

**JOINT REGIONAL PLANNING PANEL**  
**HUNTER & CENTRAL COAST REGION**

<b>JRPP Number</b>	2011HCC044
<b>DA Number</b>	Development Application 11-2139
<b>Local Government Area</b>	Maitland City Council
<b>Proposed Development</b>	Industrial Facility – Service & Repair of Mining Machinery
<b>Street Address</b>	Proposed Lot 801 in Lot 311, DP157389 New England Highway, Rutherford
<b>Applicant/Owner</b>	Applicant – P & H Minepro C/- Drayton Projects Owner – Royal Newcastle Aero Club
<b>Number of Submissions</b>	Nil
<b>Recommendation</b>	Approval with conditions
<b>Report by</b>	Ian Cunningham, Town Planner. Maitland City Council

**Assessment Report and Recommendation**

**Executive Summary**

*The proposal seeks consent to construct an industrial building with ancillary office space, hardstand car parking and storage upon a greenfield site within the ‘Anambah Business Park’ industrial subdivision, Rutherford.*

*The proposed use of the building will be for the repair and maintenance of mining machinery on a twenty-four (24) hour a day/seven (7) days a week basis, and the operation will employ in the vicinity of 206 people.*

*The applicant, (P&H Minepro) who specialise as a mining support industry, currently operate from various localities and seek to consolidate their operation at a primary location that is central to the ongoing mining activities within the Hunter and broader regions. This consolidation requires the construction of a substantial facility in order to accommodate the range of activities undertaken by the organisation.*

*The completed building will cover approximately 1.24ha under roof and comprise floor space allocation for fabrication, rebuilds, repairs, disassembly, warehousing and office space, with the overall use of the building being primarily mining machinery maintenance.*

*Provision will be made for 184 off street car spaces and also hardstand for the storage and loading of machinery.*

*The proposed development has been advertised/notified in accordance with Council procedure. No submissions were received as a result of this process.*

*The capital investment value (CIV) of the proposed development (at \$25,073,991) exceeds the \$20 million CIV threshold whereby proposed regional development above this amount requires determination by the Joint Regional Planning Panel (JRPP) of NSW.*

*The proposal is permissible in the zone and consistent with relevant planning guidelines. An assessment of the proposal has been undertaken in accordance with the provisions of Section 79C of the Environmental Planning & Assessment Act 1979 and found to be satisfactory. The proposal is subsequently recommended for approval subject to consent conditions.*

## **OFFICER'S RECOMMENDATION**

### **THAT**

- 1. Development Application 11-2139 for an Industrial Building and associated Signage for Use as Service and Repair of Mining Machinery, be approved subject to conditions of consent set out in the attached schedule.**

## **BACKGROUND / SITE DESCRIPTION**

The subject site (proposed lot 801) is approximately 4.513ha in area and located adjacent to the New England Highway in the Anambah Business Park, Rutherford. The subdivision creating the lot has been endorsed by Council at the time of this assessment and is pending registration.

The site (as depicted below) is relatively level and will be accessed from internal roads within the developing industrial subdivision. In conjunction with the subdivision construction, a new round-a-bout will be constructed at the intersection of Kyle Street and the New England Highway which will provide additional access to the overall subdivision, and the proposed industrial development, from the New England Highway. It is expected that the round-a-bout construction schedule will coincide with the proposed industrial building.



The proponent (P & H Minepro) currently has various facilities supporting the mining industry in the Maitland Local Government Area and Hunter Valley. It is intended by the proponent to consolidate its current facilities into the proposed development, thereby providing a centralised facility in terms of Hunter Valley mining operations.

The supporting information accompanying the proposal describes the current activities of the proponent as, (quote):

*'P & H Minepro Services provides mine operation support services and mining equipment distribution services. P & H Minepro Services supplies a wide range of mining equipment including electric mining shovels, dragline systems, payload systems, digital drives and control systems, trucks, hydraulic excavators, front end loaders, draglines and blasthole drills'.*

Further:

*'The type of work to be undertaken includes electric motor repair, mechanical transmission repair, welding, continuous miner & shuttle car partial rebuilds and stageloader assembly and testing'.* (end quote).

## **PROPOSAL**

The proposal seeks consent to construct an industrial building of approximately 13,722sqm in area. The external fabric of the building will comprise a combination of pre-cast concrete panels, composite panelling and colourbond walls. Roofing will also be colourbond.

The proposed building is substantial in terms of bulk and scale however this impact is lessened through centralising the building within the overall lot and the provision of perimeter landscaping to the property boundaries.

Architectural design interest is incorporated through integration of differing cladding materials, varying roof lines and a featured combination of angular and curvilinear floor plan/exterior of the administration (south-east) portion of the building. The south-east of the building will be visually prominent from the highway aspect and is considered to make a positive architectural contribution to the presentation of the industrial 'business park'.

The overall development will include provision for 184 car spaces located primarily to the south end of the site, which will be screened by a 10m wide landscaping buffer parallel with the New England Highway. To the west, north and east of the building, hardstand will be provided to enable storage of mining machinery as well as loading/off-loading and manoeuvring area for heavy transport. These areas will also be disguised from Mirage Road and Mustang Drive by arboreal screening.

The use of the building will be a continuance of existing 'Minepro' activities constituting repairs, testing and maintenance of mining machinery. The use will be for 24 hours/7 days per week.

## **PLANNING ASSESSMENT**

### ***Section 79C(1)(a)(i) provisions of any environmental planning instrument***

**Maitland Local Environmental Plan (LEP)1993.** *(This plan ceased to operate upon the publishing of the Maitland Local Environment Plan 2011 on the 16<sup>th</sup> December 2011. The proposal was lodged with Council prior to this date).*

The subject site was zoned 4(b) Light Industrial under MLEP 1993 prior to the publishing of the 2011 LEP. The objectives of this zone are:

- a) *To set aside certain land for the purpose of light industry within convenient distances of the urban centres of the City.*
- b) *To allow commercial and retail development that does not undermine commercial and retail functions of existing and future urban centres.*
- c) *To ensure that industrial development creates areas which are pleasant to work in and safe and efficient in terms of transportation, land utilisation and services distribution.*

The proposed development is located within approximately 3 kilometres of the Rutherford shopping precinct/ residential area and will employ approximately 206 people which will generate economic benefit to the local commercial environment. The subject site is located at a convenient distance to transport infrastructure and general facilities, and the development will be consistent with the existing built form within the industrial estate which is generally of a high standard.

The proposed development is permissible in the zone with Council consent and is assessed as meeting the objectives of the 4(b) zone.

### **Maitland Local Environment Plan (LEP) 2011**

The 2011 Maitland Local Environment Plan (LEP) was formally published on the 16<sup>th</sup> December 2011. The development application is therefore considered against the savings provisions under Clause 1.8A of the Maitland LEP 2011. These provisions enable the Council to determine an application lodged prior to the publishing of the 2011 LEP to be assessed under the provisions of the 1993 LEP.

The 2011 LEP redefines the former 4(b) zoning to B5 'Business Development'.

'Industries', the (Group Term), are not permissible in the B5 zone under the 2011 LEP, however the development is most closely defined as 'General Industries' which is a permissible use in the B5 zone which applies to the land.

### **Regional Environmental Plan**

Repealed.

### **State Environmental Planning Policies**

State Environmental Planning Policy 'Infrastructure' 2007 is applicable to this proposal.

Under Schedule 3 of the SEPP, 'Industry' in excess of 5000m<sup>2</sup> in floor area that has access to a classified road or to a road that connects with a classified road (in this case the New England Highway) within 90m of connection becomes 'Traffic Generating Development to be referred to the RTA' (now identified as Roads and Maritime Services, RMS).

The proposal has been referred to the RMS for comment with subsequent advice requiring the entry point to the site to be relocated further from the proposed round-a-bout. The development application plans have been subsequently amended, and no further issues arise in respect of traffic generating development.

State Environment Planning Policy (SEPP) No.64 – 'Advertising and Signage' is applicable to this proposal.

The proposal is inclusive of corporate signage in the form of a freestanding sign 6m wide by 7.9m high proposed to be erected at the south-east corner of the subject site and facing the proposed round-a-bout. The sign, in accordance with the provisions of the SEPP, is best

described as 'business identification signage' which by virtue of this description generally excludes consideration of the SEPP.

Notwithstanding the above, the proposed sign is located within close proximity of the New England Highway and the proposed round-a-bout, and was referred to the RMS for comment on the basis of the proportion of the proposed sign and its potential influence on the use of a 'classified road'.

The RMS have subsequently responded with comment to the effect that the proposed sign is acceptable in the proposed location.

State Environment Planning Policy (SEPP) 33- '**Hazardous and Offensive Development**' is considered.

SEPP 33 is a required consideration where the volume of stored dangerous or hazardous goods reaches specified quantities such that they are determined to be either hazardous or dangerous pursuant to the guidelines of the SEPP. Analysis of dangerous goods classifications and hazardous substances is required to determine if the proposed development constitutes a hazardous or offensive status, and if so, subsequent referral of the proposal to the NSW Office of Environment and Heritage is required.

The proponent has submitted a materials safety data analysis as well as the required review to determine if SEPP 33 applies to the proposed development. In this case, relevant volumes and classifications do not trigger the application of SEPP 33.

***Section 79C(1)(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition***

Not relevant.

***Section 79C(1)(a)(iii) any development control plan(DCP)***

The '**Industrial Development Code**' chapter of the Maitland Citywide DCP is applicable to this proposal.

The following sections are relevant:

Part IIIA, 'Development Standards for Anambah Business Park'

3A.2 Presentation to New England Highway & Anambah Road.

*'Aim, To encourage development that contributes to a good quality streetscape, when viewed from the New England Highway or Anambah Road.'*

The proposed development provides for 10m wide arboreal screening to the New England Highway frontage as well as 5m wide to the street frontages to Mustang Drive and Mirage Road. The appearance of the building itself delivers a contemporary design at the New England Highway elevation and provides a combination of glazed curtain walling, 'Alucobond' composite panelling, pre-cast concrete panelling and corporate signage.

The bulk of the building progressively increases towards the rear portion of the site providing a balance of architectural influences in the overall presentation. The proposed hardstand storage areas and car parking are screened from the Highway perspective.

3A.3 Building & Streetscape Design Guidelines.

*'Aim, To provide for industrial buildings and development which is both functional to meet the users needs, as well as having a good quality external appearance when viewed from public places'.*

This section is concerned with the external material use/colours/building height/reflectivity, fencing and signage.

Proposed external colours are 'Colorbond Classic Cream' to the colorbond walling and roofing with 'Jasper' coloured dado concrete panelling, roller doors/gutters and 'Colorbond Bushland' for downpipes. The proposed colours are considered modest, and will be non-reflective.

This section also identifies height restrictions within the Obstacle Height Limitation Zone, however the subject site is not within this zone. The proposed maximum height of the building will be 18.91m at the ridge of the 'fabrication/re-builds' shed, with the remainder of the roof lines ranging from 12.2m down to 8.76m. The proposed building heights are not inconsistent with existing industrial buildings within the Anambah Business Park and will not impact upon the adjoining air field operations.

Fencing shall be provided to the entire perimeter of the site in the form of 1.8m high chain wire with 3 barb wire strands above, constituting an overall height of 2.4m. A consent condition will require the fence to be black in colour, and the fence will be located behind the arboreal screening.

The proposal is inclusive of corporate signage both to the façade of the administration section of the building as well as a freestanding sign at the south-east corner of the site. The proposed signage generally complies with the relevant guidelines and is appropriate in terms of the overall scale of the development.

The '**Car Parking**' chapter of the Maitland Citywide DCP is applicable to this proposal.

The proposed building constitutes approximately 9162m<sup>2</sup> of workshop floor space requiring 122 car spaces at an 'industrial' rate of 1 car space per 75m<sup>2</sup> of GFA.

The GFA of warehousing floor space is approximately 1887m<sup>2</sup> requiring 6 car spaces at a 'warehouse' rate of 1 space per 300m<sup>2</sup> of GFA.

The office/administration component of the building is approximately 2128m<sup>2</sup> requiring 53 car spaces at a 'business' rate of 1 space per 40m<sup>2</sup> of GFA.

The total car spaces requirement equates to 181.

184 car spaces including three spaces for disabled persons are provided thus exceeding the requirement by 3 car spaces.

The '**Guidelines for Outdoor Advertising**' chapter of the Maitland Citywide DCP is applicable to this proposal.

The proposal is inclusive of corporate signage to the façade of the administration portion of the building as well as a freestanding sign (also corporate) at the south-east corner of the site facing the proposed round-a-bout.

The wall signage is well below the parameters of this chapter in terms of the percentage of the signage area relative to the overall wall area (25%).

The proposed freestanding sign will be 6m wide by 7.9m high. The attributes of this sign have been addressed in this report pursuant to 'State Environmental Planning Policies'. The sign is also consistent with the objectives of this chapter and is assessed as being appropriate in its context.

The **Maitland Section 94A Levy Contributions Plan 2006** applies to this proposal.

The development application will attract a monetary contribution of \$250,740.00 under the current Section 94A Plan. The S94A contribution is calculated upon the Capital Investment Value of the proposed development which is \$25,073,991.00.

***Section 79C(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

Section 92 of the Environmental Planning & Assessment Regulations 2000 is considered. The subject site is outside the influence of the Government Coastal Policy and no demolition is proposed.

***Section 79C(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality***

Natural environment.

(Flora & Fauna)

By virtue of the current zoning, the site is intended to accommodate such development as is proposed, and impacts upon the natural environment have largely been measured through the former processes of rezoning and subsequent industrial subdivision. In closer scrutiny of the environmental impact, it is noted the general precinct including the subject site contains varying levels of threatened species and endangered ecological communities (EEC). Pursuant to prior consent for the industrial subdivision (ID 07-1884), (that includes the subject site) and the conditions therein, the matter of required biodiversity offsets is addressed through specific requirements imposed by the (then) Department of Environment and Climate Change (DECC) and translate into site specific requirements for proposed lot 801. In summary of these specific requirements, works must be conducted in the identified intensive regeneration areas and revegetation areas representing both offset conservation planting and ameliorative measures. The requirements of DECC in this matter are stipulated in the Concurrence Report and related consent conditions dated November 2008 prepared by the Environment Protection and Regulation Group (North East Branch) of the Department of Environment and Climate Change.

Given the obligations of bio-banking alternate EEC and augmentation of EEC on adjoining land are essentially met through the conditions imposed upon DA 07-1884, no development constraints apply to the subject site.

Notwithstanding, reference to these conditions will be provided as an advice on this consent.

(Air Quality)

The proposal is inclusive of spray painting booths. In respect of the potential for emissions affecting air quality, the consent will require the selection, installation and operation of the spray booths and exhaust to be in accordance with the NSW Office of Environment and Heritage guidelines pursuant to the document entitled 'Spray Painting and Surface Coating'.

(Storm water)

Concentrated storm water flows generated by the development will be captured on site and controlled through slow release detention methodology inclusive of pollutant traps. The proposed storm water engineering has been assessed by Council's engineering staff and approved in concept. External to the subject site, storm water detention for the purposes of water quality management has been provided through specific subdivision design.

(Noise)

In respect of noise impact, the proposal is accompanied by an Acoustic Report prepared by Global Acoustics (dated August 2011) which on the basis of the proposed 24 hours a day/7 days a week operation, addresses the following:

- Data from background noise monitoring to derive project specific noise level criteria;
- Determines appropriate criteria and assesses site noise emissions with consideration to NSW Office of Environment and Heritage (OEH) *Industrial Noise Policy* (INP) as a low-noise-risk development;
- Predicts noise levels at the nearest potentially affected residential receivers for day operation of the proposed facility.

The report findings in summary include the following observations, (quote):

*'All predicted results at residential receptors are more than 10dB below the adopted sleep disturbance criterion. Given that the predicted level is the sum of many sources operating at once, some with a relatively high and constant sound power ( $L_w$ 115dB) it is not considered very likely that any one source would vary enough to emerge more than 10dB above the predicted total. In that case the potential for sleep disturbance is considered low.'*

Further:

*'Results show that the proposed development would meet OEH guidelines at all residential and industrial receptors when all plant is in operation.'*

*Sleep disturbance has been addressed in the assessment and no impacts are considered likely'. (end quote).*

#### Social and economic impacts.

As a result of the proposed consolidation of the proponent's current operations into one facility, a concentration of employees (approximately 206) will result in positive flow-on economic benefits to the surrounding business community, as well as the shorter term economic benefit derived from the construction phase of the development.

#### Built environment.

No impact upon the adjoining Rutherford Aero Club is foreseen given the subject site is not within the obstacle limitation surface (OLS) of the nearby runways and is located well outside the approach path to the runway. Consent conditions will apply to lighting of the subject site pursuant to the 'Manual of Standards for Aerodromes. Section 9.21, Lighting in the Vicinity of Aerodromes.

#### ***Section 79C(1)(c) the suitability of the site for the development***

The nature of the proposed development requires a large area capable of accommodating the building, car parking and hardstand storage, whilst integrating with the surrounding built development, topography and natural environmental constraints.

The subject site is considered suitable for the proposal as it adequately meets the criteria as described as well as being located with direct linkage to the New England Highway, strategically located to both serve the mining industry of the Hunter Valley, and being a convenient location for employees/support industry.



***Section 79C(1)(d) any submissions made in accordance with this act or the regulations***

The development application was not required to be advertised or notified under the provisions of Council's Development Control Plan chapter 'Advertising/Notification of Development Applications' or the Environmental Planning & Assessment Act 1979.

Notwithstanding, by virtue of referral of the proposal to the JRPP for determination, advertising/notification was required. The proposal was subsequently advertised/notified from the 28<sup>th</sup> November 2011 to the 12<sup>th</sup> December 2011. As a result of this process, no submissions were received.

***Section 79C(1)(e) the public interest***

The development proposal represents a suitable use of the land in terms of providing employment that in turn is necessary to support the growing residential population of Maitland, facilitated by the Lower Hunter Regional Strategy.

The proposed development is a support business for the Hunter Valley mining industry as well as generating benefits to the local economy through ancillary support business and flow-on income from those employed by the support businesses and the proposed development. The facility when operational, will represent a continuation of the high standard of built development within the Anambah Business Park as well as presenting a prominent building of contemporary design in a high exposure location.

**CONCLUSION.**

An assessment of the application has been carried out under Section 79C(1) of the Environmental Planning & Assessment Act 1979 as amended. The proposed development is considered satisfactory in terms of the relevant matters for consideration under the Act. The development application is subsequently recommended for approval subject to consent conditions.

## **Schedule of Conditions DA 11-2139**

**Construct Industrial Facility and Use for Service & Repair of Mining Machinery and associated Signage, Proposed Lot 801 in Lot 311, DP1157389, New England Highway, Rutherford.**

### **Reason for Conditions**

*The objective of the following conditions is to draw to the attention of the applicant and owner their responsibilities to comply with various provisions of the Environmental Planning and Assessment Act, 1979, Environmental Planning and Assessment Regulations, 2000, Local Government Act 1993; Regulations; Building Code of Australia and Local Policies relating to building construction and maintenance.*

### **APPROVED PLANS AND DOCUMENTATION**

1. The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions to this consent or as shown in red colour on the plans:

<b>Plan Ref. N°</b>	<b>Sheet N°</b>	<b>Rev<sup>n</sup> N°</b>	<b>Revision Date</b>	<b>Prepared by: (consultant)</b>
Site Plan	A01	8	25/11/11	GCA
Vehicle Movement Plan	A02	8	25/11/11	GCA
Pavement Plan	A03	8	25/11/11	GCA
Overall Floor Plan	A04	8	21/11/11	GCA
Office Ground Floor Plan	A06	8	21/11/11	GCA
Office First Floor Plan	A07	8	21/11/11	GCA
Elevations	A08	8	21/11/11	GCA
Landscaping Plan	A09	8	25/11/11	GCA
Landscaping Notes	A10	8	21/11/11	GCA

### **CONTRIBUTIONS & FEES**

2. Pursuant to Section 80A(1) of the Environmental Planning & Assessment Act 1979, and the Maitland S94A Levy Contributions Plan 2006, a contribution of **\$250,740.00** shall be paid to the Council.

The above amount may be adjusted at the time of the actual payment, in accordance with the provisions of the Maitland City Council S94A levy Contributions Plan 2006.

Payment of the above amount shall apply to Development Applications as follows:

- *Building work only – prior to the issue of the Construction Certificate*
- *Subdivision and building work – prior to the issue of the Construction Certificate, or Subdivision Certificate, whichever occurs first.*
- *Where no Construction Certificate is required – prior to the issue of the Occupation Certificate.*

*The above 'contribution' condition has been applied to ensure that:*

- i) *Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan prepared in accordance with the provisions of Section 94A of the Environmental Planning & Assessment Act, 1979.*
- ii) *Council's administration expenses are met with respect to the processing of the application.*

## **CERTIFICATES**

3. Prior to the commencement of works an application for a **Construction Certificate** shall be submitted to, and be approved by, the Accredited Certifier.
4. **Prior to the issue of an Occupation Certificate** all conditions of development consent shall be complied with.
5. Prior to occupation of the building an **Occupation Certificate** shall be issued by the Principal Certifying Authority.
6. **Prior to issue of the Occupation Certificate**, a certificate of compliance under Section 50 of the Hunter Water Act 1991 for this development, shall be submitted to the Accredited Certifier.

## **DESIGN**

7. **Prior to the issue of the Construction Certificate**, a lighting plan shall be prepared by a suitably qualified consultant for all proposed external lighting on the site demonstrating compliance with the *Manual of Standards for Aerodromes – Section 9.21:Lighting in the Vicinity of Aerodromes*.
8. **Prior to the issue of the Construction Certificate**, plans shall be prepared for all chemical storage areas demonstrating that such areas comply with the requirements of Workcover NSW, Australian Dangerous Goods Code, NSW Office of Environment and Heritage and the relevant Australian Standards and approved by the Principal Certifying Authority.

## **AMENITY**

9. The selection, installation and operation of the spray painting booth/s shall be in accordance with the NSW Office of Environment and Heritage guidelines entitled 'Spray Painting and Surface Coating'. In this regard, emissions from the spray booth exhaust flues should be controlled such that odours and fumes do not adversely impact upon the use of adjoining land or the environment.

10. Noise levels generated from the 24 hour operations on the site shall not exceed the project specific criteria detailed within the Environmental Acoustic Assessment, 'P&H Minepro, Proposed Manufacturing Facility, Lot 801 Mustang Drive, Rutherford, dated August 2011' prepared by Global Acoustics.

Where project specific criteria is exceeded then the proponent shall ensure that such operations are modified/limited and/or additional attenuation included within the building to achieve compliance.

- *Note: testing of Stage Loaders shall be restricted to weekdays during daylight hours.*

## **LANDSCAPING**

11. All landscaped areas of the development shall be maintained in accordance with the approved landscape plan. The landscaped areas shall be kept free of parked vehicles, stored goods, waste material, and the like.
12. The boundary fencing shall be of chain wire finished in black colour and located on the building side of the landscaping.

## **CARPARKING**

13. Car parking for the development shall be provided in accordance with the approved plans, with a minimum allocation for the development of 181 spaces.
14. All on-site driveways, parking areas and vehicles turning areas shall be constructed with a bitumen sealed granular pavement, segmental pavers, or as reinforced concrete.
15. All parking bays shall be delineated with line-marking and/or signposting.

## **TRADE WASTE**

16. **Prior to the issue of the Occupation Certificate** evidence of a Trade Waste Agreement with Hunter Water Corporation shall be provided to the Principal Certifying Authority.
17. The wash bay/oil separator area shall be bunded to a minimum capacity of 110% of the volume of the separator.

## **EROSION CONTROLS**

18. The property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking".

## **BUILDING CONSTRUCTION**

19. All external materials/finishes to the building shall be non-reflective.
20. All building work shall be carried out in accordance with the provisions of the Building Code of Australia.

21. Upon completion of the building BUT prior to its occupation, a Final Fire Safety Certificate with respect to each critical and essential fire safety measure installed in the building shall be submitted to Council. Such certificates shall be prepared in accordance with Division 4 of Part 9 of the Environmental Planning and Assessment Regulation, 2000.
22. At least once in each twelve month period, fire safety statements in respect of each required essential fire safety measure installed within the building shall be submitted to Council. Such certificates are to state that:
- a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
  - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building).
- Such statements shall be prepared in accordance with Division 5 of Part 9 of the Environmental Planning and Assessment Regulation, 2000.
23. All excavations and backfilling shall be executed safely, in accordance with appropriate professional standards and shall be properly guarded and protected to prevent the works from being dangerous to life or property.
24. The applicant shall submit to Council, "Notice of Commencement" at least two days prior to the commencement of construction works.
25. Hours of Work:
- Unless otherwise approved by Council in writing; all building work associated with this approval shall be carried out between 7.00am and 6.00pm Monday to Fridays and 7.00am to 5.00pm on Saturdays with no work permitted on Sundays or Public Holidays that may cause offensive noise.

## **SERVICES & EQUIPMENT**

26. The building must comply with category 1 fire safety provisions, and access maintained to the perimeter of the building for NSWFB fire appliances.
27. A copy of the fire safety schedule and fire safety certificate shall be prominently displayed in the building in accordance with Division 4 of Part 9 of the Environmental Planning and Assessment Regulation 2000.
28. A copy of the fire safety schedule and fire safety certificate shall be forwarded to the Commissioner of New South Wales Fire Brigades, in accordance with Division 4 of Part 9 of the Environmental Planning and Assessment Regulation, 2000.

## **SITE CONSIDERATIONS**

29. All excavated and/or filled areas are to be retained or battered and suitably drained so as to prevent any subsidence of the area and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring land.

Where a retaining wall is planned for this purpose and such wall exceeds 1.0m in height at any point from finished ground level, plans and specifications of the construction SHALL BE APPROVED BY COUNCIL BEFORE WORKS COMMENCE. Plans and specifications of retaining walls greater than 1.0m in height MUST BE CERTIFIED BY A PRACTICING PROFESSIONAL ENGINEER. Note: The submission of a separate Development Application is not required for a retaining wall associated with this approval and indicated on the approved plans.

- 30.** All building refuse on this building site shall be stored in such a manner so as not to cause a nuisance to adjoining properties.
- 31.** If an excavation extends below the level of the base of the footings of a building/structure on an adjoining allotment of land, the person causing the excavation to be made.
- i)** Must preserve and protect the building/structure from damage, and
  - ii)** If necessary, must underpin and support the building/structure in an approved manner, and
  - iii)** Must, at least 7 days before excavating below the level of the base of the footings of a building/structure on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building/structure being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. (Includes a public road and any other public place).

- 32.** If the work:
- i)** is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii)** involves the enclosure of a public place

a hoarding or fence must be erected between the work site and the 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.

33. A sign must be erected in a prominent position on the work:
- (i) stating that unauthorised entry to work site is prohibited, and
  - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted during work hours.
- Any such sign is to be removed when the work has been completed.
- This condition does not apply to:
- (i) building work carried out inside an existing building, or
  - (ii) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
34. Approved toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. The provision of toilet facilities in accordance with this Clause must be completed before any other work is commenced.
35. The site is to be cleared of all building refuse and spoil immediately after completion of the building/structure.
36. No building materials, refuse or spoil are to be deposited on or be allowed to remain on Council's footpath.
37. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.

## VEHICLE ACCESS

38. **Prior to issue of the Occupation Certificate** the driveway layout and profile, from the road pavement to the vehicle parking area shall be constructed as "heavy duty", in accordance with an engineer's design or Council's standard drawings SD007, SD008, SD009, SD010 & SD012 in the *Manual of Engineering Standards* (also with reference to Council's information document "*Footway Crossings – Driveways*").
39. **Prior to commencement of construction** of the driveway crossing on a public footway verge, the works shall have been approved by Council. An application form, "Application To Construct Private Works On Footway" shall be submitted to Council, together with the appropriate fee.

## STORMWATER DRAINAGE

40. **Prior to issue of the Occupation Certificate**, a stormwater drainage system providing:
- i) On-Site Detention (OSD) of stormwater, and
  - ii) an emergency overland flow path for major storm events,

- iii) entrapment of gross pollutants, nutrients and hydrocarbons generated from the contributing ground-surface catchment areas,
- iv) detailed pavement finished surface levels, to ensure stormwater runoff catchment and its direction into the detention system,

shall be constructed in accordance with a design prepared by a suitably qualified person and Council's Manual of Engineering Standards.

The design shall be based on the stamped *concept* plan number **10243C Rev 2 C01 – C07**

## ROADWORKS

41. **Prior to issue of the Occupation Certificate**, documentary evidence shall be submitted to the Principal Certifying Authority verifying that all necessary arrangements have been made with the Roads & Maritime Services regarding works at the New England Highway and Mirage Rd intersection (see advice below).

## ADVICES

- A** You are advised that **prior to issue of the Occupation Certificate** the following requirements of the RMS in accordance with their correspondence to Council dated 10.11.11 ref. 11/1657 307DA46.2, must be satisfied, whereby the RMS requires construction to completion of the intersection of the New England Highway and Mirage Rd or its commencement. If the Occupation Certificate is sought prior to completion the following shall be provided by the responsible developer:
- an indicative programme for the timing of the works. The programme should list the timing of major milestones including RMS acceptance of detailed design, award of the contract of construction and completion of construction. The programme will be incorporated into the RMS Works Authorisation Deed (WAD).
  - Execution of the WAD between RMS and the developer.
  - Provision of an unconditional bank guarantee for the value of the works.
- B** You are advised that, prior to submitting an application for an **Occupation Certificate** the applicant should ensure that all relevant conditions of development consent have been complied with.
- C** You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the **Protection of the Environment & Operations (POEO) Act** and may incur infringement fines.
- D** You are advised that the issue of this development consent does not amount to a release, variation or modification by Council of any **covenant or easement** applicable to this property and that Council will not be held responsible when action on this consent results in any loss or damage by way of breach of matters relating to title of the property.
- E** You are advised that compliance with the requirements of the **Disability Discrimination Act**, (DDA) applies to works on this site. It should be noted that compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.
- F** You are advised that the site (proposed lot 801) is the subject of a Conservation Agreement and as such specific consent conditions pursuant to ID 07-1884 have



been applied by the Department of Environment and Climate Change in respect of removal of vegetation on the site. The relevant consent conditions of ID 07-1884 must be satisfied prior to the commencement of any works on the site.

**Signed (Assessing Officer) -----Date-----**

**Ian Cunningham. (Town Planner)**

**Reviewed (Supervising Officer)-----Date-----**

**Stephen Punch (Principal Planner)**

**Reviewed (Supervising Officer)-----Date-----**

**David Simm (Manager, Development & Environment)**

**Authorised for submission to JRPP-----Date-----**

**Bernie Mortomore (Group Manager, Service, Planning & Regulation)**