

JOINT REGIONAL PLANNING PANEL (Region)

JRPP No	JRPP Reference Number
DA Number	16-2012-356-1
Local Government Area	Port Stephens
Proposed Development	Intensive Agriculture (Greenhouse)
Street Address	157 & 183 Cabbage Tree Road
Applicant/Owner	Applicant: ADW Johnson PTY LTD Owner: Mr B N & MRS PM ASQUITH
Number of Submissions	Five (5)
Recommendation	Approval with Conditions
Report by	Leonard Allen, Senior Development Planner

Development Assessment Report

1.0 APPLICATION DETAILS

Application no:	16-2012-356-1
Property:	183 Cabbage Tree Road FULLERTON COVE, 157 Cabbage Tree Road WILLIAMTOWN
Lot & DP:	LOT: 1332 DP: 609173, LOT: 1331 DP: 609173
Description of development:	Intensive Agriculture (Greenhouse)
Applicant:	ADW JOHNSON PTY LTD
Date lodged:	12/06/2012
Present use:	Vacant Agricultural Land
Zoning:	LEP 2000 / PART 1(a) RURAL AGRICULTURE "A"
Issues:	Flooding Aircraft Noise Acid Sulfate Soils Wastewater Drainage
Submissions:	Five (5)
Recommendation:	
Integrated development:	Water Management Act, 2000

2.0 THE PROPOSAL

The proposed development is for the purpose of a 16.4ha glasshouse and associated technical and handling building for vegetable growing, storage, and distribution. The proposed development incorporates the following components;

- Site Levelling,
- Construction of a 16.4ha glasshouse (including propagation house)
- Construction of an ancillary technical and handling building containing the following;
 - Canteens,
 - Offices,
 - Male and Female toilets and shower amenities (including disabled),
 - Pre-loading spaces for ready goods,
 - Loading and cross docking facilities,
 - Cold Stores for tomatoes, cucumbers and capsicums,

- Irrigation Room,
- Boiler Room, Pump Room,
- Computer/Climate control room,
- Technical Room, (small repairs storage)
- Area for electrical loading forklift, robots, compressors, electrical facility space and emergency aggregate.
- Printing/Storage room for labels,
- Sample/Storage room (acclimatised)
- Guard/Security Room,
- Water tank room containing,
 - 4 x fresh water tanks with 510m³ capacity,
 - 4 x clean drain water tanks with 302m³ capacity,
 - 1 x clean drain water tank with 177m³ capacity,
 - 4 x non UV sterilised water tanks (shown as 'dirty drain water tanks' on the development plans) with 302m³ capacity,
 - 1 x non UV sterilised water tank with 177m³ capacity,
 - 1 x mist irrigation water tank with 177m³ capacity,
- Construction of a transformer station,
- Erection of a light oil tank,
- Erection of a hot water storage tank,
- Creation of external green park (grass only),
- Construction of water basins along the northern side of the proposed glass house with the following details;
 - Total of 40m wide including levee,
 - 4m deep (being 3m in depth to ground level and a further 1m below ground level),

The water basins will collect roof run off and rain water for reuse within the facility.
- Construction of a levee around the proposed development including water basins with the following dimensions;
 - 3m high,
 - 7m wide at the base,
 - 1m wide at the apex,
 - Batters at 45 degrees,

The levee will be constructed to mitigate any potential flooding impacts.
- Upgrade of the existing access to the site off Cabbage Tree Road to a formal concrete road access, and construction of concrete internal access roads, parking areas and manoeuvring areas for trucks,
- Associated engineering and civil works,
- Storage of sewerage generated by the proposed development on site by tank and removal from the site by truck using a pump out system,
- Realignment of the existing 'fourteen foot drain' traversing the site to a position along the eastern boundary. Connecting into the 'ten foot drain' along the southern boundary of the site.
- Construction of a new east-west drain located along the northern boundary of the site.

- Implementation of a pump based system of drainage to benefit the catchment as a whole.

With respect to investment, production output and employment, the development proposes:

- The capital investment value of the proposed development is \$65 million, which will have a significant flow on effect for the local and regional economy.
- The proposed development will produce 10,000 tonnes of tomatoes, 4,000 tonnes of capsicums, and just over 4,000 tonnes of cucumbers per annum.
- The proposed development will employ 5 x full time staff and 120 x casual workers.

3.0 THE SITE AND SURROUNDING AREA

3.1 The Site

Area	93.64ha
Dimensions	Irregular
Slope	Flat
Existing development	Vacant
DP and 88b instrument	Nothing to note
Vegetation	Generally cleared
Constraints	Bushfire Prone Land, Acid Sulfate Soils (Level 3), Endangered Ecological Community, Flood Prone Land, ANEF – Aircraft Affected,
Stormwater and drainage	Refer to Drainage Section of the report.
Access	Via Cabbage Tree Road and Easement for Access
Services	Utilities & Waste

3.2 Site Description:

The development site comprises Lots 1331 and 1332 DP 609173 (proposed Lot 32 in DA application 16-2012-192-1).

Lots 1331 and 1332 have a combined area of approximately 93.64ha with a frontage to Cabbage Tree Road of 296.3m. Under the proposed allotment resulting from the Boundary Adjustment currently under assessment (DA 16-2012-192-1), the parent allotment will have an area of 83.23ha and a frontage of 20.38m.

The site is generally flat low lying land subject to flood inundation. The site is generally cleared of vegetation and comprises grazing land.

3.3 Site Constraints:

The development site is constrained by,

- Flooding,
- Aircraft Noise, ANEF 20-25,
- Acid Sulfate Soils, Class 3
- Bushfire
- SEPP14
- Alligator Weed

3.4 Surrounding Development:

The subject site is utilised for agricultural purposes, with Lot 1331 containing a dwelling house and associated buildings. And Lot 1332 comprising vacant grazing land.

The land surrounding the development site is also rural zoned land comprising residential and agricultural buildings.

4.0 HISTORY

4.1 Site History:

- 7-1980-20-1, Construction of open ponds for settlement of soil (mining)
- 16-2012-192-1, Boundary Adjustment (2 Lots)
- 16-2012-356-1, Glasshouse

5.0 CONSULTATION – COMMUNITY

In accordance with Council's Notification Policy, the development was advertised and adjoining neighbours were notified of the proposed development. In response, five (5) submissions were received and the issues raised in these submissions are discussed below.

Flooding and Drainage

Flooding and drainage has been considered in the assessment of the proposal. Modelling of the catchment post development indicated that the proposal would result in up to 50mm of water being present as surface water in land that is prone to flooding in a 1 in 10 year event.

To mitigate against this a pump system has been proposed that will assist in the drainage of the site and larger catchment, this is discussed further in the Drainage Section of the report.

It is considered that the proposal will not have an adverse impact on adjoining properties with respect to Flooding and Drainage.

Impact on RAMSAR Wetlands

An advice has been included in the consent noting that the development may have an impact on RAMSAR wetlands and that the applicant should consider submitting the application to the Commonwealth Government under the *Environmental Protection and Biodiversity Conservation Act*.

Proximity to proposed CSG exploration site

Concern is raised that there is an existing approval on site for an exploration well for Coal Seam Gas. It has been raised that the traffic required by the Coal Seam Gas exploration, as well as the additional traffic required by the Glasshouse will impact on the local community.

Consideration of the impacts of the traffic related to the Glasshouse is that the proposal will not have a significant impact on the vehicle movements in the locality.

Site Analysis Plan

Concern was raised about the adequacy of the submitted Site Analysis Plan.

It is considered that the site analysis plan provided for the development was sufficient and that a revised plan was not warranted to allow consideration of the proposal.

Development Floor Levels

Concern has been raised as to the filling of the site and the use of footings on the site and the impact of the environment on them.

It is considered that for the DA stage, sufficient information has been provided in terms of the Acid Sulfate Soils Management Plan and Development Plans and that the development is suitable on the site.

Night Lighting

Concern has been raised in relation for the potential of night lighting to impact upon neighbours and wildlife.

The potential ecological impacts are addressed elsewhere in this report, but it is considered that the visual impact on neighbours can be effectively mitigated against through the implementation of appropriate landscaping of the site to provide a visual buffer.

Strategic Landuse Planning

Concern is raised about the appropriateness of the development in the zone and its compliance with the Rural 1(a) Zone Objectives. In particular these concerns

revolve around flooding and drainage impacts. Consideration of the zone objectives is discussed elsewhere in this report, however it is considered that the development is not only permissible, but also consistent with the zone objectives and description. Particular regard during the assessment process has been given to the mitigation of potential flooding impact.

Visual Impact

Concern was raised about the visual impact of the building.

It is not considered that the 8m height of the development is out of character with the area, however the 400m length of unbroken walls on the glass house could provided a negative impact on the locality.

In order to mitigate against any potential impact on visual amenity, a landscaping plan has been conditioned. It is considered that appropriate landscaping, along with the 3m bunding surrounding the site will provide a sufficient visual buffer to surrounding dwellings, particularly when taking into account the separation distance between dwellings and the development.

Traffic

Concern is raised as to the potential for the development to generate high levels of traffic.

The development will generate minimal traffic movements. Namely traffic required for;

- 5 full time staff,
- Maximum 2 trucks per day to take produce off site,
- 120 casual workders will be transported to the site by mass transport. It is anticipated that this will be 3 bus arrivals and departures per day,
- No visitor traffic,
- No direct selling to the public.

It is not considered that there will be any significant impacts as a result of increased vehicular traffic.

Noise

Concern has been raised that any potential noise being generated on site will preclude future development of surrounding sites.

It is not considered that the development will generate significant noise, however it is noted that the development is situated within 20-25 ANEF noise contour which in itself will place constraints on some forms of development as a result of noise.

Waste

Concern has been raised as to the disposal method of vegetable waste and to the storage of chemicals on the site.

The application has been conditioned so as to require a Waste Management Plan prior to Construction Certificate and to have bunding and appropriate storage of chemicals.

6.0 INTERNAL REFERRALS

6.1 Engineering

Comments: Received 26th October 2012

Recommendation: Approved subject to conditions

6.2 Building

Comments:

Recommendation: Approved

6.3 Environment

Comments: received 22nd October 2012

The following commentary was received in relation to the proposal after an internal review of the submitted documentation.

Inadequate environmental impact assessment provided

No evidence has been presented to demonstrate the suitability of the site for the development or to demonstrate that alternatives have been considered.

The proponent's ecological consultants highlight that

The proposal involves the removal of approximately 5.61 hectares of endangered ecological community, comprising 4.9 ha of Saltmarsh in Estuaries of the Sydney Basin and South East Corner, 0.58 ha of Coastal Floodplain Sedgeland, Rushlands and Forblands of the North Coast, 0.13 ha of Swamp oak flood plain forest of the NSW North Coast, Sydney Basin and South Eastern Corner bioregions. This parcel of land contains degraded Coastal Saltmarsh EEC which may provide foraging habitat for Little Bentwing Bat and potential foraging habitat for Australasian Bittern, White-fronted Chat, Black-necked Stork, Little Eagle, Eastern Bentwing Bat, East Coast Freetail Bat and Large-footed

Myotis.

(Eco Logical Australia 2012. Ecological Investigations: Glasshouse development, Williamstown. Prepared for Maria's Farm Veggies Pty Ltd, page 36)

Coastal Saltmarsh in the NSW North Coast, Sydney Basin and South East Corner Bioregions is a highly productive intertidal habitat providing food for fishes and foraging shorebirds as well as habitat for crabs and that the export of crab larvae from areas of saltmarsh is an important food source for juvenile fish.

Freshwater Wetlands on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions is the name given to the ecological community associated with periodic or semipermanent inundation by freshwater, and usually has distinctive fauna that includes frogs, fish, freshwater tortoises, waterbirds and a diversity of micro- and macro-invertebrates.

The site is in a major floodway where significant discharge of water occurs during floods, with a recurrence interval of 2 years or more. A large area of fill (more than 16 hectares) will cause significant redistribution of flood flows.

The proponent's consulting hydrologist makes the strange comment that "... in our opinion the coastal saltmarsh present within Lot 1332 is not reliant on either surface or groundwater."

(Eco Logical Australia 2012. Ecological Investigations: Glasshouse development, Williamstown. Prepared for Maria's Farm Veggies Pty Ltd, page 34)

The proponent has not adequately addressed the issue of redirected flood flows and its impact on the endangered ecological communities.

The proponent's ecological report notes the inadequacy of the flora and fauna survey and notes that

The floristic audit undertaken recorded as many species as possible and provides a comprehensive, but not definitive, species list. More species would probably be recorded during a longer survey over several seasons.

(Eco Logical Australia 2012. Ecological Investigations: Glasshouse development, Williamstown. Prepared for Maria's Farm Veggies Pty Ltd, page 11)

The survey methodology has not addressed the effect of unpredictable climatic conditions on fauna activity, detectability and flora flowering, unpredictable seasonal effects on faunal dispersal and distribution, the cryptic habits of some threatened flora and fauna species and statistical and probability factors.

The proponent has not adequately undertaken a flora and fauna survey to determine the significance or otherwise of the proposal impact on threatened species, populations or endangered ecological communities.

A determination on this proposal should be deferred pending the submission of this material to ensure a decision can be made based on adequate information.

Comment: The proposal is considered to have the potential to increase the flooding of the surrounding lands, which has lead to the introduction of the pump system to assist in the drainage of the catchment during flood events. This pump system will not redirect flows, it will merely decrease the time to drain additional flood waters on adjoining land as a result of the proposal. In this sense, the drainage proposed will in effect reinstate the local flood levels to pre development levels as quick as practicable after flooding events and as such it is not considered that the development will have a significant impact on surrounding wetlands.

Commonwealth Legislation

Due to the inadequacy of the hydrological assessment, the proponent needs to provide an adequate assessment as to whether the habitat or life cycle of a species dependent upon the Ramsar site will be substantially impacted.

The wetlands downstream are wetlands of international importance (often called 'Ramsar' wetlands after the international treaty under which such wetlands are listed).

This is one of the eight matters of national environmental significance to which the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) applies.

Under the EPBC Act, a person must not take an action that has, will have, or is likely to have a significant impact on any of the matters of NES without approval from the Australian Government Environment Minister or the Minister's delegate.

A determination on this proposal should be deferred pending the submission of this material or the referral to the Federal Environment Minister or the Minister's delegate conditioned as a deferred commencement.

Comment: While it is noted that the application is adjacent to RAMSAR wetlands, it is considered appropriate to place an advice on the consent advising the applicant of their responsibilities under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

It is considered that this piece of legislation, while required to be addressed, can be addressed either before, during or after the DA process has taken place and that it would not preclude determination of the application.

Compliance with environmental assessment

The following compliance issues are noted from the environmental assessment.

Light spill

The proposed glasshouse development whilst a 24 hour operation requires only a minimal amount of lighting. Within the glasshouse lighting is not required to grow plants. Accordingly during night time hours the glasshouse would not emit light unless access to the glasshouse is required for emergency repair of equipment. In this situation lighting would only be low level lighting sufficient to cover the work area and internal pedestrian access. Exterior lighting is generally not required as the primary operating hours of the facility are from 7am to 4pm. However some exterior lighting may be required to allow general access around the facility of a night, however, this will be minimal, will be low level and if needed can easily be directed and shielded to ensure no unacceptable light spill. No high level lighting will be required that could impact on adjoining neighbours or wetlands.

(Eco Logical Australia 2012. Ecological Investigations: Glasshouse development, Williamtown. Prepared for Maria's Farm Veggies Pty Ltd, page 34)

Comment: The following recommendations were provided in the report by Eco Logical Australia 2012. *Ecological Investigations: Glasshouse development, Williamtown*. Prepared for Maria's Farm Veggies Pty Ltd, page 41 and are to be included as conditions of consent.

- Vehicles and plant should be cleaned down prior to conducting works and should remain on site during period of construction. Vehicles and plant should

be re-cleaned prior to re-entering the site if they leave the area during the project.

- Alternanthera philoxeroides (Alligator Weed) should be controlled within the study area as per the Alligator Weed Control Manual (DPI 2007).
- Implementation of a Soil and Water Management Plan to ensure acid sulphate soils and other sediments exposed sediments during the construction phase do not leave the site and impact on downstream wetlands.
- Measures to avoid bird strike and collisions to be considered-include:
 - Observations – monitor for sensitive areas where repeated bird collisions occur. This may suggest that there is some form of attractant present at this area. Simple changes, such as erecting shade cloth or decals (as discuss in greater detail below) may reduce the number of collisions.
 - Reduce the reflective capacity of the glass. The reflection of the natural environment may be perceived as open space for a bird to fly into or alternative a bird may see its reflection and perceive this as a threat and attack, both resulting in a collisions. The reflective captivity of the glass may be altered by using shade cloth or transparent film can be applied to the window to reduce the reflective capacity of the glass.
 - Mark, paint, tape onto the surface of the window to reduce the reflective capacity of the glass.

Recommendation: The Natural Resources Referral recommends refusal.

Comment: Given the positive Social and Economic benefits of the development discussed elsewhere in this report, and that the drainage solution provided for the development will seek to minimise the potential impacts of the development on localised flooding, it is not considered that the developments impacts would warrant refusal due to ecological reasons.

6.4 Flood

Comments: received 28th June 2012

Councils Flood Engineer stated;

I have reviewed this application and the Flood Impact Assessment submitted with the application. I have no issues with the flood impact assessment and consider they have demonstrated the proposal has no adverse impacts in regard to flooding in the area. Subject to the development being suitably flood proofed I have no objections to the proposal.

Flood Proofing

The FPL for the site is RL 3.0 m AHD however it is noted that the site is being protected by flood levees around the site that provides adequate flood proofing of the site.

Whilst the development itself is proposed to be protected by flood levees the access into the site will be subject to inundation which in the case of Hunter River flooding could last several days. Therefore a suitable flood management plan needs to be implemented that deals with the access not being accessible for periods during flood events.

The access road should be constructed at a level of RL 2.5 m AHD to ensure suitable tidal protection in the future.

Recommendation

The proposed development can be supported subject to conditions being included in any consent issued for the development.

Recommendation: Approved subject to above conditions.

6.5 Drainage

The development site is located within a catchment with known drainage issues. Upstream in the catchment is the Williamtown RAAF and airport and the approved Williamtown Aerospace Park subdivision.

The catchment is drained via a network of waterways that feed into the ring drain and onto Fullerton Cove via a Sluice Gate. During high tides water cannot be currently drained from the catchment.

The development also involves the realignment of the existing 'fourteen foot drain' traversing the site to a position along the eastern boundary. Connecting into the 'ten foot drain' along the southern boundary of the site. The 10 foot drain will be upgraded to be able to handle the additional water to be conveyed through it.

The general area is subject to nuisance flooding during storm events and consideration of the development has had specific regards to the impacts of the development on the catchment and properties both up and down stream.

Modelling of the proposal indicated that the development would adversely impact on adjacent properties during a 1 in 10 year storm event. In order to mitigate against any adverse impacts, a pump system has been proposed to assist flood waters in being removed from the catchment.

Two pumps have been proposed enabling 2.4m³/s to be removed from the catchment. Water will be removed from upstream of the development and discharged into the end of Dawsons Drain on the Fullerton Cove side of the existing levy bank.

The discharge point has a natural fall to Fullerton Cove an existing cleared grassed area. The discharge point is not located within any of the nearby SEPP14 or

RAMSAR boundaries and water will be directed into an existing creek that discharges into Fullerton Cove.

Details of the pumps, discharge point, cross sections and scour protection are detailed in the following plans;

- Sheet 1 Flood Mitigation Pump Layout, prepared by ADW Johnson, Dated 16/11/2012, Rev: C
- Sheet 2 Pump Line Discharge
- Sheet 3 Pump Outlet Details.

While each of the two pumps can discharge at a maximum rate of 1.8m³/s modelling has been undertaken at a more conservative rate of 1.2m³/s for each pump giving a total discharge of 2.4m³/s. Modelling of the 1yr, 5yr and 10yr storm events has indicated that the development with pump solution implemented will not have an adverse impact on adjacent properties through nuisance flooding.

It is considered that the drainage system as proposed will have the following impacts on the local catchment:

- The larger drains excavated post development with the Glasshouse will significantly benefit regional drainage in the area for runoff from smaller, regular storm events. This includes local residents and the airport future development as flows have more room to remain in bank and not overtop.
- Large pumps have been put in place to target peak flood impacts to manageable levels even in the worst case scenario.
- The extended duration of pumping past the peak occurring for the Glasshouse will have a net benefit for future development surrounding the airport. This is because the pumps will be taking floodwater continuously from the downstream system when sustained outflows from detention systems upstream could have potentially resulted in additional water downstream in this area and cause cumulative impact issues.
- Drain maintenance to be taken on the applicant is a benefit to the catchment.

Comments: Received on 29/11/2012.

Recommendation: Approved Subject to Conditions

6.6 Traffic

Comments: Received 13/07/2012

No objection was raised to the development in terms of traffic subject to the following conditions of consent.

- That the proposed CHR intersection shall be constructed at the property access to Cabbage Tree Road, to Austroads specifications and to RMS and Council requirements. Detailed plans to be submitted prior to the Roads Act approval
- That the proposed property access (as specified above) shall remain in operation until such time as the approved DAREZ development constructs a roundabout on Cabbage Tree Road, as required by condition of consent No.102 for DA 16-2009-324-1. At this time the property access for this proposed development shall be closed and a new access road constructed to connect to the new roundabout in accordance with Austroads specifications and to RMS and Council requirements.

It is further noted that the application was referred to the Roads and Maritime Service for comment and this is discussed elsewhere in this report.

Recommendation: Approved

6.7 Wastewater

Comments: received 12/10/2012

Council's Wastewater officer has commented "Preliminary comments indicate that the additional information submitted by the applicant has not fully considered alternatives to pumpout (as proposed) and that more work is needed by the applicant.

It is suggested that the report to the JRPP at this stage acknowledges the applicants desire to install a pumpout system but that Council does not support this based on the information provided and that more sustainable alternatives are available. This should not hold the process up but that more discussion is required to resolve the method of OSSM for the project".

It is considered that the application can be approved in its current state, but further consideration of the OSSM is required prior to Council granting consent to operate an On-Site Disposal System.

Recommendation: Approved subject to conditions

7.0 EXTERNAL REFERRALS

NSW Office of Water – Water Management Act 2000

The application was referred to the NSW Office of Water as Integrated Development requiring a controlled activity approval under the *Water Management Act 2000*.

On the 19th September 2012, the NSW Office of Water issued General Terms of Approval that will be included as conditions of consent. The GTA's do not constitute a controlled activity approval and the applicant must apply to the NSW Office of Water post consent, and prior to works, to obtain the required approval.

Roads and Maritime Services (Transport)

The application was referred to the Roads and Maritime Services (Transport) seeking comments under Clauses 41 and 42 of the *Port Stephens Local Environmental Plan 2000*.

The Roads and Maritime Services (Transport) provided conditions of consent for the proposal on 18th July 2012 and these have been included in the draft conditions.

Hunter Water Corporation

The development falls outside of a Hunter Water Corporation Special Catchment Area and as such no formal referral is required to the Hunter Water Corporation.

Notwithstanding this, a referral as a courtesy was undertaken on 26th June 2012. No formal response was received to this correspondence.

RAAF

The Department of Defence undertook a review of the proposal and provided comment.

With respect to the development height, the Department noted that "*the proposed structures will not infringe on the fixed wing Obstruction Clearance Surfaces (OCS) for RAAF Base Williamtown. This is based on the height details provided in the Development Application, ie, that the glasshouse building will be 8.1m AGL. And the highest construction, a heat storage tank will be 14.6m AGL.*"

With respect to the potential for the development to cause daytime glare that endangers pilots and aircraft, the Department noted; "*the applicant has indicated that the glasshouse will be constructed with non reflective material. Glare from reflective surfaces can affect the visibility of pilots during daylight hours. It is important to note that if it is later found that the external surfaces are causing day time glare to pilots and endangers the safety of aircraft operations, then Defence or the Civil Aviation Safety Authority may require that the surface be suitably modified to extinguish the glare.*"

This advice from the RAAF has been noted as an advice in the draft consent.

8.0 STATUTORY PROVISIONS

8.1 Environmental Planning and Assessment Act, 1979

Section 89C – State Significant Development

Section 89C of the Environmental Planning and Assessment Act 1979 deals with State significant development, specifically;

89C Development that is State significant development

- (1) For the purposes of this Act, **State significant development** is development that is declared under this section to be State significant development.
- (2) A State environmental planning policy may declare any development, or any class or description of development, to be State significant development.
- (3) The Minister may, by order published in the Gazette, declare specified development on specified land that is not declared under subsection (2) to be State significant development, but only if the Minister has obtained and made publicly available advice from the Planning Assessment Commission about the State or regional planning significance of the development.

Editorial Note. For orders under this subsection, see the Historical notes at the end of this Act.

- (4) A State environmental planning policy that declares State significant development may extend the provisions of the policy relating to that development to State significant development declared under subsection (3).

Note. See section 115U (6) and (7) in relation to development that is, but for those provisions, both State significant development and State significant infrastructure.

The development is not considered to constitute State Significant Development and the rationale is discussed in the SEPP (State and Regional Development) 2011 section of this report.

Schedule 4A – Development for which regional panels may be authorised to exercise consent authority functions for Councils.

Schedule 4A defines the parameters for which a regional panel may be authorised to exercise the consent authority functions of Council. Of relevance to this application is clause 3 which states;

3 General development over \$20 million

Development that has a capital investment value of more than \$20 million.

As the development has a Capital Investment Value exceeding \$20 million it is considered that the Regional Planning Panel should exercise the consent authority functions for Council.

Clause 91

Protection of the Environment Operations Act 1997 No 156

Parts 1 and 2 of Schedule 1 contains a list of the activities that are scheduled activities for the purposes of this Act (see sections 48 and 49). Of relevance is cl2 which states;

2 Agricultural processing

(1) This clause applies to the following activities:

dairy processing, meaning the processing of dairy produce as part of the production of milk, evaporated or condensed milk, buttermilk, cream, cheese, butter, ice-cream or similar products.

general agricultural processing, meaning the processing of agricultural produce (otherwise than as part of the manufacture of beer, wine, spirits, vinegar, acetic acid or similar products), but excluding:

(a) dairy processing and grape processing, and

(b) the processing of agricultural produce by means of mobile processing operations.

grape processing, meaning the processing of grapes (otherwise than by distilling) as part of the manufacture of wine, spirits, vinegar, acetic acid or similar products.

(2) Each activity referred to in Column 1 of the Table to this clause is declared to be a scheduled activity if it meets the criteria set out in Column 2 of that Table.

(3) In this clause:

agricultural produce includes seeds, fruit, vegetables and other plant material, but excludes dairy produce and grapes.

process includes crush, juice, grind, gin, mill, separate, wash, sort, coat, roll, press, steam, flake, comb, homogenise and pasteurise.

Table

Column 1

Activity

dairy processing

general agricultural processing

Column 2

Criteria

capacity to process more than 30 megalitres of dairy produce per year

capacity to process more than 30,000 tonnes of agricultural produce per year

grape processing

*capacity to process more than 30,000
tonnes of grapes per year*

The development as proposed seeks an output of 10,000 tonnes of tomatoes, 4,000 tonnes of Capsicums and 4,000 tonnes of cucumbers giving a yield of 18,000 tonnes. As the development will not process more than 30,000 tonnes of general agricultural produce, no integrated referral is required.

Water Management Act 2000

The development was referred to the NSW Office of Water as integrated development under the *Water Management Act 2000*.

The NSW Office of Water issued GTA's on the 19th September 2102 that have been included as conditions of consent. It was also noted that "The activity may require further approval in respect to Work Approvals or Aquifer Interference Approvals under the Water Management Act 2000. It was recommended that the applicant contact the Office of Water in regards to these approvals.

Further it has been identified that the proposal relates to lands and infrastructure associated with the Hunter Valley Flood Mitigation Scheme. The consent holder must obtain the appropriate licenses/approvals from NSW Office of Environment and Heritage in relation to Section 253 of the Water Act if required.

8.2 State Environmental Planning Policies (SEPP)

SEPP 14 – Coastal Wetlands

The aim of this policy is to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State. The policy applies to local government areas outside the Sydney metropolitan area that front the Pacific Ocean. Land Clearing, levee construction, drainage work or filling may only be carried out within these wetlands with the consent of the local Council and the agreement of the Director General of the Department of Planning. A development triggering SEPP14 also is required to be accompanied by an Environmental Impact Statement.

The subject allotment, Lot 1332, is noted as containing SEPP 14 wetland. The proposed development however is located within the eastern portion of the site and is considered to not impact upon these wetlands. No land clearing, levee construction, drainage work or filling is proposed within the wetlands areas as a part of this application and as such no further consideration of SEPP 14 is considered warranted.

The drainage solution, including the use of pumps is not considered to impact upon SEPP14 wetlands. The pumps will drain land contained outside of the levy banks,

which while mapped as SEPP14, when ground truthed are not considered to be wetlands.

Clause 7 of SEPP 14 states;

7 Restriction on development of certain land

(1) In respect of land to which this policy applies, a person shall not:

- (a) clear that land,*
- (b) construct a levee on that land,*
- (c) drain that land, or*
- (d) fill that land,*

except with the consent of the council and the concurrence of the Director.

The development as proposed does not seek to clear, construct a levy on, drain or fill land classified as SEPP14 and as such no concurrence of the Director General is required.

SEPP 55 – Remediation of Land

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

As a part of the proposal and supporting documentation, the applicant has prepared a Preliminary Geotechnical and Environment Assessment Report prepared by Geotech Solutions (Ref: 1106-002/0 Dated: April 2012).

The extent of the assessment comprised a site inspection and limited intrusive sampling and testing of fill material noted during the site inspection.

The preliminary contamination assessment identified;

- Primary site activity associated with cattle grazing and possible minor use of pesticides and herbicides;
- Some filling noted on site from site and imported sources including anecdotal comments on the placement of dredged sediments on site; and
- Possible minor contamination associated with possible asbestos containing fibrous sheeting fragments (ACM) adjacent to an old slab on the western boundary.

The report concluded that with the exception of the fill placement, the presence of a minor amount of ACM and the cattle grazing no other potential contaminating previous activity was identified.

Of the limited intrusive sampling and testing undertaken, the testing indicated no exceedance for heavy metals, herbicides, pesticides and several analytes tested for the encountered fill materials.

Further the report concluded that based on the results of the limited testing, with the exception of the minor ACM the risk of contamination of the site would be low and would not prohibit development in the form proposed. It was suggested that an occupational hygienist be engaged to assess the potential asbestos containing fragments prior to removal, if required and to allow the issue of an asbestos clearance. A condition will be placed on the consent with respect to the clearing of the possible asbestos on site.

No further assessment or Phase 2 Contamination report under SEPP 55 is considered warranted.

SEPP 62 – Sustainable Aquaculture

Part 3A of the SEPP sets out the considerations for developments within close proximity to Priority Aquaculture Areas. Part 3A, clause 15B states;

15B Consultation with Director-General of Primary Industries

- (1) Before determining a development application for any development, a consent authority:*
 - (a) must consider whether, because of its nature and location, the development may have an adverse effect on oyster aquaculture development or a priority oyster aquaculture area, and*
 - (b) if it suspects that the development may have that effect, must give notice of the application to the Director-General of the Department of Primary Industries.*
 - (2) In determining a development application for any development, a consent authority must consider any comments received from the Director-General of the Department of Primary Industries pursuant to subclause (1), including, in particular, such comments as identify:*
 - (a) any adverse effect that the development may have on, or ways in which the development may impede or be incompatible with, any oyster aquaculture development or priority oyster aquaculture area, and*
 - (b) any measures to avoid or minimise any such adverse effect, impediment or incompatibility.*
- Note.** Development may be incompatible with or impede oyster aquaculture if, for example, the development will limit access to oyster leases or have an impact on water quality and, consequently, on the health of oysters and of consumers of those oysters.

(3) This clause does not require a consent authority to consider any comments received more than 21 days after notice was given as referred to in subclause (1) (b).

The development is not located within close proximity to any Oyster Leases on the Hunter River, the closest being approximately 5km to the south west. As such no further consideration under SEPP 62 is considered to be warranted.

SEPP 71 – Coastal Protection

The development site is subject to the provisions of State Environmental Planning Policy 71. Clause 7 and 8 are applicable to the application.

SEPP 71 seeks to ensure that development in the NSW Coastal Zone is appropriate and suitably located, to ensure that there is a consistent and strategic approach to coastal planning and management and to ensure there is a clear development assessment framework for the coastal zone.

Clause 7 requires that Clause 8 is considered in the assessment of an application.

Clause 8 specifies the matters for consideration.

8 Matters for consideration

The matters for consideration are the following:

(a) the aims of this Policy set out in clause 2,

Comment: The proposed development is consistent with the aims of the Policy which are generally to protect and manage the natural, cultural, recreational and economic attributes, vegetation and visual amenity of the NSW coast.

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

Comment: The proposal is consistent with the Policy in that it will not restrict access to the Coastal Foreshore.

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

Comment: The proposal is consistent with the Policy. It is not considered that the proposed site presents any new opportunity to access the foreshore, nor will the development prohibit future access to the foreshore.

(d) the suitability of development given its type, location and design and its relationship with the surrounding area,

Comment: The development site is zoned Rural and as such it is considered that the proposed use is consistent with development envisaged for the area.

(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,

Comment: The proposed development will not have a detrimental impact on the amenity of the area, nor will it overshadow the coastal foreshore or result in the loss of views from a public place.

(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

Comment: The proposal is not inconsistent with this aim

(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,

Comment: It is not considered that there will be detrimental impacts to Threatened Flora and/or Fauna.

(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats

Comment: It is not considered that the development will have a detrimental impact on fish or marine vegetation.

(i) existing wildlife corridors and the impact of development on these corridors,

Comment: The development is not considered to result in a detrimental impact on existing wildlife corridors.

(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

Comment: The development is not considered to impact on, or be impacted upon by coastal processes.

(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,

Comment: The development will not result in a conflict between land and water based activities.

(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

Comment: No significant sites are known to exist on the development site.

(m) likely impacts of development on the water quality of coastal waterbodies,

Comment: It is not considered that the development will have a detrimental impact on the water quality of surrounding water bodies.

(n) the conservation and preservation of items of heritage, archaeological or historic significance,

Comment: No items of heritage, archaeological or historic significance are known to exist on the site.

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

Comment: Not applicable to this development application.

(p) only in cases in which a development application in relation to proposed development is determined:

- (i) the cumulative impacts of the proposed development on the environment, and*
- (ii) measures to ensure that water and energy usage by the proposed development is efficient.*

Comment: No significant cumulative impacts identified, and it is considered the water and energy usage of the development will be efficient.

It is considered that the development as proposed satisfies and is consistent with the requirements of SEPP 71.

SEPP (State and Regional Development) 2011

State Significant Development

The triggers for State Significant Development are in SEPP (State and Regional Development) 2011.

Part 2 of the SEPP deals with State Significant Development and states

Part 2 State significant development

8 Declaration of State significant development: section 89C

- (1) Development is declared to be State significant development for the purposes of the Act if:
 - (a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and
 - (b) the development is specified in Schedule 1 or 2.
- (2) If a single proposed development the subject of one development application comprises development that is only partly State significant development declared under subclause (1), the remainder of the development is also declared to be State significant development (except so much of the remainder of the development as the Director-General determines is not sufficiently related to the State significant development).
- (3) This clause does not apply to development that was the subject of a certificate in force under clause 6C of [State Environmental Planning Policy \(Major Development\) 2005](#) immediately before the commencement of this Policy.

Note. Development does not require consent under Part 4 of the Act merely because it is declared to be State significant development under this clause. Any such development that, under an environmental planning instrument, is permitted without consent may be an activity subject to Part 5 of the Act or State significant infrastructure subject to Part 5.1 of the Act. Any such development that is permitted without consent may become State significant development requiring consent if it is part of a single proposed development that includes other development that is State significant development requiring consent (see section 89E (4) of the Act and subclause (2)).

Clause 8 calls up Schedule 1 and 2 which nominate development types and value thresholds.

Schedule 1 states;

Schedule 1 State significant development—general(Clause 8 (1))

3 Agricultural produce industries and food and beverage processing

Development that has a capital investment value of more than \$30 million for any of the following purposes:

- (a) abattoirs or meat packing, boning or products plants, milk or butter factories, fish packing, processing, canning or marketing facilities, animal or pet feed production, gelatine plants, tanneries, wool scouring or topping or rendering plants,*
- (b) cotton gins, cotton seed mills, sugar mills, sugar refineries, grain mills or silo complexes, edible or essential oils processing, breweries, distilleries, ethanol plants, soft drink manufacture, fruit juice works, canning or bottling works, bakeries, small goods manufacture, cereal processing, margarine manufacturing or wineries,*
- (c) organic fertiliser plants or composting facilities or works.*

From this, The development is not contained in Schedule 3 and as such falls outside the scope of State Significant Development. The development site is not listed in Schedule 2 as a State Significant site.

It is considered that the development as proposed does not constitute State Significant Development.

Regional Development

Under the provisions of Schedule 4A of the Environmental Planning and Assessment Act 1979, the development is to be determined by a Regional Planning Panel as the proposal has a capital investment value exceeding \$20 million.

Part 4 of the SEPP deals with Regional Development and confers functions on Joint Regional Planning Panels to determine development applications of a class or description included in schedule 4A of the Environmental Planning and Assessment Act.

As noted, the Joint Regional Planning Panel will be the consent authority for the subject proposal.

SEPP (Infrastructure) 2007

SEPP (infrastructure) 2007 aims to facilitate the effective delivery of infrastructure across NSW. Of relevance to this proposal is Division 17 – Roads and Traffic.

Clause 101 references development with a frontage to a classified road. The subject site fronts Cabbage Tree Road which is identified as a Classified Road.

Clause 101 seeks to ensure that new developments do not compromise the effective and ongoing operation and function of classified roads, and to prevent or

reduce the potential impact of traffic noise and vehicle emissions on development adjacent to classified roads.

The development proposes to upgrade the existing right of carriageway access to the site. A traffic report has been prepared by ADW Johnson. The report concludes that the safety and efficiency of Cabbage Tree Road will not be adversely affected by the proposed development and access.

Schedule 3 – Traffic generating Development, sets the thresholds for developments that require referral to Roads and Maritime Services. The proposed development is not considered to be identified in Schedule 3 and as such no referral under SEPP (infrastructure) 2007 is required.

8.3 Port Stephens Local Environmental Plan 2000 (PSLEP 2000)

Clause 11 – Rural Zonings

Development for the purposes of Intensive Agriculture (Greenhouse) is not prohibited in the 1(a)- Rural Agriculture Zone and as such is considered to be permissible with consent.

The Rural 1(a) zoning is described as "*land which is of agricultural value and land which has not been set aside for rural residential development*". The development is considered to be consistent with the zone description in that the site is considered to be of agricultural value and the development will intensify this. Further the land is not zoned for Rural Residential purposes and the flooding constraints on the site make it unlikely that the site would be considered suitable for Rural Residential development.

The zone objectives state;

The objective of the Rural Agriculture "A" Zone is to maintain the rural character of the area and to promote the efficient and sustainable utilisation of rural land and resources by:

(a) regulating the development of rural land for purposes other than agriculture by ensuring that development is compatible with rural land uses and does not adversely affect the environment or the amenity of the locality, and

Comment: The development is for an agricultural purpose, however it is not considered that the proposal will adversely impact upon the environment or amenity of the locality.

(b) ensuring development will not have a detrimental effect on established agricultural operations or rural activities in the locality, and

Comment: It is considered that the development will not have a detrimental impact on surrounding agricultural activities.

- (c) preventing the fragmentation of grazing or prime agricultural lands, protecting the agricultural potential of rural land not identified for alternative land use, and minimising the cost to the community of:*
 - (i) fragmented and isolated development of rural land, and*
 - (ii) providing, extending and maintaining public amenities and services, and*

Comment: The development will not fragment rural land, nor will it have an impact on the provision and maintenance of public amenities and services.

- (d) protecting or conserving (or both protecting and conserving):*
 - (i) soil stability by controlling development in accordance with land capability, and*
 - (ii) trees and other vegetation in environmentally sensitive localities where the conservation of the vegetation is likely to reduce land degradation or biodiversity, and*
 - (iii) water resources, water quality and wetland areas, and their catchments and buffer areas, and*
 - (iv) land affected by acid sulphate soils by controlling development of that land likely to affect drainage or lower the water table or cause soil disturbance, and*
 - (v) valuable deposits of minerals and extractive materials by restricting development that would compromise the efficient extraction of those deposits, and*

Comment: It is considered that the development is consistent with this clause in that water resources have been carefully considered in the implementation of a drainage scheme. Further the development consent will require adherence to the submitted Acid Sulfate Soils Plan.

It is not considered that the development will compromise the extraction of any mineral deposits nor will it result in poor soil stability through the removal of trees or vegetation in an environmentally sensitive location.

- (e) reducing the incidence of loss of life and damage to property and the environment in localities subject to flooding and to enable uses and developments consistent with floodplain management practices.*

Comment: With respect to flooding, the development proposed the implementation of a pump based solution. Between the pumps and the proposed widening of the 10 foot drain, it is considered that the development will have a positive impact on the drainage of flood prone land.

In conclusion, the development is considered to be consistent with the zone objectives and description for the 1(a) Rural Agriculture Zone.

Clause 37 - Objectives for development on flood prone land

Clause 37 states;

37 Objectives for development on flood prone land

The objectives for development on flood prone land are:

- (a) to minimise risk to human life and damage to property caused by flooding and inundation through controlling development, and*
- (b) to ensure that the nature and extent of the flooding and inundation hazard are considered prior to development taking place, and*
- (c) to provide flexibility in controlling development in flood prone localities so that the new information or approaches to hazard management can be employed where appropriate.*

The development has been assessed with respect to the potential impacts of flooding and drainage. Through the widening of some of the existing drains and the implementation of a pump system to remove water it is considered that the development is consistent with clause 37.

Clause 38 - Development on flood prone land

Clause 38 states;

38 Development on flood prone land

- (1) A person shall not carry out development for any purpose on flood prone land except with the consent of the consent authority.*
- (2) Before granting consent to development on flood prone land the consent authority must consider the following:*
 - (a) the extent and nature of the flooding or inundation hazard affecting the land,*
 - (b) whether or not the proposed development would increase the risk or severity of flooding or inundation affecting other land or buildings, works or other land uses in the vicinity,*
 - (c) whether the risk of flooding or inundation affecting the proposed development could reasonably be mitigated and whether conditions should be imposed on any consent to further the objectives of this plan,*
 - (d) the social impact of flooding on occupants, including the ability of emergency services to access, rescue and support residents of flood prone areas,*

- (e) *the provisions of any floodplain management plan or development control plan adopted by the Council.*

In considering the development, Council has taken into account the requirements of clause 38. It is not considered that the development is contrary to the provisions of clause 38.

Clause 41 – Direct access to certain roads is restricted

Clause 41 States;

41 Direct access to certain roads is restricted

- (1) *No new means of vehicular access shall, except with the consent of the consent authority, be opened, constructed, formed, laid out or used from any land adjacent to a boundary of a road identified as follows:*
- (a) *Pacific Highway—State Highway No 10,*
 - (b) *Nelson Bay Road—Main Road 108 (between the intersection of Stockton Street and Church Street, Nelson Bay, and the boundary of Port Stephens local government area at Fern Bay),*
 - (c) *Medowie Road—Main Road 518,*
 - (d) *Cabbage Tree Road/Tomago Road—Main Road 302,*
 - (e) *Richardson Road—Main Road 104 (between Nelson Bay Road and Watt Street, Raymond Terrace).*

The development is proposing to utilise existing access of Cabbage Tree Road, via an existing Right of Carriageway over Lot 1331. The development proposes to upgrade the existing right of carriageway access to the site. A Traffic Assessment Report has been prepared by TPK & Associated (Ref: Date:) and includes a concept Intersection Plan.

The Traffic Assessment Report and accompanying concept Intersection Report have been referred to Roads and Maritime Services for comment.

The Roads and Maritime Service have issued conditions of consent for the proposal and as such it is considered that the proposal is consistent with the requirements of Clause 41.

Clause 42 – Development along arterial roads.

Clause 42 states;

42 Development along arterial roads

The consent authority shall not consent to an application to carry out development on land which has frontage to an arterial road unless:

- (a) access to the land is provided by a road other than the arterial road, wherever practicable, and
- (b) in the opinion of the consent authority, the safety and efficiency of the arterial road will not be adversely affected by the carrying out of the proposed development because of:
 - (i) the nature of the access to the land concerned, or
 - (ii) the emission of smoke or dust from that land, or
 - (iii) the nature, volume or frequency of vehicles gaining access to the land, and
- (c) the proposed development will meet any relevant road traffic noise standards of the State or the Council.
- (d) (Repealed)

As noted for Clause 41, the application was referred to the Roads and Maritime Service for comment. Conditions of consent have been issued and as such it is considered that the development is consistent with this clause

Clause 44 - Appearance of land and buildings

Clause 44 states;

44 Appearance of land and buildings

- (1) The consent authority may consent to the development of land within view of any waterway or adjacent to any main or arterial road, public reserve or land zoned as open space, only if it takes into consideration the probable aesthetic appearance of the proposed building or work or that land when used for the proposed purpose and viewed from that waterway, main or arterial road, public reserve or land zoned as open space.
- (2) The consent authority may consent to development of land on or near any ridgeline visible from a public road only if it is satisfied that the development would not be likely to detract substantially from the visual amenity of the locality.
- (3) In determining whether to grant a consent referred to in subclause (1) or (2), the consent authority shall consider the following:
 - (a) the height and location of any building that will result from carrying out the development,
 - (b) the reflectivity of materials to be used in carrying out the development,
 - (c) the likely effect of carrying out the development on the stability of the land,
 - (d) any bushfire hazard,
 - (e) whether carrying out the development is essential to the viability of the land concerned,
 - (f) the likely extent and effect of carrying out the development on vegetation on the land concerned.

Comments: The development is setback approximately 360m to both Cabbage Tree Road to the north and to Fullerton Cove Road to the southwest. The site is not highly visible from these roads and given the flat nature of the topography are unlikely to constitute an adverse impact on the streetscape

Further the 3m high bunding around the development to mitigate against the impacts of flooding will also serve to soften the bulk and height of the structure. The development will generally be 8.1m in height with only the heat storage tank raising to 14.6m. In this sense the bunding will serve to mask much of the bulk of the building and soften the development when viewed from a distance.

A condition of consent has been included requiring a landscape plan for the site. It is required that plantings be included external to the bunding to further assist in mitigating against any potential visual impact.

It is considered that with the implementation of the conditioned landscape plan, that the development will be consistent with clause 44

Clause 47 – Services

Clause 47 states;

47 Services

The consent authority shall not grant its consent to the carrying out of any development on any land unless:

- (a) a water supply and facilities for the removal or disposal of sewage and drainage are available to that land, or*
- (b) arrangements satisfactory to it have been made for the provision of that supply and those facilities.*

The development has been proposed to be largely self sufficient in regards to water consumption. Roof water is proposed to be harvested for re use.

The development site is not connected to reticulated sewer and sewerage is proposed to be stored on site in a tank and removed from the site using a pump out system and truck.

It is considered that the development satisfies clause 47.

Clause 51A – Development on land identified on Acid Sulfate Soils Planning Map

An Acid Sulfate Soils Management Plan has been prepared by Douglas Partners (Project 49975 dated October 2012).

Councils Acid Sulfate Soils Maps identify the site as being Class 3 in the areas subject to the development. On site testing indicated;

The results of the assessment generally indicate that soils on-site exhibit acid sulphate conditions from the ground surface and therefore should be managed with reference to the ASSMAC guidelines (Ref 1).

DP have previously undertaken acid sulphate soil testing on sites immediately adjacent to the proposed Glasshouse development. Potential and actual acid sulphate soils were found to be present from the ground surface. Surface water pH was found to be between pH 4.0 and pH 5.3. Groundwater pH was found to be between pH 5.6 and pH 6.8. The results presented in Reference 3 are generally consistent with ASS testing conducted by DP on the adjacent site.

Given the presence of Acid Sulfate Soils, a Management Plan was prepared. The Management Strategy notes;

Prior to the commencement of excavations or dewatering for site construction, baseline surface water and groundwater conditions should be determined. The baseline monitoring should include pH and EC testing of existing surface waters upstream, within the site and downstream of the site. In addition, baseline groundwater quality should be confirmed within areas proposed to be excavated and dewatered for site development (i.e drains, basins, service trenches etc). Groundwater monitoring will require the installation of groundwater wells upgradient and downgradient and within areas of proposed disturbance of ASS.

A surface water monitoring program should be developed following the baseline assessment. This program should include upstream, within the site and downstream locations that will be monitored during construction activities. Post construction surface water monitoring should also be conducted.

It is considered that while the development is constructed in accordance with the Acid Sulfate Soils Management Plan, Section 5 – Management Strategy, the development is consistent with the requirements of Clause 51A

9.0 POLICY PROVISIONS

9.1 Port Stephens Development Control Plan 2007.

The application has been assessed against the relevant provisions of Port Stephens Development Control Plan, 2007, as follows:

B2 - Environmental and Construction Management

The application has been assessed against the applicable provisions of Port Stephens Development Control Plan, 2007 – Environmental and Construction Management, as follows:

DCP Control	Control	Applicable	Compliance
B2.2	General Standards	Yes	Yes
B2.3	Water Quality Management	Yes	Yes Refer to stormwater treatment conditions and assessment
B2.4	Acid Sulfate Soils	Yes	Yes Acid Sulfate Soils Plan referenced in conditions
B2.5	Landfill	Yes	Yes
B2.6	Contaminated Land	Yes	Yes Refer to SEPP55 Assessment
B2.7	Vegetation Management	Yes	Yes
B2.8	Koala Management	Yes	Yes The site is not subject to Koala Habitat
B2.9	Mosquito Control	Yes	Yes
B2.10	Weed Control	Yes	Yes Conditions included with respect to Alligator weed
B2.11	Tree Management	Yes	Yes
B2.12	Waste Water	Yes	Yes Refer to wastewater section of this report

Comments:

The application is considered satisfactory with regards to B2 – Environmental and Construction Management.

B3 - Parking and Access

DCP Control		Requirement	Proposed	Compliance
B3.C6	Turning Circles	Yes	Yes	Yes
B3.C6	Parking space dimensions	Yes	Yes	Yes
B3.8	Number of parking spaces	Yes	Yes	Yes
B3.8	Provision of disabled parking	Yes	Yes	Yes

Parking

Section B3 of Development Control Plan 2007 does not effectively deal with developments such as the glass house. As such a merit approach has been applied to the car parking numbers required.

The development will involve the following elements that impact on transport and traffic;

- 5 full time staff,
- Maximum of 2 trucks per day accessing the site,
- 120 casual workers arriving and departing by bus. There is proposed to be 3 bus arrivals and departures each day.
- Minimal service and delivery traffic,
- No business visitor traffic
- No direct selling to the public.

The submitted traffic report by TPK & Associates considers that 10 parking spaces will be sufficient to cater for 5 full time staff along with dedicated loading space for delivery and pick up.

It is noted that the plan *Proposed Site Only Phase 1, Dwg: Q3829-SIPH1-1, Dated: 12-04-2012*, indicates 30 parking spaces being provided on site.

Given the anticipated traffic volumes of the development, it is considered that this number of parking spaces is sufficient for the development.

Comments:

The application is considered satisfactory with regards to B3 – Parking and Access.

B15 – Aircraft Noise

The development is located within the ANEF 20-25 noise contour. As such the development must consider the provisions of section B15 - Aircraft Noise.

Development control C1 states;

C1 Development should be consistent with the building site acceptability criteria shown in Table 2.1 of AS 2021-2000 (refer to Table 1 of this DCP chapter).

AS 2021-2000 rates specific development types within noise contours as:

- *Acceptable – no design measures are required to reduce aircraft noise*
- *Conditionally acceptable – design measures are required to reduce aircraft noise*
- *Unacceptable – development is generally unacceptable (Council will make limited exceptions – refer to Limited Exceptions in this DCP chapter)*

Having regard to table C1, the development is consistent with the Light Industrial definition with the office space being considered to be Commercial in nature. Table 1 states for these building types, that in noise contours under ANEF 30 for Light Industrial and ANEF 25 for Commercial that the development is acceptable and no design measures are required to reduce aircraft noise.

As the development is in the 20-25 ANEF noise contour, no further assessment of aircraft noise is warranted and the development is considered to be satisfactory with regards to B15 – Aircraft Noise.

10.0 SECTION 94 CONTRIBUTIONS

The application attracts Section 94a Contributions, the following condition has been included –

"Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and the Port Stephens Section 94A Development Contributions Plan, a contribution of the cost of development shall be paid to Council, as determined in accordance with clause 25j of the Environmental Planning and Assessment Regulation 2000 and as outlined in Table 1 below.

Table 1

Development Cost and Levy Rate	
<i>Proposed cost of carrying out the development is up to and including \$100,000</i>	<i>Nil</i>
<i>Proposed cost of carrying out the development is</i>	<i>0.5% of that cost</i>

more than \$100,000 and up to and including \$200,000	
Proposed cost of carrying out the development is more than \$200,000	1% of that cost

A Cost Summary Report Form **(attached)** setting out an estimate of the proposed cost of carrying out the development in accordance with Schedule 1 of the Port Stephens Section 94A Development Contributions Plan, must be approved by Council **prior to issue of the Construction Certificate**. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors."

11.0 LIKELY IMPACTS

11.1 Built Environment

Adjoining Properties

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon adjoining properties.

There is sufficient separation distance between adjoining properties and the proposal to mitigate against any potential noise or visual impacts.

Streetscape and Amenity

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon the local streetscape and amenity of adjoining properties due to the setback of the development.

The development is setback approximately 360m to both Cabbage Tree Road to the north and to Fullerton Cove Road to the southwest. The site is not highly visible from these roads and given the flat nature of the topography are unlikely to constitute an adverse impact on the streetscape

Further the 3m high bunding around the development to mitigate against the impacts of flooding will also serve to soften the bulk and height of the structure. The development will generally be 8.1m in height with only the heat storage tank raising to 14.6m. In this sense the bunding will serve to mask much of the bulk of the building and soften the development when viewed from a distance.

Landscaping

The applicant has not provided a landscape plan, prepared by a suitably qualified professional. A condition of consent has been included requiring the provision of a landscape plan for the bunding area and around the proposed development.

It is considered that landscaping, particularly external to the site bunding will assist in reducing any visual impact the development may have.

Views

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon existing views of neighbouring properties.

11.2 Access and Traffic

The proposed development utilises a proposed access to Cabbage Tree Road. The application was referred to the Roads and Maritime Services (Transport) seeking comments under Clauses 41 and 42 of the *Port Stephens Local Environmental Plan 2000*.

The Roads and Maritime Services (Transport) raised no objections to the proposed access to Cabbage Tree Road and provided conditions of consent for the proposal on 18th July 2012.

The applicant has stated that the proposed access intersection will remain in operation until the new roundabout intersection (to the east) is constructed for the Williamtown Aerospace Park to the north. It is proposed to close the initial access and utilise the roundabout upon construction.

As the proposal is not considered likely to generate significant additional traffic to, the existing road network, and has received no objection from the Roads and Maritime Services, the development is considered satisfactory with regards to Access, Transport and Traffic.

11.3 Natural Environment

Flora and Fauna

Refer to Environmental Section of this report that discusses the impact of the development on the environment.

Water –

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon existing water within the locality.

The NSW Office of Water has undertaken a review of the proposal and provided

General Terms of Approval in relation to the Controlled Activities proposed to be undertaken.

Site Contamination

Site contamination has been discussed elsewhere within this report. Refer to discussion around SEPP 55.

Noise

The construction of the proposed development at the subject site is considered unlikely to result in any adverse acoustic impacts within the locality.

11.4 Social and Economic Impacts

The construction of the proposed development at the subject site is considered unlikely to result in any adverse social or economic impacts upon the local community. It is anticipated that the development will have positive social and economic impacts on both local community and the Port Stephens LGA.

It is considered that the development will serve to provide a significant contribution to increased employment opportunities in the locality, not only during the construction phase, but also when in full operation. Once operational the Glasshouse will employ 5 full time staff and 120 casual workers. The applicants own documentation has stated;

Maria's Farm Veggies will bring a number of tangible and intangible benefits to Port Stephens. It is a \$65 million sustainable project that is "not a dream". It will require a direct local workforce of 125 people. Workers will range from semi-skilled to skilled and will be trained by experienced glasshouse growers to embrace the industry. Indirect labour will enjoy maintenance, procurement and transport multiples that a facility of this scale brings. Maria's Farm Veggies will directly inject approximately \$10 million per year into the local economy.

From an intangible perspective the proposed development will be the seed investment for a fledgling glasshouse industry in the Port Stephens area. With background of the Dutch industry, Maria's Farm Veggies is a strong advocate of collaboration amongst stakeholders in the industry; this can only benefit the greater community.

In addition to the above Social and Economic benefits, the applicant has also provided information regarding national food security to further justify and validate the proposal. The following excerpt from the submitted documentation outlines how the proposal will have a positive effect on the continued production of food and ultimately food security.

FOOD SECURITY

The following information relates specifically to food security and includes extracts from a report prepared by the Prime Minister's Science, Engineering and Innovation Council, Canberra, Australia (2010) titled "Australia and Food Security in a Changing World" (Citation: PMSEIC (2010). Australia and Food Security in a Changing World. The Prime Minister's Science, Engineering and Innovation Council, Canberra, Australia).

Food security is achieved when all people at all times have physical and economic access to sufficient, safe and nutritious food to meet dietary needs and food preferences for an active and health life (based on the Food and Agriculture Organisation (FAO) 1996 definition).

For Australia, food security is inextricably linked to the political stability of our region and has the potential to affect our national security. Food security also affects our status as a premier food exporting nation and the health and wellbeing of our population. The likelihood of a food crisis directly affecting the Australian population may appear remote given that we have enjoyed cheap, safe and high quality food for many decades and we produce enough food today to feed 60 million people. However, if our population grows to 35-40 million and climate change constrains food production, we can expect to see years where we will import more food than we export. We are now facing a complex array of intersecting challenges which threaten the stability of our food production, consumption and trade. It is imperative that we continue to develop food-related science and technology to fuel a future food revolution that must exceed the achievements of the Green Revolution.

As food security continues to emerge as a challenge globally and domestically, there will be increasing demand for:

- **Efficiency in food production, processing and distribution** and responsibility in purchasing and consumption to reduce wastage and minimise costs.
- **R&D and the delivery of innovations to underpin productivity growth in the food sector**, to meet the human health needs and bring improvements in food processing.
- Flexibility and responsiveness in regulation to ensure rapid delivery of innovations to the food value chain.

The rate of productivity growth has slowed dramatically over the past decade and there is international consensus that the current productivity gains are not sufficient to meet future global food demands. Scientific

advances have underpinned productivity growth through yield improvements in crop production. The key challenges are clear:

- To **improve water use and management in agriculture.**
- To tackle the problem of **soil nutrition and reduce the reliance on high energy requirements for fertiliser production.**
- To ensure **sustainable management of the natural resource base.**
- **To accelerate advances through new plant, livestock and fish breeding strategies.**

In Australia R&D investment has progressively fallen from a peak of five per cent of gross value of agricultural production in the 1970s to just above three per cent in 2007. Consequently, international debate on the global approach to food security has focused on global underinvestment in food production research. The decrease in real investment in R&D has led to the substantive decline in underlying productivity growth in the Australian agricultural sector. **Increased investment will boost agricultural productivity** and provide a key strategy to reduce the impacts of climate change, as well as reduce the greenhouse gas emissions footprint of the agricultural sector.

Technological advance is critical to productivity gains. It is dependent upon people who can develop the new technologies, deliver them where they are needed and apply the advances to food production systems. The number of agricultural graduates produced nationally falls far short of the estimated needs. Similar declines in other areas of science are increasing the competition for graduates. There are too few graduates taking up the opportunity to study for a higher degree by research and develop a career in agricultural and food sciences. The proportion of graduates in the agricultural industry is lower than that of the broader economy. The age structure across the sector is also of concern. Agriculture has Australia's oldest workforce with a median age of 48 years. Importantly, **the effective delivery of technological advances will depend upon a highly skilled, receptive and dynamic food sector workforce.**

Glasshouse vegetable production is more efficient than field based production, offering a higher return per area. A sophisticated glasshouse can produce 15-20 times more produce than a field in the same area, and soilless production systems can use up to 80% less water. The proposed glasshouse development uses the High Wire System of growing vegetables, is largely self-sufficient with respect to water, and allows almost total control over the growing environment, ensuring quality is tightly controlled and excellent yields are achieved. The proposed glasshouse development is also environmentally friendly in that it will not use pesticides.

The proposed glasshouse development represents an investment in agricultural innovation within Australia, and importantly the Hunter area, which is critical to improvements in food productivity in Australia. As noted within the PMSEIC (2010) paper, there are few graduates taking up the opportunity to study for a higher degree in agricultural and food sciences, despite technological advances in the agricultural sector being dependent on a highly skilled workforce in this area. As indicated further above, the proximity of the proposed development to the University of Newcastle, will allow glasshouse technology to be transferred with respect to research collaboration and employment, and it will encourage studies in this discipline.

It is considered on balance that the proposal will have significant positive economic and social impacts, not just for the site, but the Port Stephens LGA and the greater Hunter Region.

12.0 SUITABILITY OF THE SITE

The site is considered to be suitable for the proposed development. Constraints such as Flooding, Drainage have been addressed elsewhere in this report and are not considered to be of such a level to prohibit the development as proposed.

13.0 PUBLIC INTEREST

The approval of the application is considered to be in the public interest. It is considered that the positive social and economic impacts of the development when considered on balance with potential economic impacts and local concerns result in a positive impact to the wider community.

Submissions have been discussed elsewhere in this report.

14.0 ANY OTHER RELEVANT MATTERS

There are no other matters for discussion. However, it is noted that relevant owners consent has been received and all submitted plans have been stamped by Hunter Water Corporation.

15.0 UNAUTHORISED WORKS

None identified.

16.0 CONCLUSION

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved.

17.0 RECOMMENDATION

That the consent authority, grant development consent to Development Application No. 16-2012-356-1 for Intensive Agriculture (Greenhouse) on land at Lot: 1331, 1332 DP:609173, 157, 183 Cabbage Tree Road Fullerton Cove

Signed

Leonard Allen

29 November, 2012

Officer:

Date

DRAFT CONDITIONS

SCHEDULE 2

STANDARD CONDITIONS

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.

PLANNING DRAFT CONDITIONS OF APPROVAL

3. The development is to be carried out in accordance with the NSW Office of Water's General Terms of Approval (Ref: 20 ERM2012/0567) dated 19th September 2012.
4. The development shall be carried out in accordance with the requirements of the Roads and Maritime Services conditions of consent dated 18 July 2012.
5. The development shall be constructed in accordance with the Acid Sulfate Soils Management Plan, Prepared by Douglas Partners (Project: 49975, Dated: October 2012).
6. Certification is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority at the following stages of construction:
 - a. On completion of ground floor construction, confirming that the floor levels are in accordance with the Reduced Levels indicated on the approved plan.
 - b. When the roof has been completed, confirmation that the building does not exceed the Reduced Levels, as indicated on the approved plan.
7. The development shall provide on-site car parking spaces, including 1 disabled space, in accordance with approved plan Proposed Site Only Phase 1, Dwg: Q3829-SIPH1-1, Dated: 12-04-2012, with the minimum dimensions of 5.5m x 2.5m. These spaces shall be separately accessible, clearly line-marked and adequately paved and drained in accordance with Section B3 – Parking, Traffic and Transport, of Port Stephens Development Control Plan 2007. Car parking must be provided **prior to the issue of the occupation certificate** or use of the development.

8. All work or the storage of goods or materials shall be confined within the building or approved areas. Separate development approval is required for external storage.
9. The construction of the building, including the roof, shall be in materials of a low reflective quality. The visible light reflectivity from building material used on the facades shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place.
10. Any lighting on the site is to be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
11. Only Virgin Excavated Natural Material (VENM) in accordance with the Environmental Protection Agency NSW statutory definition shall be used for the approved land filling activities. The use of any material other than VENM may require an EPA licence for use as a landfill. The use of any material other than VENM for land filling purposes, without prior approval of council is prohibited. Council will insist on the removal of any prohibited material.
12. **Upon completion of the landfill activities**, submit a survey plan prepared by a registered surveyor confirming that the landfilling has been undertaken in accordance with the approved plans and documentation. Council will insist on the removal of excessive fill.
13. The subject land may be partially affected by Alligator Weed. The site needs to be inspected by Council's Weed or Vegetation Officer **prior to the commencement of work**. An information sheet about Alligator Weed is attached to this consent.

Note: It is an offence under the Noxious Weeds Act 1993 to spread Alligator Weed. All machinery and equipment that has operated in affected areas is considered contaminated and must be cleaned thoroughly before leaving the site. An agreed wash down area must be established, and subsequently monitored for the presence of Alligator Weed. Cleaning must include the removal of all mud and plant matter, followed by washing down with high pressure water. Before the machine is moved to another site an inspection must be made by Councils Weed or Vegetation Officer.
14. The subject land may contain noxious weeds. A Plan of Management for the control of noxious weeds shall be submitted and approved by Council's Pest & Weed Management Officer **prior to the commencement of work**.
15. The following measures shall be implemented to minimise soil erosion:
 - a) All available topsoil shall be stockpiled and re-used at the completion of the earthworks.
 - b) The area of disturbance shall be kept to a minimum.
 - c) All stockpiles shall be spread and compacted within 4 weeks of placement on

site.

d) The fill shall be progressively rehabilitated and stabilised with any partially completed filling areas being rehabilitated and stabilised if left untouched for more than 3 months.

e) All disturbed areas shall be stabilised within 14 days of completion of the filling operations with topsoil being spread evenly and lightly rolled prior to grass cover by either turfing or seeding.

16. The development shall be carried out in accordance with the recommendations of the Preliminary Geotechnical and Environment Assessment Report prepared by Geotech Solutions (Ref: 1106-002/0 Dated: April 2012).

17. An Occupational Hygienist shall be engaged **prior to Issue of Construction Certificate** to assess the potential asbestos containing fragments prior to removal.

In accordance with State Environmental Planning Policy No. 55 - Remediation of Land, all remediation work must be carried out in accordance with any contaminated land planning guidelines issued under section 145C of the Act, any guidelines in force under the Contaminated Land Management Act 1997, and the remediation plan approved under this consent.

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council immediately upon discovery.

18. Any associated chemicals shall be stored in sealed containers under cover, in a designated bunded area equal to 110% capacity of the largest container, in accordance with AS1940-1993 and AS/NZS 4452:1997, to ensure that accidental spillages are contained therein.

ENGINEERING DRAFT CONDITIONS

19. Disabled car parking to be in accordance with AS2890.6 having space dimensions of 2.4m wide and 5.4m long with a shared zone of equal dimensions.

20. Car parking aisle dimensions to be a minimum of 5.8m in accordance with AS2890.1

DRAINAGE DRAFT CONDITIONS

21. **Prior to the issue of Construction Certificate** the applicant shall submit to Port Stephens Council for approval all Hydraulic and Hydrological Drainage modelling, design and construction details. The details are to:

- a) demonstrate that the development shall not in any way create an adverse impact on flooding, drainage and the environment within the drainage network of the Williamstown - Fullerton Cove catchment,
 - b) be developed strictly in accordance with the principles and strategies contained within the report "Potential Impacts of WAP and DAREZ/NAL Development of Fullerton Cove Drainage System" prepared by Umwelt Australia PTY LTD on behalf of Port Stephens Council,
 - c) demonstrate that the system is operationally fit for purpose and easily maintainable in terms of the proposed pumping facility(s), pipeline(s), diversion channel, existing channel and discharge facility(s)
 - d) demonstrate that all situations hazardous to life and health as a result of the systems operations have been thoroughly considered and provided for
 - e) demonstrate unimpeded access for council staff in the event of failure, necessary override or unexpected maintenance
 - f) demonstrate development of periodic reporting procedures and systems that collect and monitor data sets such as water level and velocity of drains, pump intervention times, pumping duration, conveyed volumes, maintenance
 - g) demonstrate that the pump facility, access, pipeline facility, power supplies and sensors are capable of withstanding the 1% ARI flood
22. Easements for all formed and concentrated drainage structures along with supportive facilities both existing and proposed, shall be **created prior to the issue of Construction Certificate** for any stage.
- Evidence of easements shall be submitted to Port Stephens Council for verification **prior to the issue of Construction Certificate**. Easements shall be created in a manner that allows Port Stephens Council full and free rights and access to the drainage network, to the pump facility(s), pipeline facility(s), discharge facility(s), access ways, supportive facilities and to the lands of which these items are constructed upon. In addition the easements shall make provision to allow council to add to the system, improve the system or augment the system. The terms of the easement shall be developed to the satisfaction of Port Stephens Council.
23. Where, in the event, the development ceases to operate or exist, ownership of the pump facility(s), pipeline facility(s), discharge facility(s), **shall be dedicated to council within 3 months of this affect.**
24. The stormwater system within the property/site, including any water quality and water quantity infrastructure (such as the drainage network, the pump facility(s), pipeline facility(s), discharge facility(s), access ways, supportive facilities), **shall be maintained in perpetuity for the life of the development.**

25. **Prior to the issue of Occupation Certificate** for each stage a "Works As Executed" detail survey shall be submitted for approval to the PCA, the survey shall include but not be limited to:

- a) Trunk drainage infrastructure
- b) Pump, Pipe and discharge infrastructure
- c) Stormwater Quality Improvement Device infrastructure.

26. **Prior to the issue of Construction Certificate** a hydraulic design for the entire pumping system shall be prepared and certified by a suitably qualified and experienced Chartered Professional Mechanical Engineer and submitted to council for approval. The design shall be prepared in a manner:

- a) that ensures that the flow rate as determined from the modelling is achieved at pipeline outlet.
- b) That makes provision for sensor input of upstream levels and velocity which can be calculated to determine the upstream channel flows, the pumps operation then shall be automated to control the discharge rate in accordance with the modelling parameters of the catchment.
- c) that can allow for the system to be controlled remotely (via internet connection) to coordinate discharge rates that are reactive to the catchment flows.
- d) that ensures cost effective preventative maintenance for the design life of the system.
- e) that ensures maximum mean time between failures.
- f) that ensures that noise generated as a result of operation is kept to a minimum and within acceptable limits of the surrounding rural area.
- g) that ensures that replacement parts and service support in the event of operational failure are quickly and locally accessible to allow for the expedient resumption of service.
- h) That makes provision for alternate power supply in the event that the primary power supply has failed

27. **Prior to the commencement of any other works onsite** the proposed pumping system shall be constructed, completed and operational to the satisfaction of council. Drainage channels and drains shall not be diverted or altered until all of the proposed pumping system has been constructed, completed and operational to the satisfaction of council.

28. **Prior to the commencement of any works onsite** the applicant shall have all required easements, environmental approvals, relevant authority(s) approvals formerly in place. Details shall be submitted to council for verification.

29. **Prior to the issue of Construction Certificate a Soil & Water Management Plan** for use during and after construction in accordance with 'Managing Urban Stormwater - Soils & Construction', Department of Housing, 2004 Manual is to be prepared by a suitably qualified Chartered Professional Civil or Environmental Engineer submitted to PCA for approval detailing temporary and permanent measures proposed to be installed. The plan is to include an analysis of :

- a) Rainfall erosivity
- b) Soil erodability
- c) The erosion and sediment hazard and necessary environmental targets and limits to be met
- d) The runoff coefficient
- e) Soil contamination (if any)
- f) Water tables
- g) Ground water movements
- h) Period of the year in which construction is expected to be undertaken
- i) Sediment basin(s) and correct sizing, along with flocculation regimes
- j) Diversion drain size capacity

to determine the design and performance criteria for the preparation of site specific Erosion and Sediment Controls Plan(s).

Control measures and treatment trains are to be thoroughly discussed for the site and its construction staging. The plan shall clearly illustrate and clearly define no go zones, timing and staging earthworks with regard to limiting exposure to rainfall events, stabilisation of erosion hazard. The plans must determine and recommend performance criteria and acceptable measures

In addition the Soil and Water Management Plan must clearly display acceptable discharge limits as per the following:

- not exceed Total Suspended Solids of 50mg/L
- not exceed Turbidity of 50 NTU

- range within pH value of 6 to 8
- be < 80% and > 20% saturation dissolved oxygen
- have no odor or visible petro-chemical sheen
- have no visible litter or waste matter
- not contain any other contaminant, chemical or biological condition which causes any measurable adverse affect.

The plan must thoroughly discuss appropriate corrective and monitoring actions which are detailed for the strict purpose of construction, all details are to be submitted to PCA for approval **prior to the issue of construction certificate.**

30. **Prior to the issue of Construction Certificate** for each stage of construction an Erosion and Sediment Control Plan prepared by a suitably qualified Civil or Environmental Engineer shall be submitted to PCA for approval. The Erosion and Sediment Control Plan shall be prepared strictly in accordance with the required Soil and Water Management Plan and with 'Managing Urban Stormwater - Soils & Construction', Department of Housing, 2004 Manual.

31. Prior to the issue of construction certificate for the pump/drainage infrastructure the applicant shall re-design the outlet energy dissipater in a manner so that the high speed discharge from the pipe outlet(s) as a result of pumping allows the discharged water to be settled in a pond/dam configuration which allows the water to over top a broad crested weir in a sub-critical state down a formed spillway into the Fullerton Cove Wetlands.

NATURAL RESOURCES CONDITIONS

32. The development is to be carried out in accordance with the recommendations of the report "Ecological Investigations: Glasshouse Development, Williamtown", prepared by EcoLogical Australia, 2012.

33. Vehicles and plant should be cleaned down prior to conducting works and should remain on site during period of construction. Vehicles and plant should be re-cleaned prior to re-entering the site if they leave the area during the project.

34. *Alternanthera philoxeroides* (Alligator Weed) should be controlled within the study area as per the Alligator Weed Control Manual (DPI 2007)

35. Implementation of a Soil and Water Management Plan to ensure acid sulphate soils and other sediments exposed sediments during the construction phase do not leave the site and impact on downstream wetlands.

36. Measures to avoid bird strike and collisions to be considered-include:

- Observations – monitor for sensitive areas where repeated bird collisions occur. This may suggest that there is some form of attractant present at this area. Simple changes, such as erecting shade cloth or decals (as discuss in greater detail below) may reduce the number of collisions.
- Reduce the reflective capacity of the glass. The reflection of the natural environment may be perceived as open space for a bird to fly into or alternative a bird may see its reflection and perceive this as a threat and attack, both resulting in a collisions. The reflective captivity of the glass may be altered by using shade cloth or transparent film can be applied to the window to reduce the reflective capacity of the glass.
- Mark, paint, tape onto the surface of the window to reduce the reflective capacity of the glass.

FLOODING CONDITONS

37. The Designated flood is the 1 % AEP Flood. A structural engineer shall provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood **prior to the issue of the Construction Certificate.**
38. A Flood Management Plan which covers evacuation and the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc incorporating the State Emergency Services Business Floodsafe Toolkit. shall be submitted and approved by Council **prior to the issue of the Construction Certificate.**
39. The proposed access road is to be constructed at a level not less than RL2.5m AHD to ensure suitable tidal protection for access in the future. A survey certificate verifying compliance with this condition shall be provided to the Principle Certifying Authority **prior to issue of an Occupation Certificate.**

NSW OFFICE OF WATER GENERAL TERMS OF APPROVAL

40. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to 16-2012-356-1 and provided by Council.

(i) Statements of Environmental Effects prepared by ADW Johnson PTY LTD, dated May 2012.

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.

41. **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 NSW Office of Water. Waterfront land for the purposes of this DA is land and material within 40 metres of the top of the bank or shore of the river identified.
42. The consent holder must prepare or commission the preparation of:
- (i) Erosion and Sediment Control Plan
 - (ii) Site Stabilisation/Rehabilitation Plan
 - (iii) Engineering Design for the Ten Foot Drain, Fourteen Foot Drain and East-West Drain, incorporating appropriate scour protection
 - (iv) Engineering design for all watercourse crossings associated with the site
 - (v) Acid Sulphate Soil Management Plan
43. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at www.water.nsw.gov.au/Water-licensing/Approvals/default.aspx
- (i) Vegetation Management Plans
 - (ii) Laying pipes and cables in watercourses
 - (iii) Riparian Corridors
 - (iv) In-stream works
 - (v) Outlet structures
 - (vi) Watercourse crossings
44. 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 NSW Office of Water.
45. 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 NSW Office of Water.
46. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
47. The consent holder must provide a security deposit (bank guarantee or cash bond) – equal to the sum of the cost of complying with the obligations under any approval – to the NSW Office of Water as and when required.

48. The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.
49. The consent holder must ensure that any bridge, causeway, culvert or crossing does not obstruct water flow and direction, is the same width as the river or sufficiently wide to maintain water circulation, with no significant water level difference between either side of the structure other than in accordance with a plan approved by the NSW Office of Water.
50. 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 NSE Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.
51. The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
52. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained through out the working period and must not be removed until the site has been fully stabilised.
53. The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
54. 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 NSW Office of Water.
55. The consent holder must ensure that (i) river diversion, alignment 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 NSW Office of Water.
56. The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by the NSW Office of Water.
57. The consent holder must obtain the appropriate wok approvals and/or aquifer interface approvals under the Water Management Act 2000 prior to any activities resulting in groundwater interception or extraction for dewatering or consumptive purposes.

58. The consent holder must obtain the appropriate licenses/approvals from NSW Office of Environment and Heritage in relation to Section 253 of the Water Management Act 2000 relating to Hunter Valley Flood Mitigation Works.

ROADS AND MARITIME SERVICES (TRANSPORT) CONDITIONS

59. The Cabbage Tree Road / access road intersection shall be designed and constructed as a Rural Type CHR intersection in accordance with Austroads Guide to Road Design (with RMS supplements), to the satisfaction of RMS and Council.
60. The intersection shall be designed and constructed to accommodate the turning paths of the largest design vehicle.
61. All vehicles shall enter and exit the site in a forward direction.
62. As road works are required on a state road, RMS will require the developer to enter into a Works Authorisation Deed (WAD) with RMS. RMS will exercise its powers under Section 87 of the Roads Act 1993 (the act) and the functions of the roads authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the Act, as applicable, for all works under the WAD.
63. **Prior to issuing a Construction Certificate** for the proposed development, the developer shall enter into a WAD with RMS.
64. **Prior to issuing an Occupation Certificate** (interim or final) for the proposed development the developer shall complete all works under the WAD to practical completion, as determined by RMS.
65. A Construction Traffic Management Plan (CTMP) shall be prepared and include a Vehicle Movement Plan and Traffic Control Plans. It shall be prepared with the intention of having minimal impact to the operation of the road network during the construction of the proposed development. The CTMP shall be submitted to RMS and Council for review and approval **prior to any construction activities occurring on-site**.
66. All works associated with the proposed development shall be at full cost to the developer and at no cost to RMS or Council, to RMS requirements.

TRAFFIC CONDITIONS

67. The proposed CHR intersection shall be constructed at the property access to Cabbage Tree Road, to Austroads specifications and to RMS and Council requirements. Detailed plans to be submitted **prior to Roads Act Approval**.
68. The proposed property access shall remain in operation until such time as the approved DAREZ development constructs a roundabout on Cabbage Tree Road, as required by condition of consent No. 102 for DA 16-2009-324-1. At this time the property access shall be closed and a new access road constructed to connect to the new

roundabout in accordance with Austroads specifications and to RMS and Council requirements.

WASTEWATER CONDITIONS

69. The development consent does not grant approval for the use of a pump out wastewater system. Separate approval shall be sought for the operation of an On-Site waste disposal system.

STANDARD BUILDING CONDITIONS

70. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
71. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
72. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
- * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L₁₀ level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

73. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
74. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

PLANNING

75. "Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and the Port Stephens Section 94A Development Contributions Plan, a contribution of the

cost of development shall be paid to Council, as determined in accordance with clause 25j of the Environmental Planning and Assessment Regulation 2000 and as outlined in Table 1 below.

Table 1

Development Cost and Levy Rate

Proposed cost of carrying out the development is up to and including \$100,000 – Nil

Proposed cost of carrying out the development is more than \$100,000 and up to and including \$200,000 – 0.5% of that cost

Proposed cost of carrying out the development is more than \$200,000 – 1% of that cost

A Cost Summary Report Form (**attached**) setting out an estimate of the proposed cost of carrying out the development in accordance with Schedule 1 of the Port Stephens Section 94A Development Contributions Plan, must be approved by Council **prior to issue of the Construction Certificate**. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors."

76. A landscaping plan shall be submitted to and approved by the Principal Certifying Authority **prior to issue of Construction Certificate**. The plan shall indicate all existing trees, specifying those trees to be retained and those proposed to be removed. It shall specify details of proposed planting, including common and botanical names and height and spread at maturity.

The plan shall also include:-

- a The location of driveways, parking garbage storage areas, drying areas and fencing and materials and design details for these facilities;
- b Details of the proposed method of protection of those trees to be retained on site during construction;
- c Details of earthworks including mounding and retaining walls;
- d Details of planting procedure and maintenance.

Planting is required to be included external to the site bunding to assist in reducing the visual impact of the development.

All landscaping works must be completed **prior to issue of Occupation Certificate**.

77. A Waste Management Plan outlining the disposal of waste from the operations on site shall be provide to the principle certifying authority **prior to issue of Construction Certificate.**

ENGINEERING

78. Driveways, parking and turning areas shall be paved or sealed with reinforced concrete, pavers or asphalt over a suitably prepared, compacted sub-base. These areas shall be maintained in perpetuity by existing or future owners and occupiers of the property(s). Details to be provided to the Certifying Authority **prior to issue of Construction Certificate.**
79. Line marking and signage shall be designed and installed to clearly articulate traffic flows, delineation of parking, loading areas, authorised access only areas and the like. Details shall be provided to the Principal Certifying Authority **prior to the issue of Construction Certificate.**

GENERAL ADVICES

- a) Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.
- b) Should the external surfaces of the Glasshouse Development cause day time glare to pilots and endanger the safety of aircraft operations, the Defence or the Civil Aviation Safety Authority may require that the surface be suitably modified to extinguish the glare.
- c) The proposal relates to lands and infrastructure associated with the Hunter Valley Flood Mitigation Scheme. The consent holder must obtain the appropriate licenses/approvals from NSW Office of Environment and Heritage in relation to Section 253 of the Water Act.
- d) The development may impact upon RAMSAR listed wetlands. Consideration should be given to the Environmental Protection and Biodiversity Conservation Act 1999 and any approvals required under the legislation.
- e) Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
- f)

SCHEDULE 3 – APPROVED PLANS AND DOCUMENTATION

Statement of Environmental Effects prepared by ADW Johnson dated May 2012, including Appendices A through I.

Stamped plans prepared by DALSEM

- Cover Sheet
- Cover Sheet 2 – Location, Dwg: Q3829-CSPH1-2, Dated: 13-04-2012
- Site Analysis Plan Only Phase 1, Dwg: Q3829-SAPPH1, Dated: 11-04-2012
- Existing Site Plan Only Phase 1, Dwg: Q3829-ESPPH1, Dated: 13-04-2012
- Proposed Site Only Phase 1, Dwg: Q3829-SIPH1-1, Dated: 12-04-2012
- Technical + Handling + Office Building Only Phase 1, Dwg: Q3829-SIPH1-3, Dated: 12-04-2012
- Views of Interiors Only Phase 1, Dwg: Q3829-SIPH1-2, Dated: 12-04-2012
- Proposed Roof Glazing Plan Only Phase 1, Dwg: Q3829-PGLPPH1, Dated: 13-04-2012
- Proposed Elevations Plan Only Phase 1, Dwg: Q3829-GVPH1, Dated: 16-04-2012
- Proposed Elevations Plan Only Phase 1, Dwg: Q3829-PESLPH1-1, Dated: 13-04-2012
- Proposed Elevations of Slope Foundations Phase 1, Dwg: Q3829-PESLPH1-2, Dated: 16-04-2012
- Proposed Elevations Ground Floor Plan Phase 1, Dwg: Q3829-PESLPH1-3, Dated: 16-04-2012
- Total Storm Water Plan Only Phase 1, Dwg: Q3829-SWPPH1, Dated 13-04-2012

- Acid Sulfate Soils Management Plan Prepared by Douglas Partners, Project No: 49975, Dated: October 2012
- Ecological Investigations Glasshouse Development, Williamtown, prepared by EcoLogical, 2012.

Pump Details

- *Sheet 1 Flood Mitigation Pump Layout, prepared by ADW Johnson, Dated 16/11/2012, Rev: C*
- *Sheet 2 Pump Line Discharge*
- *Sheet 3 Pump Outlet Details.*