets turmoil and the increased FAG grant allocation. A number of these items have been separately reported to Council.

Adjustments have been made to reflect the higher than anticipated rate revenues from the rate levy issued in July and have been used to offset the projected losses on investment income. Other items have been adjusted to reflect current income and expenditure and commentary has been provided by the Management Accountant where appropriate.

As advised to Council separately, funding options are to be fully explored in relation to impairment of investments and the potential of reduced grant funding for expenses incurred in the aftermath of the June 2007 flood event. No significant savings have yet been identified within budgeted expenditure areas with existing service levels being maintained, however all areas of Council operations will have to be closely scrutinised to identify potential funding options moving forward. The six month review process provides staff more opportunity to evaluate fluctuations and movements within budget items, areas of potential savings will be more visible and will enable a more timely analysis of trends. This may require a re-allocation of exiting votes or utilisation of existing internal reserves.

Section 203 (2) of the Local Government (General) Regulation 2005 requires that the budget review statement include or be accompanied by a report from the responsible accounting officer. This report is required to indicate whether the Responsible Accounting Officer believes that the statement indicates that the financial position of the Council is satisfactory, having regard to the original estimate of income and expenditure, and if that position is unsatisfactory , recommendations for remedial action.

In light of the commentary from the Management Accountant and inspection of the budget review statements I Robert Maginnity, as Responsible Accounting Officer hereby certify that, having regard to the original and revised estimates of income and expenditure the financial position of Council is satisfactory in relation to the financial year 2008/2009.

CONSULTATION

The following Council Officers were consulted during the preparation of this report:

Financial and Administrative Services Manager
Senior Finance Officer
All Managers Responsible for Budget Control

STATUTORY IMPLICATIONS

Legislative Implications

This report satisfies requirements under Section 203 of the Local Government (General) Regulation 2005.

Financial Implications

The Quarterly Budget Review highlights budget variations for Councils consideration and shows that all expenditure movements are offset by movements in income line items resulting in a surplus of \$2,019. If adopted the proposed variations will form part of the 2008/2009 Management Plan.

Budget Managers and Finance Staff are continuing to improve budgetary control through the constant review of the original budget estimates and phasings of budgets to actual outcomes during the year.

Policy Implications

Were Council to adopt the budget amendments outlined above, an estimated Working Capital Surplus of \$856,000 would be achieved. This figure is \$6,000 above Council's policy level of \$850,000.

RECOMMENDATION that:

1. The report be received.
2. The Quarterly Financial Review, as presented, be adopted as the revised budget for the 2008/2009 financial year.

To: **Ordinary Council**
19 November 2008

C T BENNETT
DIRECTOR CORPORATE & COMMUNITY
5 November 2008

DIRECTOR CORPORATE & COMMUNITY REPORT NO. 21/2008

SUBJECT: REQUEST FOR DONATION

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 16 April 2008.

This report details a request for donation that Council has received from Endeavour Industries in regards to an event they are holding for International Day of People with Disability (IDOPWD) on 3 December 2008. The event will be held in partnership with other local welfare service providers. This request is being submitted under Criterion 3 of Council's Donations Policy, "Charitable projects directly focused on Cessnock Local Government Area".

BACKGROUND

Correspondence was received 22 October 2008 seeking a donation towards the operational costs of a community fete event to celebrate IDOPWD on 3 December 2008. A copy of this request has been included with the Enclosure documents.

IDOPWD is a United Nations sanctioned day that aims to promote an understanding of people with disability and encourage support for their dignity, rights and well-being. IDOPWD seeks to increase awareness of the benefits of the integration of people with disability in every aspect of political, social, economic and cultural life. The Day brings together people with disability, community organisations, business, individuals and all levels of government and unites people around the world in celebrating and acknowledging the contribution, skills and achievements of people with disability.

(Source: *International Day of People with Disability (Online) 2006*,
<http://idpwd.com.au/about.asp>)

The correspondence states that Endeavour Industries is working in partnership with Cessnock Centrelink, Mai-wel, Castle Personnel, Barkuma Neighbourhood Centre and other local community organisations to hold this event. It is anticipated that the event will be held at a park in the Cessnock Local Government Area and attract approximately 400 visitors, most of whom will be from our local area. The event will include face painting, fun activities, cake and tree stalls and many other activities. The correspondence requests that Council consider a donation of \$1,500. These funds will go towards the operational costs associated with the event. Endeavour Industries have also provided a detailed budget and a method for how Council will be acknowledged if provided with a donation. This information is also attached in the enclosure documents.

CONSULTATION

The following Council Officers have been consulted during the preparation of this Council report:

Social Planner
Manager Community and Cultural Programs

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

The current balance in the Donations Budget at 6 November 2008 is \$16018.55. (This is the balance after the donation has been deducted as per Council's resolution at the meeting held on Wednesday 5 November 2008.)

Policy Implications

This request has been assessed as meeting Criterion 3 of Council's Donations Policy No. F12.12, "Charitable projects directly focused on Cessnock Local Government Area". The event is to be held in the Cessnock Local Government Area and will involve local welfare service providers. It seeks to bring recognition, inclusion and a greater awareness of the needs of people with disability to our local community.

CONCLUSION

A donation in response to this request would assist with the operational costs associated with the event and assist to provide an event in the Cessnock Local Government Area that will celebrate people in our community with disability.

RECOMMENDATION that correspondence be submitted for determination.

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

C BENNETT
DIRECTOR CORPORATE & COMMUNITY
4 November 2008

GENERAL MANAGER'S REPORT NO. 56/2008

SUBJECT: COUNCILLORS OBLIGATIONS UNDER THE ELECTION FUNDING AND DISCLOSURE ACT 1981

The Chair of the Election Funding Authority, Mr Colin Barry, has written to Council regarding Councillors obligations under the election Funding and Disclosure Act 1981. A copy of the letter and attachments is included as Enclosure 1.

Mr Barry has asked that Councillors acknowledge that they have received the correspondence and that they are aware of their obligations under this Act.

RECOMMENDATION that

1. The correspondence from the Chair of the Election Funding Authority be noted.
2. Councillors note their obligations under the Election Funding and Disclosure Act 1981.

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

B R MORTOMORE
GENERAL MANAGER
10 November 2008

GENERAL MANAGER'S REPORT NO. 57/2008

**SUBJECT: REVIEW OF THE MANAGEMENT PLAN FOR QUARTER ENDING
30 SEPTEMBER 2008**

Section 407 of the Local Government Act, 1993 requires the General Manager to report to Council each quarter as to the extent to which the performance targets set in the Management Plan have been achieved during that quarter.

Provided as separate enclosure documents are the following:

- Enclosure 1 - Report on Strategic Initiatives – 30 September 2008
- Enclosure 2 – Schedule of Works – 30 September 2008
- Enclosure 3 - Requests for Information from Staff by Councillors – 30 September 2008

A. REPORT ON STRATEGIC INITIATIVES (ENCLOSURE 1)

In the Management Plan, the objectives for each principal activity are shown in Part C Strategic Initiatives. The performance measures are listed with progress to date indicated.

The objectives have been examined with a view to bringing into sharper focus the definite tasks included in the current Management Plan. For this purpose the objectives and targets have been stated in the form of a Business Plan for each principal activity showing reasonable and achievable targets. This will enable Council to more easily monitor progress through the quarterly reports during the year and to report to the community at the close of the year in relation to its achievements.

The Management reporting process is intended to reflect the position as at the conclusion of the period to which it refers. Changes will occur for a variety of reasons and the reporting process will reflect these changes over time.

The information contained in the quarterly reports is obtained through a structured monthly reporting system by the Directors to the General Manager. This process allows regular monitoring of progress as well as providing the mechanism for meaningful quarterly reports and the annual report.

Enclosure 1 outlines the progress made on each objective with brief comments on likely outcomes such as whether or not the target will be achieved.

Achievements, statutory reporting and operational highlights for the quarter were:

ACTIVITIES:

- ◇ **Human Resources**
 - Successfully conciliated a dispute with the USU over Council's Wet Weather Procedure.
 - Finalised the recruitment of the majority of the management roles in the Infrastructure & Services Department and City Planning Department.

◇ **Development Services**

- Infomaster - contracts organised for the implementation of Stage 2 (Masterplan). Masterplan comprises the assessor module which will standardise and speed-up application assessment. It will also facilitate e-services (ie electronic provision of s.149 certificate).
- Scoping project developed to identify the accuracy of the information in Council's property information system. Identified errors to be rectified prior to the full implementation of Masterplan.

◇ **Land Use Planning**

- Rezoning for the Cliftleigh and Anvil Creek area with the DoP and are waiting gazettal. These represent 977 and 1,364 lots respectively.
- Voluntary Planning Agreements for Cliftleigh and Anvil Creek completed.

◇ **Business Support Services**

- DA Tracker is now up and running on both Council’s Internet for the benefit of customers and the Intranet as a tool for staff to access information relating to all application types.
- Through Council’s webpage, Customers can view the progress of Development Applications, Construction Certificates, Subdivision Certificates, Occupation Certificates and Septic Tank Applications submitted from 1 January 2008. They can view details of the DA’s Submitted and Determined on a weekly/monthly basis. They can also access links to the LEP, DCP, Council Policies, Application Forms, Guides and Checklists, the Section 94 Plan and Engineering Requirements for Development.
- In addition to the above, Council staff can now access all of the information relating to an application submitted from 1 July 1999, through one access point. This includes electronic documentation relating to an application. Reports regarding the allocation of applications are also available to assist officers with the management of workloads.
- Media releases have been produced and templates associated with the processing of applications have been updated so that customers are aware of the availability of DA Tracker to view the progress of applications.

◇ **Building & Environmental Health**

- Food Forum held with Hunter Valley Wine Country Tourism at Hope Estate outlining changes to Council’s Food Safety Program and seeking feedback on the programs future direction. Guest speaker Mr Phillip Bird, Manager of the Local Government Unit NSW Food Authority was in attendance. The Forums were well attended with excellent comments and feedback received.
- Collaboration between Council departments has identified 58 Council Buildings that will systematically have fire measures identified and fire schedules created.
- Long standing issues of deteriorated Department of Land properties at 7 Old School Hill Road and 21 Seaforth Road Abermain were addressed with the Department of Lands and property occupants, and action plans developed with significant improvements.
- Collaboration between Regulatory Services and Building Services resulted in Fire safety orders issued on Kurri Kurri Regal Hotel with a positive response from the property owners and clear undertakings to comply with the order.
- Plan designed and being implemented to identify OSSM systems currently not receiving an annual operational approval.

- ◇ **Economic Development**
 - Economic Development restructure formalised in June.
 - Grants Officer employed.
 - Property Officer position re-evaluated and graded.
 - Hebburn Estate – Asbestos Remediation commenced.
 - Vineyard Grove – Some movement with regards to sale (three blocks have exchanged).
 - Feasibility on Freight Hub for the Hunter completed – coordinated by Premiers and Cabinet – Cessnock Council participated in project control group.
 - Vintage Hunter Wine & Visitors Centre redesign has received ‘in principle’ support from existing tenants.
- ◇ **Financial & Administrative Services**
 - Rates levy issued and first instalment completed.
 - Appointed part time Customer Service Officer (job share position).
 - Local Government Election held.
 - Pensioner subsidy claim lodged with DLG for approximately \$660,000.
 - Phased budgets implemented on Authority and reflected in monthly cost reports.
 - Draft Annual Statement forwarded to Auditors.
 - Implemented a review system to track mileage on vehicles for FBT purposes.
 - Fair valuation of assets (buildings & operational land) undertaken and booked.
- ◇ **Information Systems**
 - Public PCs in the Cessnock and Kurri Kurri Libraries replaced with new units. Two additional PCs installed in Kurri Kurri Library.
 - Network redesign completed and changes implemented at Council remote sites.
 - Request for Quotation developed for the redesign of the Council website.
- ◇ **Community and Cultural Programs**
 - A full stocktake of libraries was completed, one of the recommendations included in the Fraud and Corruption Risk Assessment Plan.
 - Children’s Book Week saw Library staff visiting 11 Primary Schools within the LGA. Presentations enacting four stories from the Children’s Book Week shortlist were very well received by 1,346 students and 106 adults. Excellent feedback was received.
 - Cessnock City Library hosted well attended talks by authors Debra Adelaide at Cessnock Library and Anita Heiss at Kurri Kurri Library.
 - A very successful NAIDOC week celebration was held in Kurri Kurri. Approximately 140 people attended the ceremony and 400 people visited the information stalls.
 - The Sir Roden Cutler Wheel Roll in Peace Park was well attended. One person was presented with a donation and two people were presented with achievement awards.
- ◇ **Civil Maintenance**
 - Rehabilitation and sealing of 1.6 km of Great Northern Road near Blaxlands Arm Road.
 - Rehabilitation and sealing of 1.0 km of Broke Road near Hermitage Road.
 - Replacement of the Bridge at Dill Street Kurri Kurri with pipe culverts.
 - Replacement of the culvert in New Street Mulbring.

- ◇ **Logistics and Depot Services**
 - Completion of the Cessnock Civic Indoor Sports Centre (CCISC).
 - Commencement of Stage 2 Carmichael Park.
 - Administration refurbishment.
 - Completion of Plaza Hall modification and repairs to stairway.
 - Completion of Stage 1 Greta Band Rotunda.
 - Completion of Branxton Pool concourse.
 - Completion and upgrade of Cessnock Pool filter bed pipeline.
 - Installation of air conditioners at Weston Senior Citizens.
- ◇ **Integrated Systems Manager**
 - The draft electronic version of IMS is working on the intranet.
- ◇ **Infrastructure Services**
 - Baddeley Park – ongoing rectification of defects and variation negotiation with Contractor.
 - Cunneen’s Bridge Wollombi – realignment options and site investigation continuing. Tender documents for bridge nearing completion. Archaeological site works arranged. Chicane heavy vehicle traffic safeguards implemented.
 - Long Street Cessnock drainage - completed.
 - Wilderness Road Pokolbin – Stage 2 works arranged.
 - Performing Arts Centre Carpark – revised and completed.
 - Mitchell Avenue Kurri Kurri – RTA Project – traffic control plans prepared.
 - Avery’s Lane Buchanan – culvert upgrade design underway.
 - Debeyers Road Pokolbin – road design nearing completion.
 - Church Street Ellalong – nearing completion.
 - East Branxton Drainage Scheme – final stage arranged.
 - Paynes Crossing Road – widening of gravel section near ‘The Grange’ – realignment options and site investigation continuing. Traffic restrictions implemented.
 - Whitebridge Mulbring – site investigations completed. Tender document preparation nearing completion. Approach road design nearing completion.
 - Neath Street Cessnock – complete .
 - Lower Hunter Transportation Study – comments prepared.
 - Heddon Greta proposed subdivision – S94 Road & Traffic Plan – comments prepared.
- ◇ **Environmental & Waste Services**
 - Landfill extension draft EIS completed; report to Council 22/10/08 and briefings arranged; briefing provided to Senior Executive and staff 30/9/08.
 - Landfill “infill” area on-line.
 - EFT facility installed at waste depot (software upgrade underway to accommodate).
 - Provided input to Safety Officer into Safe Work Method Statement (SWMS) for Asbestos handling for waste depot employees.
 - 30 Tidy Town volunteers provided with refresher OH&S training.
 - 1,769 containers received through drumMUSTER campaign.
 - Waste Service collection agreement signed off.

- ◇ Recreation Planning & Operations
 - Fencing at Ellalong Cemetery completed in partnership with Ellalong Tidy Towns.
 - Tree planting at Howe Park Abermain to celebrate World Youth Day.
 - Installation of air conditioning at Weston Civic Centre in the Senior Citizen’s Room.
 - Improvements to the Greta Band Rotunda were completed.
 - Newcastle Jets played a pre-season match at Cessnock Sportsground in July attracting a capacity crowd.
 - Recreation Services coordinated and hosted the Contemporary Practices in Sportsfield Development seminar in July that was attended by over 70 delegates.
 - Cessnock Public Swimming Pool opened a week early (last week of September) to take advantage of the heat pumps and solar heating. Approximately 70 swimmers used the pool during the limited morning hours of operation.

The Performance reports are numbered using the 2007-2010 Management Plan goals.

B. SCHEDULE OF WORKS (ENCLOSURE 2)

The Management Plan includes the works programmes for 2007/08 including proposed expenditure on the acquisition and construction of new infrastructure assets and the improvement, rehabilitation and refurbishment of existing infrastructure assets.

Details of programmes are provided in Enclosure 2 showing the cost of each programme.

C. BUDGET REVIEW - QUARTER ENDED 30 SEPTEMBER 2008

Refer to Director Corporate & Community Report No. 20/2008.

D. REQUESTS FOR INFORMATION FROM STAFF BY COUNCILLORS - QUARTER ENDED 30 SEPTEMBER 2008 (ENCLOSURE 3)

The enclosed table lists information requests received by Staff from Councillors for the period 1 July 2008 to 30 September 2008.

RECOMMENDATION that the report be received.

To: **Ordinary Council Meeting -**
19 November 2008

B R MORTOMORE
GENERAL MANAGER
10 November 2008

CORRESPONDENCE

PETITION FOR THE CONSTRUCTION OF KERB, GUTTER AND DRAINAGE IN BOWDEN STREET, HEDDON GRETA BETWEEN YOUNG STREET AND EARP STREET. CRMS 14923525.

A petition (copy attached) has been received from residents of Bowden Street, Heddon Greta requesting the provision of kerb, gutter and drainage on the south side of Bowden Street from Young Street to Earp Street.

The following terms of reply are recommended:

I refer to your letter and petition dated 8 October 2008 and our previous correspondence and discussions regarding the completion of kerb, gutter and drainage in Bowden Street, Heddon Greta between Young Street and Earp Street and provide the following advice.

I have reviewed Council's previous advice in the reply sent to you by Council Officer, Grant Wood on November 20, 2002 (also approved and signed-off by Council's Roads, Bridges and Drainage Manager, John Booth) which states that:

"You are advised that Council does not have a specific program for construction of kerb and gutter. Such road drainage works are undertaken, where required, as part of overall road construction, reconstruction and rehabilitation projects under Council's relevant Construction Programs. Therefore Bowden St, between Heddon St and the creek approximately 140 metres to the west, is listed in Council's adopted Urban Construction Program. *However, this item is listed as a "future project" and with construction not scheduled for funding within the next five years.*

The construction of kerb and gutter along Bowden St between Earp and Young Streets will be listed as a new project, along with a number of other similar projects in the Cessnock LGA, in Council's Urban Construction Program.

As you would appreciate Council funds are limited. Roads considered for pavement widening and sealing and kerb and gutter construction must compete with other nominated projects on a priority basis assessed on objective criteria. Each year Council reviews this list and prioritises projects based on a number of factors such as road hierarchy, number of properties benefited, links with existing infrastructure, amenity and solution to drainage problems. Funding is then allocated to the highest priority projects in accordance with available funding and Council's demographic requirements.

Funding for the Urban Construction Program has been allocated for projects in the 2002/2003 Budget in accordance with the five year program adopted by Council. However, this program is reviewed annually in December to reassess priorities of projects and consider new projects, such as the western end of Bowden Street."

There was no such commitment by Council in the letter dated 20 November 2002 to provide kerb and gutter in Bowden Street "in the next 5 five year plan". Accordingly, this project was listed as a "future project" which is yet to be prioritised into the current 5 year program.

Council has undertaken significant works in Heddon Greta area in previous years. In 2003/2004 \$230,200 was spent on Trenchard Street and in 2004/2005 \$343,455 was spent on Earp Street under the Urban Construction Program. In 2005/06 \$19,693 was spent for the resealing of a section of Cooper Street, Heddon Greta.

Kerb and gutter was provided on the northern side of Bowden Street by a developer at full cost as a condition of consent for the adjacent development.

It is planned to address the pavement deficiencies and extend its life in Bowden Street in this financial year 2008-09, under Council's Maintenance and Resealing Programs. Work involves boxing out of 150mm from the existing pavement and overlaying with base material followed by sealing of the surface with bitumen emulsion. This work will be carried out by Council's Works and Services Department and is planned to be completed in November this year.

Notwithstanding the above, as you have indicated that you (and I assume your fellow petitioners) would be able to contribute to the cost of the construction of kerb, gutter and drainage, I offer the following advice.

Council is prepared to pay the full cost of earthworks, full-width pavement reconstruction and sealing for the section of Bowden Street between Young Street and Earp Street in conjunction with the following works to be funded by the owners of the residences in question.

1. Provision of a survey and design of kerb, gutter and drainage by a suitably-qualified practicing consultant for approval by Council
2. Full cost of stormwater drainage as designed
3. Full cost of concrete kerb and gutter
4. Full cost of any access and public utility adjustments required.

It should be noted that the costs allocated to the residents will be significant. If you do not wish to proceed with this arrangement, Council will continue to rank the works with other works in the budget review process. However, if the kerb and gutter works are to proceed, Council will defer the sealing works and complete the work in conjunction with the kerb and gutter works early in 2009.

Would you please advise your fellow petitioners accordingly.

Should you require further information on this matter please contact Mr Ray Pascoe, Council's Assets Engineer on telephone (02) 4993 4248.

RECOMMENDATION that the petitioners be advised accordingly.