

**JOINT REGIONAL PLANNING PANEL
(Region)**

JRPP No	JRPP Reference Number
DA Number	16-2012-356-2
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	Nil (0)
Recommendation	Approval with Conditions
Report by	Leonard Allen, Development Assessment Team Leader

Development Assessment Report

1.0 APPLICATION DETAILS

Application no:	16-2012-356-2
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:	29/01/2013
Present use:	Vacant Agricultural Land
Zoning:	LEP 2000 / PART 1(a) RURAL AGRICULTURE "A"
Issues:	Flooding Aircraft Noise Acid Sulfate Soils Wastewater Drainage
Submissions:	Nil (0)
Recommendation:	Approve
Integrated development:	Water Management Act, 2000

2.0 THE PROPOSAL

2.1 Modification

The proposed modification seeks to amend two components of the approved development. These changes entail;

- Amending of the stormwater pump related consent conditions requiring completion prior to Occupation Certificate rather than Construction Certificate.
- Amendments to other conditions, discussed further in this report, to allow the construction phase to progress more efficiently.

In terms of design components, amendments are requested to;

- Removal of the levee walls surrounding the glasshouse.
- A reduced flood footprint as a result of the levy deletion, accepting flood inundation during storms larger than smaller everyday storms into the glasshouse structure,
- No widening of the Ten Foot Drain,
- Minor upgrade to the table drain west of the greenhouse linking Marias Drain with Fourteen Foot Drain, contained within the previously approved glasshouse footprint.

To support these amendments, the applicant has modelled the amended site footprint with 2D Flood Modelling (without installation of pumps and instead relying on a gravity solution). This modelling is reported in Umwelts Flood Impact Assessment dated 3 April 2013.

The previously approved drainage regime resulted in 5 properties (3 to the north and 2 to the east) being impacted upon by a 30mm flood increase during the peak 10 year critical storm. As a result of the new modelling and gravity system, this has been reduced to 2 properties being affected by 23mm during the peak of the critical 10 year event.

One of the properties affected is to the north west and the extent of the impact has been modelled taking into account the desire by the land owner for minor topdressing of the site. Modelling has indicated that for this property, solutions up to the 5 year event, show an improved outcome in terms of inundation.

The remaining affected property lies to the west of the Dawsons Drain. This allotment will receive the approved pump discharge and the applicant has indicated an agreement has been reached with the land owner for accepting the

pump discharge. A new condition is to be inserted requiring formalisation of this agreement. The identified impact on this allotment is 16mm.

There are no structures on the portions of the two properties to be impacted upon, being existing paddock areas.

The amended drainage solution demonstrates that it does not significantly rely on a stormwater pump system to meet reasonable impact standards. It is however still proposed by the applicant to install a pump as an additional safety measure.

A table summary of the proposed changes is included below. A schedule of amendments is provided at the end of this report.

To facilitate the above changes, the following specific changes are requested to consent conditions.

Condition	Original Condition	Proposed Amendment from Applicant	Council Response
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.	<p>Condition 2 requires that the development 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.</p> <p>It is requested that Council update Schedule 3 to include:</p> <ul style="list-style-type: none"> the five (5) additional information submissions prepared by ADW Johnson and submitted to Council as part of the application, and dated 25/09/12, 5/10/12, 9/10/12, 10/10/12 and 30/10/12; Update reference to 'Site Analysis Plan Only Phase 1, Dwg: Q3829-SAPPH1, Dated: 11-04-2012' to 'Site Analysis Plan Only Phase 1, Dwg: Q3829-SAPPH1, Dated: 11-04-2012 as updated by ADW Johnson Plan titled Overall Site Car Park Locality Plan 238712 – SK-001-B'; Update reference to 'Proposed Site Only Phase 1, Dwg: Q3829-SIPH1-1, dated: 12-04-2012' to 'Proposed Site Only Phase 1, Dwg: Q3829-SIPH1-1, dated: 12-04-2012 as updated by ADW Johnson Plan titled Car Park Layout Details Plan 238712-SK-002-B'; Update reference to 'Technical + Handling + Office Building Only Phase 1, Dwg: Q3829-SIPH1-3, Dated 12-04-2012' to 'Technical + Handling + Office Building Only Phase 1, Dwg: Q3829-SIPH1-3, Dated 12-04-2012 as updated by ADW Johnson Plan titled Car Park Layout Details Plan 238712-SK-002-B'; Include reference to Traffic Assessment Report by TPK and Associates, April 2012 (Appendix D of SOEE) as updated by ADW Johnson Plans titled 'Overall Site Car Park Locality Plan 238712 – SK-001-B'; 'Car Park Layout Details Plan 238712-SK-002-B'; and 'Vehicular Turning Paths at Critical Areas Plan 238712 – SK-003-B'; Include reference to Stormwater Management Report by ADW Johnson, April 2012 (Appendix E of SOEE) as updated by ADW Johnson additional information submissions dated 	<p>Council supports the inclusion of the following documentation;</p> <ul style="list-style-type: none"> Umwelt – Flood impact assessment dated 3 April 2013 Amended Site Layout for s96 application summary of changes – DA16-2012-356-1 WITH AMENDMENTS MADE IN RED Rev A 17/07/2013 by adw Johnson.

		<p>9/10/12, 10/10/12, 30/10/12 and Section 63 submission dated 16/04/13; and</p> <ul style="list-style-type: none"> Include reference to Regional Flood Impact Assessment by ADW Johnson, April 2012 (Appendix F of SOEE) as updated by ADW Johnson additional information submissions dated 9/10/12, 10/10/12, 30/10/12 and Section 63 submission dated 27/06/13. 	
7	<p>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.</p>	<p>Condition 7 relates to on site car parking and references incorrect drawing references. It is requested that this condition be amended to reflect the correct drawing reference, being Approved plan Proposed Site Only Phase 1, Dwg: Q3829-SIPH1-1, dated: 12-04-2012, as amended by ADW Johnson Plan titled Car Park Layout and Details Plan 238712 – SK-002-B.</p> <p>The onsite car parking has been designed in accordance with Australian Standards AS 2890.1– Off-street car parking and AS 2890.6 – Off-street parking for people with disabilities, as referenced on the ADW Johnson Plan titled Car Park Layout and Details Plan 238712 – SK-002-B. However Condition 7 requires that the car parking have dimensions 5.5m x 2.5m, which is larger than the dimensions required by the Australian Standards and conflicts with the dimensions referenced in Condition 19 of development Consent 16-2012-356-1.</p> <p>It is requested that condition 7 also be amended to require minimum dimensions in accordance with Australian Standards AS 2890.1– Off-street car parking and AS 2890.6 – Off-street parking for people with disabilities.</p>	Condition to be amended as requested
17	<p>An Occupational Hygienist shall be engaged prior to Issue of Construction Certificate to assess the potential asbestos containing fragments prior to removal.</p> <p>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.</p>	<p>Condition 17 requires that an occupational hygienist be engaged prior to issue of construction certificate to assess the potential asbestos containing fragments prior to removal.</p> <p>This condition relates to an area of the site, adjacent to the western boundary that contains some filling from the site and imported sources, and containing minor contamination associated with possible asbestos containing fibrous sheeting fragments (ACM).</p> <p>Given that the approved actual development footprint is located within the eastern portion of the site and well clear (more than 500m) of the area containing the fibrous sheeting fragments, it is considered that the requirement of this condition to have potential asbestos removed prior to issue of construction certificate will significantly impact on construction timing of the project.</p>	Condition to be amended as requested

	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.	Accordingly it is requested that this condition be amended to require an occupational hygienist be engaged prior to issue of Occupation Certificate to assess the potential asbestos containing fragments prior to removal.	
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21	<p>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:</p> <ul style="list-style-type: none"> 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 Williamtown - 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 	<p>Condition 21 has a series of sub conditions relating to the stormwater pump system details and timing for completion. As agreed with Council, Condition 21 needs to be amended to require these sub conditions to be completed prior to Occupation Certificate rather than Construction Certificate.</p>	<p>Condition to remain 'prior to issue of the construction certificate for the pump and associated works required to install the pump'</p> <p>Reason: These conditions relate to modelling and easements thus need to be done prior to construction and installation of the pump.</p>
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	<p>systems that collect and monitor data sets such as water level and velocity of drains, pump intervention times, pumping duration, conveyed volumes, maintenance</p> <p>g) demonstrate that the pump facility, access, pipeline facility, power supplies and sensors are capable of withstanding the 1% ARI flood</p>		
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22	<p>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.</p> <p>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.</p>	<p>Condition 22 requires easements for all formed and concentrated drainage structures along with supportive facilities for the stormwater pump proposed to be created prior to the issue of the construction certificate. This needs to be amended to change the easement requirements to prior to Occupation Certificate.</p> <p>Additionally, Council has indicated that the discharge facility on the approx 400sqm portion of Lot 1322 DP 589751 (adjoining land) for the stormwater pump outlet will be subject to a license agreement as already accepted with the adjoining land owner.</p> <p>Accordingly, it is requested that Condition 22 be amended to require the easements & licence agreement to be in place prior to the issue of the Occupation Certificate.</p>	<p>This condition covered two issues: the easements over the drains located within the site, AND the easements required for the pump works (any part of pump, extract & discharge points, access too) that are located on adjoining properties</p> <p>Amended condition 22 to relate to easements over the development site Prior to issue of any Occupation Certificate drainage easements shall be provided on the development site over the main drains that carry runoff from neighbouring properties. Details of the easements shall be approved by Port Stephens Council prior to registration of the easements. Easements shall be created in a manner that allows Port Stephens Council easement to drain water, right of access and maintenance over the drains with at least 5.5m clearance from one of the outer banks for access and where the creek is more than 5m wide the easement is to be variable width with at least 0.5m clearance from the other bank to the requirements of council. Access across the site to the drain and right of Access are also required. The terms of the easement shall be developed to the satisfaction of Port Stephens Council and it shall be nominated that Port Stephens Council authorisation is required to release vary or modify the restrictions.</p> <p><u>Additionally</u> A new condition will be required to cover any components of the pump (pump, pipeline, discharge and extraction points) that are not located on the development site.</p> <ul style="list-style-type: none"> • Prior to commencement of works for the stormwater pump and associated works, written agreement to undertake the works shall be obtained from the landowner.
26	<p>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:</p>	<p>Conditions 26 and 31 relate to the stormwater pump system, and need to be amended to be completed prior to Occupation Certificate.</p>	<p>'prior to issue of the construction certificate for the pump and associated works required to install the pump' –</p> <p>Reason: These conditions relate to modelling and easements thus need to be done prior to construction and installation of the pump.</p>

	<p>a) that ensures that the flow rate as determined from the modelling is achieved at pipeline outlet.</p> <p>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.</p> <p>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.</p> <p>d) that ensures cost effective preventative maintenance for the design life of the system.</p> <p>e) that ensures maximum mean time between failures.</p> <p>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.</p> <p>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.</p> <p>h) That makes provision for alternate power supply in the event that the primary power supply has failed</p>		
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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.	<p>With the amended gravity driven flood drainage system achieving the flood impact result and as agreed to by Council, there is no longer a requirement for the pumping system to be constructed, completed and operational prior to commencement of any other site works.</p> <p>Accordingly, it is requested that Condition 27 be deleted. The stormwater pump system installation prior to Occupation Certificate is covered in Conditions 21 and 26.</p>	<p>Replace 27 with: Prior to issue of any Occupation Certificate the proposed pumping system shall be completed and operational to the satisfaction of council.</p> <p>An additional condition need to be added to say: The existing drainage channels, that are approved to be filled, cannot be filled until all of the drainage diversion works have been excavated and suitably protected with erosion and sedimentation control measures. Details shall be provided to the certifying authority prior to issue of the construction certificate for those drainage works</p>
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.	Condition 28 will also need amending to remove the word 'easement' to be consistent with the amended Condition 22. The timing for formalising easements is covered by Condition 22 and in accordance with this S96 it is requested that all easements be required prior to issue of the Occupation Certificate.	<p>If no works are proposed over the levee, then the condition can be deleted –</p> <p>Deleted</p>
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.	Conditions 26 and 31 relate to the stormwater pump system, and need to be amended to be completed prior to Occupation Certificate.	'prior to issue of the construction certificate for the pump and associated works required to install the pump' – Reason: These conditions relate to modelling and easements thus need to be done prior to construction and installation of the pump.
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.	<p>Condition 39 requires that the level of the access road be constructed at a level not less than RL2.5m AHD.</p> <p>This required height is considered to be excessive, and would result in an unsightly landscape as well as an unnecessary expense. It is more applicable to Council's public roads than private roads such as in this instance. Condition 39 was discussed at a meeting held with Council's engineer John Maretich on 7th February 2013, where Council agreed that this condition was unwarranted, given that the access road will be private road, and that no minimum level is required for a private road.</p>	Condition to be deleted

		Accordingly, it is requested that Condition 39 be deleted.	
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.	<p>The revised proposal does not propose any works across the existing levee to Fullerton Cove. As agreed to by NSW Office of Environment and Heritage at a meeting with Port Stephens Council dated 30th October 2012, such licenses and approvals would only be required for works proposed crossing the Fullerton Cove levee.</p> <p>Accordingly, with no proposed pump discharge crossing the levee, it is requested that Condition 58 be amended to read:</p> <p><i>"The consent holder must obtain the appropriate licenses/approvals from the NSW Office of Environment and Heritage in relation to Section 253 of the Water Management Act 2000 relating to Hunter Valley Flood Mitigation Works, if required."</i></p>	<p>If no works are proposed over the levee, then the condition can be deleted –</p> <p>Deleted</p>
63	Prior to issuing a Construction Certificate for the proposed development, the developer shall enter into a WAD with RMS.	<p>It is considered that the WAD is not required relative to traffic movements associated with the approved earthworks and construction, and so it is requested that condition 63 be amended to require the developer to enter into a WAD with RMS prior to the issuing of the Construction Certificate for the structural building works (ie. The second Construction Certificate). A Road Occupancy Licence (ROL) will be sought as standard process for construction commencement, covered under Condition 65.</p> <p>This amendment is sought to allow the construction phase to move forward efficiently.</p>	Condition to be amended as requested
76	<p>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.</p> <p>The plan shall also include:-</p> <p>a The location of driveways,</p>	<p>It is considered that the landscape plan is not relevant to the approved earthworks, and so it is requested that condition 76 be amended to require the developer to submit the landscaping plan to the Principal Certifying Authority for approval prior to the issuing of the Construction Certificate for the structural building works (ie. The second Construction Certificate).</p> <p>This amendment is sought to allow the construction phase to move forward efficiently. Soil erosion control will be in place during construction.</p>	Agree with the proposed change

	<p>parking garbage storage areas, drying areas and fencing and materials and design details for these facilities;</p> <p>b Details of the proposed method of protection of those trees to be retained on site during construction;</p> <p>c Details of earthworks including mounding and retaining walls;</p> <p>d Details of planting procedure and maintenance.</p> <p>Planting is required to be included external to the site bunding to assist in reducing the visual impact of the development.</p> <p>All landscaping works must be completed prior to issue of Occupation Certificate.</p>		
78	<p>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.</p>	<p>It is considered that Condition 78 is not relevant to the approved earthworks, rather it is relevant to the structural phase of the development. Accordingly, it is requested that condition 78 be amended to require the developer to provide the details of the driveway, parking and turning areas to the Principal Certifying Authority for approval prior to the issuing of the Construction Certificate for the structural building works (ie. The second Construction Certificate). Furthermore, Council's Development Control Plan – Part B3 Parking, Traffic and Transport – Section B3.C56 indicates that "Council may consider the use of consolidated unsealed gravel pavements for development where traffic volumes are extremely low and where adequate provision has been made for landscaping treatment and erosion and sediment controls. It is anticipated that the low key nature of traffic movements associated with the glasshouse, extensive, flat, grassed land adjacent and consistent with surrounding access roads on adjoining property including Ausgrid, that the opportunity be left open for demonstrating compliance with the DCP, rather than the specific nature of sealed pavements being applied to the development. This amendment is sought to achieve a more appropriate level of compliance.</p>	<p>Agree with the proposed change</p>

		<p>In summary, we seek the condition to be amended as follows:</p> <p><i>"The driveways, parking and turning areas shall comply with Council's Development Control Plan – Part B3 Parking, Traffic and Transport – Section B3.C56. 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 the construction certificate for the building structure.</i></p>	
79	<p>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.</p>	<p>It is considered that Condition 79 is not relevant to the approved earthworks, rather it relevant to the structural phase of the development. Accordingly, it is requested that condition 79 be amended to require the developer to provide the details of line marking and directional signage to the Principal Certifying Authority for approval prior to the issuing of the Construction Certificate for the structural building works (ie. The second Construction Certificate).</p> <p>This amendment is sought to allow the construction phase to move forward efficiently.</p>	Agree with the proposed change

2.2 Original Proposal

The approved 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.

The original Development Assessment Report (DA 16-2012-356-1) is attached to this report for reference.

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 and submission authors of the original proposal were notified of the proposed development.

No submissions were received during the submission period.

6.0 INTERNAL REFERRALS

6.1 Engineering

Comments: Received 14th August 2013

Recommendation: Approved subject to conditions

6.2 Flood

Comments: refer to Engineering Assessment

Recommendation: Approved subject to conditions.

6.3 Drainage

Comments: refer to Engineering Assessment.

Recommendation: Approved Subject to Conditions

7.0 STATUTORY PROVISIONS

7.1 Environmental Planning and Assessment Act, 1979

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.

Water Management Act 2000

The development as originally lodged 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 was 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.

Given that the amendments do not seek to alter the nature of the material referred to the NSW Office of Water, namely works within the existing drainage channels, no further referrals have been required.

Section 96 of the Environmental Planning and Assessment Act 1979

Part A: Substantially the same development

The development as modified is substantially the same development as that approved, for the following reasons:

- A) The predominant use of the site remains unchanged.
- B) The amendment does not propose to increase the intensity of the use.
- C) The proposal footprint and bulk has not been increased.
- D) No additional impacts will occur to adjoining properties.

7.2 State Environmental Planning Policies (SEPP)

SEPP 14 – Coastal Wetlands

No further consideration required from original development assessment. No new works are proposed within a SEPP 14 wetland.

SEPP 55 – Remediation of Land

No further assessment to that contained within the original report is considered warranted.

SEPP71 – Coastal Protection

No further assessment to that contained within the original report is considered warranted. The amendments will not result in SEPP71 being contravened.

7.3 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 proposed amendments do not alter the use of the development and as such no further assessment of this clause is considered warranted.

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

No further assessment is considered warranted in respect to this clause.

Clause 42 – Development along arterial roads.

No further assessment is considered warranted in respect to 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.

The development as originally approved incorporated a 3m high bunding around the development to mitigate against the impacts of flooding but also serving 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 was included requiring a landscape plan for the site. It was required that plantings be included external to the bunding to further assist in mitigating against any potential visual impact.

The modification as submitted seeks to remove this Bunding on the east, south, west elevations of the development. The immediate neighbours to the property are to the north where bunding will be maintained to store harvested roof water.

It is considered that with the retention of this northern Bunding, with the implementation of landscaping on all sides of the development, that the proposal will be consistent with the intent of Clause 44.

Clause 47 – Services

No further assessment is considered warranted in respect to this clause.

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

No further Assessment of Acid Sulfate Soils is required to that contained within the original development assessment. The proposal is not considered likely to result in any additional disturbance of Acid Sulfate Soils.

8.0 POLICY PROVISIONS

8.1 Port Stephens Development Control Plan 2007.

The application has been assessed against the relevant provisions of Port Stephens Development Control Plan, 2007, and it is considered that no further assessment is required to that contained within the original assessment.

9.0 LIKELY IMPACTS

9.1 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.

9.2 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 Williamstown 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.

The applicant has requested that the WAD be entered into prior to issue of Construction Certificate for Structural Building Works. Given that the WAD does not relate to traffic movements associated with construction and earthworks, this amendment has been facilitated.

9.3 Natural Environment

Flora and Fauna

No new impacts to Flora and Fauna will be introduced as a result of this amendment.

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 was discussed in the original development assessment. This amendment seeks to change the timing of the clean up of potential contaminated lands on the site. Condition 17 requires that an occupational hygienist be engaged prior to issue of construction certificate to assess the potential asbestos containing fragments prior to removal.

This condition relates to an area of the site, adjacent to the western boundary that contains some filling from the site and imported sources, and containing minor contamination associated with possible asbestos containing fibrous sheeting fragments (ACM).

Given that the approved actual development footprint is located within the eastern portion of the site and well clear (more than 500m) of the area containing the fibrous sheeting fragments, it is considered that the requirement of this condition to have potential asbestos removed prior to issue of construction certificate will significantly impact on construction timing of the project.

No objections are raised to changing the timing of the requirement to clean up this portion of the site prior to issue of Occupation Certificate.

Noise

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

10.0 SUITABILITY OF THE SITE

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

11.0 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.

12.0 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.

13.0 UNAUTHORISED WORKS

None identified.

14.0 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.

15.0 RECOMMENDATION

That the consent authority, grant development consent to Development Application No. 16-2012-356-2 for Intensive Agriculture (Greenhouse) on land at Lot: 1331, 1332 DP:609173, 157, 183 Cabbage Tree Road Fullerton Cove subject to the amended conditions contained in Schedule 1.

Signed

Leonard Allen

16 August, 2013

Officer:

Date

Schedule 1
Amended Conditions Schedule

Amended Conditions

Condition 2

New plans for schedule 3 noted below

Condition 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 as amended by ADW Johnson Plan titled CarPark Layout and Details Plan 238712 – SK-002-B and Australian Standard AS2890.1 – Off Street Carparking and AS 2890.6 – Off-street parking for people with disabilities.

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.

Condition 17

An Occupational Hygienist shall be engaged **prior to Issue of Occupation 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.

Condition 22

Prior to issue of any Occupation Certificate drainage easements shall be provided on the development site over the main drains that carry runoff from neighbouring properties. Details of the easements shall be approved by Port Stephens Council prior to registration of the easements. Easements shall be created in a manner that allows Port Stephens Council easement to drain water, right of access and maintenance over the drains with at least 5.5m clearance from one of the outer banks for access and where the creek is more than 5m wide the easement is to be variable width with at least 0.5m clearance from the other bank to the requirements of council. Access across the site to the drain and right of

Access are also required. The terms of the easement shall be developed to the satisfaction of Port Stephens Council and it shall be nominated that Port Stephens Council authorisation is required to release vary or modify the restrictions.

Condition 27 – Replaced with

Prior to the issue of any Occupation Certificate the proposed pumping system shall be completed and operational to the satisfaction of Port Stephens Council.

Condition 63

Prior to issuing a Construction Certificate for the structural building works for the proposed development, the developer shall enter into a WAD with RMS.

Condition 76

A landscaping plan shall be submitted to and approved by the Principal Certifying Authority **prior to issue of Construction Certificate for the structural building works**. 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**.

Condition 78

Driveways, parking and turning areas shall comply with Council's Development Control Plan = Part B3 Parking, Traffic and Transport – Section B3C56. 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 for the structural building works**.

Condition 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 for the structural building works.**

New Conditions

Insert After Condition 22

Prior to the commencement of Works for the Stormwater pump and associated works, written agreement to undertake the works shall be obtained from the adjacent land owner and submitted to Council.

Insert After Condition 27

The existing drainage channels, that are approved to be filled, cannot be filled until all of the drainage diversion works have been excavated and suitably protected with erosion and sedimentation control measures. Details shall be provided to the certifying authority **prior to the issue of the construction certificate for those drainage works.**

Deleted Conditions

Condition 28

Condition 39

Condition 58

Amendments not Supported

Condition 21- to read

Prior to the issue of Construction Certificate for the pump and associated works required to install the pump 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 Williamtown - Fullerton Cove catchment, File No: 16-2012-356-2
- 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

Condition 26- to read

Prior to the issue of Construction Certificate for the pump and associated works required to install the pump 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

Condition 31- to read

Prior to the issue of Construction Certificate for the pump and associated works required to install the pump 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.

Schedule 3 – Approved Plans and Documentation to read

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 as updated by ADW Johnson Plan titled Overall Site Car Park Locality Plan 238712 – SK-001-B.
- 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 as updated by ADW Johnson Plan titled Car Park Layout Details Plan 238712-SK-002-B.
- Technical + Handling + Office Building Only Phase 1, Dwg: Q3829-SIPH1-3, Dated: 12-04-2012 as updated by ADW Johnson Plan titled Car Park Layout Details Plan 238712-SK-002-B
- 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

Traffic Assessment Report by TPK and Associates, April 2012 (Appendix D of Statement of Environmental Effects) as updated by ADW Johnson Plans Titled 'Overall Site Car Park

Locality Plan 238712-SK-001-B'; 'Car Park Layout Details Plan 238712-SK-002-B'; and 'Vehicular Turning Paths at Critical Areas Plan 238712-SK-003-B'.

Acid Sulfate Soils Management Plan Prepared by Douglas Partners, Project No:49975, Dated: October 2012

Ecological Investigations Glasshouse Development, Williamtown, prepared by EcoLogical, 2012.

Umwlet Flood Impact Assessment dated 3 April 2013

Amended site layout for S96 application "summary of changes – DA 16-2012-356-1" with amendments made in red, Rev A, dated 17/07/2013 by ADW Johnson.

Additional Information Submission documents prepared by ADW Johnson and dated 25/09/2012, 5/10/2012, 9/10/2012, 10/10/2012 and 30/10/2012.