

File Ref: 15/029

19 November 2019

General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Attention: Richard Forbes**Subject: JRPP – Consideration of Construction Impacts**

Dear Richard

I refer to your correspondence dated 30 October 2019 in respect to the briefing held with the Hunter Regional Planning Panel on the 16 October 2019.

It is understood that the Panel has requested additional information with respect to potential construction impacts that the development/proposal may have. This information was sought, having regard to ruling made in the NSW Court of Appeal in *Bay Simmer Investments Pty Ltd v State of New South Wales [2017] NSWCA 135*.

As per our discussion, we have considered *Bay Simmer* judgment and the subsequent amendments to the Environmental Planning and Assessment Act 1979. The amendments sought to rename staged development applications as “concept development applications”. The new provisions also sought to clarify when the impacts of carrying out the development need to be considered.

To provide the requested information we have reviewed *Clause 4.22 Concept development applications (cf previous s 83B)* and in particular the requirements sent out in sub-clause 5.

Sub-Clause 5 states that

The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.



The application that has been made relates to a Concept Proposal and the first stage of the proposed development. The application sets out the proposed staging of the development as follows:

- Stage 1 – Subdivision - 1 into 4 superlot + Concept Plan Approval
- Stage 2 – Golf course and Infrastructure delivery
- Stage 3 – Tourist (Hotel), Residential (50 lots) and Infrastructure delivery
- Stage 4 – Tourist (70 villas) and Residential (70 lots)
- Stage 5 – Tourist (65 villas) and Residential (65 lots)
- Stage 6 – Tourist (60 villas) and Residential (60 lots)
- Stage 7 – Tourist (55 villas) and Residential (55 lots)

The application is explicit in regard to seeking consent for Concept Proposal and the first stage of the proposed development. The information provided in regards to Stages 2 through 7 is provided to give context to the Concept Plan. Each of these stages will all be subject to a and subsequent individual development application.

Commensurate with sub-clause 5, the application needs to consider the likely impact of the development subject to the application. Any potential impacts that are likely carrying out of development that may be the subject of subsequent development applications do not need to be assessed. Therefore the extent of potential construction impacts is to be limited to Stage 1

Stage 1 – Extent of Works

Stage 1 is proposed to create 4 superlots under a community title subdivision. The purpose of this subdivision is to allocate land for particular uses that will then be subject to further applications. No actual works are proposed to take place on the site as lots created will not be subjected to development until further design and DAs are proposed.

Given the above any works carried out on-site would be limited to any requirements imposed by Council and/or the Panel. It would be envisaged that such works would be limited in scale and potential impact. As such these could be managed via the inclusion of a condition requiring a construction management plan to form part of the Construction Certificate.

I hope that this addresses the concerns of the Panel. Should you wish to discuss any aspects please give me a call.

Yours sincerely

HDB Town Planning & Design



Mathew Egan

Principal Planner

