

**JOINT REGIONAL PLANNING PANEL  
HUNTER AND CENTRAL COAST**

<b>Panel Reference</b>	2017HCC016
<b>DA Number</b>	DA2017/00295
<b>Local Government Area</b>	NEWCASTLE CITY COUNCIL
<b>Proposed Development</b>	Tree removal, golf course fairway/holes and associated earthworks and landscaping, as part of approved Staged Development (Concept approval for a Seniors Housing development and associated works - DA2012/0419).
<b>Street Address</b>	90 Vale Street Shortland Lot 2 DP 1215916
<b>Applicant/Owner</b>	Applicant - PEP Consulting Owner - Shortland Waters Golf Club
<b>Date of DA lodgement</b>	23/03/2017
<b>Number of Submissions</b>	Nil
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	In accordance with Clause 22 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i> , as the subject development application is a staged development that relates to a concept approval, the Joint Regional Planning Panel is the determining authority. The concept approval was determined by the Panel on 11 March 2014 (JRPP Ref No.2012HCC016DA) as the value of works was \$66,536,395.
<b>List of All Relevant s79C(1)(a) Matters</b>	<p><b>Environmental planning instruments: s79C(1)(a)(i)</b></p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 55 - Remediation of Land</li> <li>• State Environmental Planning Policy No 71 Coastal Protection</li> <li>• State Environmental Planning Policy No.44 - Koala Habitat Protection</li> <li>• State Environmental Planning Policy No.14 - Coastal Wetlands</li> <li>• Newcastle Local Environmental Plan 2012</li> </ul> <p><b>Development Control Plan: s79C(1)(a)(iii)</b></p> <ul style="list-style-type: none"> <li>• Newcastle Development Control Plan 2012</li> <li>• Section 94A Development Contributions Plan 2009</li> </ul>
<b>List all documents</b>	<b>Appendix A - Recommended conditions of consent</b>

<b>submitted with this report for the panel's consideration</b>	<b>Appendix B</b> - Documents submitted with the application <b>Appendix C</b> - Approved Concept Plan (as modified) <b>Appendix D</b> - General Terms of Approval in accordance with the <i>Water Management Act 2000</i> from the Department of Primary Industries - Water
<b>Report by</b>	Newcastle City Council
<b>Report date</b>	28 September 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes / No**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

**Yes / No / Not Applicable**  
**(Has been addressed in the body of the assessment report)**

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Yes / No / Not Applicable**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Yes / No / Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment? **Yes / No**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## **ASSESSMENT REPORT AND RECOMMENDATION**

### **EXECUTIVE SUMMARY**

Development Application No.2017/00295 has been lodged with Council, seeking consent for tree removal, golf course fairway/holes and associated earthworks and landscaping, as part of the approved Staged Development (Concept approval for a Seniors Housing development and associated works - DA2012/0419). The proposal also involves a landscape strategy which includes compensatory planting.

The proposal was not required to be notified, in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act), *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) and Section 8 of Newcastle Development Control Plan 2012 (DCP). No public submissions have been received in relation to the proposal.

The key issues raised in the assessment relate to:

- Consistency with the approved concept plan
- Tree removal

In accordance with Clause 22 of *State Environmental Planning Policy (State and Regional Development) 2011*, as the subject development application is a staged development that relates to the concept approval, the Joint Regional Planning Panel is the determining authority. The concept approval was determined by the Panel on 11 March 2014 (JRPP Ref No.2012HCC016DA) and the value of works was \$66,536,395.

### **1. INTRODUCTION**

This report provides an assessment of the development proposal for tree removal, golf course fairway/holes and associated earthworks and landscaping, as part of approved Staged Development (Concept approval for a Seniors Housing development and associated works - DA2012/0419) at 90 Vale Street, Shortland (Lot 2 DP1215916).

The development application is reported to the Hunter and Central Coast Joint Regional Planning Panel in accordance with Clause 22 of *State Environmental Planning Policy (State and Regional Development) 2011*, as the subject development application is a staged development that relates to a concept approval. The concept approval was determined by the Panel on 11 March 2014 (JRPP Ref No.2012HCC016DA) and the value of works was \$66,536,395.

### **2. BACKGROUND**

A concept approval for a seniors housing development, golf course and associated works (DA2012/0419) was approved on 11 March 2014. The approval (as amended) includes 300 serviced self-care units and a 127 bedroom 'high-care' residential care facility, in five stages.

Previous approvals have been granted on the site, including:

- Stage 1, being an administration/community facility, 50 dwellings, entry road and car park and the demolition and re-building of a clubhouse for the golf club (DA2015/10112).

- Stage 2, being the construction of 45 self-care living dwellings and associated site works (DA2017/00149).
- Remediation works and use of land as a golf course on the 'Lorna Street' site (DA2016/00444).

### 3. SITE DESCRIPTION

The site is known as Lot 2, DP1215916, 90 Vale Street Shortland and is shown in Figure 1 below. The site has an area of 42.55 hectares, being irregular in shape and part of the Shortland Waters Golf Club.

The subject land is an allotment that has been created following the approval of the concept plan, and includes the land relating to the golf course (i.e. excluding the seniors housing development area). The allotment is divided into a smaller and larger section separated by the Chichester Gravity Trunk Main, running through the site in a north-west to south-east direction.

The site has variable slope, but generally falls from the south-west to north-east, and currently contains native vegetation. Stage 1 of the concept plan is currently under construction.

The site is accessed via a private road through land owned by the Shortland Waters Golf Club (Lot 2, DP 1215916) and the University of Newcastle (Lot 1, DP1188100), which then connects to Vale Street by a bridge over the Jesmond Bypass Road (Main Road/ State Highway 23). The access arrangements were approved with the concept plan and have since been reinforced through subsequent subdivisions.

The surrounding land contains the Shortland Waters golf course, which includes a clubhouse and pro-shop, ancillary structures, dams, wetlands, natural vegetation and landscaping, and car-parking areas to the south, west and east of the clubhouse.

To the north-east, the site is bounded by the Great Northern Rail Line, SEPP 14 wetlands and various industrial and warehouse units. To the north-west the site adjoins SEPP14 wetlands (including the Newcastle Wetlands Reserve), low density residential development and the Jesmond Bypass Road. To the west the site is bounded by the Jesmond Bypass Road, and beyond this road comprises low density residential uses. To the south, lies the Shortland Waters Golf Course, Newcastle Institute for Energy Research complex (NIER) and the University of Newcastle. To the east, the site adjoins the Great Northern rail line and Warabrook Pond.



**Figure 1: Shows an aerial view of the site and the location of the area affected by the proposal (Source: Applicant's Statement of Environment Effects).**

#### **4. PROPOSAL**

The proposed development includes tree removal, golf course fairway/holes and associated earthworks and landscaping, associated with the concept proposal approved in DA2012/0419. The concept approval (as modified) includes a seniors living development consisting of 300 serviced self-care units, a 127 bed residential care facility and associated community facilities.

The applicant provides the following description of the proposal:

*DA 2016/00444 only included works in Lot 10 DP 1149782 and did not include any works within Lot 2 DP 1215916. It was an oversight that Lot 2 DP1215916 was excluded from the development application.*

*Any works to facilitate the concept plan approved under DA 2012/0149 require a subsequent development application. Consequently, an application for tree removal was submitted under DA 2017/00295 to reflect the portion of tree removal on Lot 2 DP 1215916 that was not included in DA 2016/00444. The application in its original form only included the removal of trees to facilitate golf course elements, specifically holes 4 and 9, which is located wholly within Lot 2 DP 1215916.*

*A request under Clause 55 of the Regulation on the 21 August 2017 sought to amend DA2017/00295 to contain the following works:*

- Removal of Trees and Vegetation;*
- Approval of golf course elements; and*
- Associated earthworks and landscaping works.*

*Unlike DA 2016/00444, remediation works were not included as part of DA2017/00295. The Material Assessment Report prepared by RCA was deemed required by the Environmental Site Investigation to further investigate contamination on Lot 2 DP 1215916. The Material Assessment Report establishes that the subject area (Part Lot 2 DP 1215916) was not contaminated stating, “there is no contamination which would pose a risk to workers undertaking these activities”. As such remediation works are not required to facilitate the golf course elements which reside within Lot 2 DP 1215916.*

*Consequently, it is confirmed that the portion of tree removal that is to occur on Lot 2 DP 1215916 is not within an area identified as contaminated land and consequently no remediation works are required.*

The submitted plans are attached at **Appendix B**.

## **5. PLANNING ASSESSMENT**

### **5.1 Environmental Planning and Assessment Act 1979 (EP&A Act)**

#### **5.1.1 Section 23G – Joint Regional Planning Panels**

Section 23G and Schedule 4A (3) of the EP&A Act requires the Joint Regional Planning Panel (JRPP) to determine applications for general development over \$20 million in capital investment value.

The concept approval (DA2012/0419 and JRPP Ref No.2012HCC016DA) was approved by the JRPP on 11 March 2014 and the value of works was \$66,536,395. The subject application is a staged development application that relates to the concept approval.

In accordance with *Clause 22 Staged development functions for development exceeding minimum capital investment values of State Environmental Planning Policy (State and Regional Development) 2011*, the application is to be determined by the Hunter and Central Coast JRPP.

### 5.1.2 CONSISTENCY WITH CONCEPT PLAN

The current application relates to golf course works associated with the concept plan to which Section 83B and 83D of the EP&A Act applies. In this regard, Section 83D(2) states:

*While any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent.*

Consistency with the approved concept plan (as modified) is detailed in the table below, with comments provided on the conditions of consent (DA2012/0419).

Condition	Comment
<b>A. REASONS FOR CONDITIONS</b>	
A1. The conditions of this consent have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979. The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.	Noted.
<b>B. CONCEPT APPROVAL</b>	
<p>B1. This consent does not authorise the carrying out of development on any part of the site.</p> <p>Except where modified by conditions of this consent, the concept approval comprises the following concept proposals for the development of the site:</p> <ul style="list-style-type: none"> <li>Contamination Remediation Works of "Lorna Street site" (Lot 10 DP 1149782)</li> <li>Contamination Remediation Works of the "Vale Street site" (Lot 103 DP 881682)</li> <li>Golf course redesign works of "Lorna Street site" (Lot 10 DP 1149782)</li> <li>Golf course design and works of "Vale Street site" (Lot 103 DP 881682)</li> <li>Seniors living development comprising of 300 serviced self-care units, a 127 bed Residential Care Facility and associated community facilities</li> </ul>	<p>The current application relates to the golf course redesign works on the Vale Street site.</p> <p>The soil excavated from the "Vale Street site" as part of this application will be used for the remediation of the "Lorna Street site".</p>



<ul style="list-style-type: none"> <li>• Subdivision of the seniors living development</li> </ul> <p>Further development applications are required to detail the concept proposals, and consent is required to carry out that development.</p>	
<p>B2. Order of development</p> <p>An Occupation Certificate for the 61st self-contained seniors housing dwelling must not be issued until the remediation works for the Lorna Street site are fully complete and certification to this effect by the appointed EPA Accredited Site Auditor is submitted to the relevant consent authority.</p>	<p>The current application does not relate to the self contained dwellings.</p>
<p><b>C. INTEGRATED DEVELOPMENT CONDITIONS</b></p>	
<p>C1. The following conditions have been imposed by the relevant approval bodies in relation to the development relating to the required approvals and must be addressed in the applicable stage of the proposed development:</p>	
<p><b><u>C(i). Section 91 of Water Management Act 2000 (Department of Primary Industries - Office of Water)</u></b></p> <ol style="list-style-type: none"> <li>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to 2012/419 and provided by Council to the NSW Office of Water.</li> </ol> <p>Any amendments of 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.</p> <ol style="list-style-type: none"> <li>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 in or within 40 metres of the top of the bank or shore of the lake identified.</li> <li>The consent holder must prepare or commission the preparation of:             <ol style="list-style-type: none"> <li>Vegetation Management Plan</li> <li>Works Schedule</li> <li>Erosion and Sediment Control Plan</li> <li>Soil and Water Management Plan</li> <li>Amendments to Plans-Provision of 20m riparian buffer around all SEPP 14 wetlands and any other waterfront land.</li> </ol> </li> <li>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</li> </ol>	<p>It is noted that the works relate to the previously approved DA2016/00444, which has received a Controlled Activity Approval (CAA) in accordance with the <i>Water Management Act 2000</i> from the Department of Primary Industries - Water (see <b>Appendix D</b>).</p> <p>The CAA includes Lot 2 DP1215916, which is the subject of this application and the documents referenced in this approval are consistent with the plans currently being considered.</p> <p>The applicant has addressed the matters included in this condition as part of the controlled activity approval process.</p>



with the NSW Office of Water's Guidelines located at [www.nsw.gov.au/Water-Licensing/Approvals/default.aspx](http://www.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
5. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.

#### **Rehabilitation and maintenance**

6. The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
7. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.

#### **Reporting requirements**

8. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.

#### **Security deposits**

9. 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.

#### **Access-ways**

10. N/A
11. The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.

<p><b>Bridge, causeway, culverts, and crossing</b></p> <p>12. 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 lake or waterfront land, other than in accordance with the plan approved by the NSW Office of Water.</p> <p>13. N/A</p> <p><b>Disposal</b></p> <p>14. The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.</p> <p><b>Drainage and Stormwater</b></p> <p>15. The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW 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.</p> <p>16. The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.</p> <p><b>Erosion Control</b></p> <p>17. The consent holder must establish all erosion and sediment control works and water diversion structure in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.</p> <p><b>Excavation</b></p> <p>18. The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with the plan approved by the NSW Office of Water.</p> <p>19. N/A</p> <p><b>Maintaining river</b></p> <p>20. N/A</p> <p>21. N/A</p> <p><b>River bed and bank protection</b></p> <p>22. The consent holder must establish a 20m wide riparian corridor/buffer along all SEPP 14 wetlands and any other</p>	
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<p>waterfront land in accordance with a plan approved by the NSW Office of Water. The 20m riparian zone must be restored and managed to provide an ecological buffer to the existing wetlands, and consist of fully structured locally occurring ecotones. All riparian buffers are to be suitably fenced or otherwise separated from the golf course and any other development areas.</p> <p>23. The consent holder must prepare a Riparian Management Plan, which outlines the proposed future management of the riparian buffers and wetlands, This Riparian Management Plan must be submitted to the NSW Office of Water as par to any application for a controlled activity approval as required by these General Terms of Approval.</p> <p><b>Plans, standards and guidelines</b></p> <p>24. N/A</p> <p>25. N/A</p> <p>26. N/A</p> <p>27. N/A</p>	
<p><b>C/ii). Section 100B Rural Fires Act 1997 (Rural Fire Service)</b></p> <p>A deemed bush fire safety authority was issued by the Rural Fire Service under Section 100B of the <i>Rural Fires Act 1997</i>, subject to the following conditions (Ref: Our Ref: D15/2000, DA15071597698 GB; dated 21 August 2015, adopting the same numbering):</p> <p><b>Asset Protection Zones</b></p> <p>The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke, and embers, while supporting or evacuating occupants. To achieve this, the following conditions are to apply:</p> <ol style="list-style-type: none"> <li>1. A minimum of 70 metres APZ shall be provided to the Southern elevation and a minimum 35 metre APZ shall be provided to the Northern elevation. The APZs shall be managed as an inner protection area (IPA) as outlined within Appendices 2 &amp; 5 of <i>'Planning for Bush Fire Protection 2006'</i> and the NSW Rural Fire Service's document <i>'Standards for asset protection zones'</i>.</li> </ol> <p><b>Water and Utilities</b></p> <p>The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions are to apply:</p> <ol style="list-style-type: none"> <li>2. Water, electricity and gas are to comply with section 4.1.3 and 4.2.7 of <i>'Planning for Bush Fire Protection</i></li> </ol>	<p>The current application does not include the construction of buildings, and accordingly this subject application is not considered to be <i>'integrated development.'</i></p> <p>A condition of consent is recommended to ensure that the proposed landscaping works comply with this GTA.</p>

<p>2006'.</p> <p><b>Access</b></p> <p>The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions are to apply:</p> <p>3. Internal roads are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.</p> <p><b>Evacuation and Emergency Management</b></p> <p>The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purposes developments. To achieve this, the following conditions are to apply:</p> <p>4. Arrangements for emergency and evacuation are to comply with section 4.2.7 of <i>'Planning for Bush Fire Protection 2006'</i>.</p> <p><b>Design and Construction</b></p> <p>The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions are to apply:</p> <p>5. New construction is to comply with Section 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 <i>'Construction of buildings in bush fire-prone areas'</i> and section A3.7 Addendum, Appendix 3 of <i>'Planning for Bush Fire Protection'</i>.</p> <p><b>Landscaping</b></p> <p>The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions are to apply:</p> <p>6. Landscaping within the site shall comply with the principles of Appendix 5 of <i>'Planning for Bush Fire Protection 2006'</i>.</p>	
<b>D. APPROVED DOCUMENTATION</b>	
<p>D1. The development is to be implemented in accordance with the plans and supporting documents set out in Attachment 1 to this consent, except where modified by any conditions of this consent.</p>	<p>It is considered that the proposal remains consistent with the approved concept plans and supporting documents.</p>

	<p>It is noted that the concept approval facilitates the partial relocation of the golf course on the Vale Street site.</p> <p>The soil excavated from the Vale Street site as part of this application will be used for the remediation of the Lorna Street site.</p>
D2. In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.	Noted.
<b>E. LIMITS ON THE CONSENT</b>	
E1. This consent does not authorise any components of the Concept Approval (including building works or subdivision) to be carried out without further approvals and consents being obtained.	The current application is facilitating compliance with this condition of the concept approval.
<p>E2. This concept approval does endorse the following aspects for future development applications:</p> <ul style="list-style-type: none"> <li>a) overall site areas for golf course and seniors living development;</li> <li>b) general location of residential care facility building, self-care apartment buildings and self-care housing (including maximum heights) (Note: future development applications may incorporate minor amendments to the design, location or orientation of housing, roads etc., except where modified by any conditions of this consent.)</li> </ul>	Noted.
<p>E3. This consent <u>does not authorise</u>:</p> <ul style="list-style-type: none"> <li>a) the final siting of buildings and dwelling/density yield or total floor area;</li> <li>b) any tree removal - the conceptual approval acknowledges large scale tree removal will be required within the development footprint, however detailed analysis of tree removal will be required at each DA stage (refer conditions H8, H9, H10, and M8);</li> <li>c) landscaped areas (which may need to be increased/alterd - refer conditions H8, H9, H10, and M8).</li> </ul>	<p>It is noted that the details of tree removal and landscaping have not been resolved as part of the concept DA. The current application seeks to gain consent for these aspects.</p> <p>Tree removal has been addressed in an Arborist's Report, which is further discussed in this assessment report.</p>
<b>F. STAGING</b>	
F1. Future development applications are to be submitted to the consent authority having regard to the concept proposals identified under the terms of B - Concept approval.	This current application is acceptable having regard to the terms of Section B of the consent.

G. GENERAL CONDITIONS THAT RELATE TO ALL STAGES AND/OR REQUIREMENTS FOR FUTURE DEVELOPMENT APPLICATIONS AGENCY / AUTHORITY REQUIREMENTS	
<u>G(i) NSW Department of Transport (Roads and Maritime Services)</u> The following conditions apply as required by the NSW Department of Transport pursuant to Clause 104 of <i>State Environmental Planning Policy (Infrastructure) 2007</i> (Ref: SF2012/012622/1; CR2013/0050043; dated 16 August 2013 and Ref: SF2012/012622; CR2015/003136 MJ; dated 3 August 2015):	
G1. Deleted via Section 96 modification	The requirement for road upgrades, originally imposed by the RMS, were deleted from the concept approval. This amendment was made with concurrence from the RMS.
G2. Deleted via Section 96 modification	
<u>G(ii) TransGrid/AusGrid: Works Adjacent to electricity or transmission line (Applicable to Golf Course works)</u>	
G3. Future proposed works associated with the golf course that are located in the area adjacent to the existing TransGrid easement (which runs parallel to the Great Northern Railway) must be indicated on a detailed survey plan prepared by a registered surveyor which shows easement boundaries, tower locations, and distances of any proposed works from the easement and the towers. This survey plan must be submitted to Transgrid for review prior to submission of the associated development applications. Any works within the easement area will require the prior written approval of TransGrid.	The applicant has consulted with Transgrid as part of DA2016/00444. A detailed survey confirms no works are proposed within the easement area.
<u>G(iii) Hunter Water: Chichester Trunk Gravity Main (CTGM)</u>	
G4. The section of the CTGM at the crossing must not impact to the main's operation as the CTGM is a critical part of Hunter Water's infrastructure. This may require upgrading and/or replacement which would be required to be undertaken prior to any construction traffic traversing the pipeline corridor. The requirements, timing and duration of any necessary works to the section of the CTGM will need to be discussed with and approved by Hunter Water.	The current application does not include works at the CTGM crossing.
G5. Clear and unfettered access is to be provided to the CTGM both during and after construction.	The applicant will be required to comply with this condition ongoing.
G6. The development is to comply with the general design requirements contained in Hunter Water's design standards (WSA03) HWC Edition) regarding the location of services and roads around/crossing watermain. Services crossing the CTGM (both existing and future) are to be a minimum of 600mm clear of the main(s).	The current application does not include works at the CTGM crossing.
G7. The CTGM is most likely to be renewed (either duplicated or replaced) in the short to medium term, and adequate protection for both the current and new pipe is to be provided at the service crossing.	The applicant will be required to comply with this condition ongoing.

<p>G8. Landscaping is not to be undertaken within the pipeline corridor, due to the condition of the existing main and the need to construct a new main in the corridor.</p> <p>Note: This will impact on the landscaping required by Conditions No. H8, H9, H10 and MS.</p>	<p>The current stage does not include landscaping in the pipeline corridor. The applicant will be required to comply with this condition ongoing.</p>
<p>G9. For any construction over any Hunter Water assets, being land containing the CTGM or easements containing sewer or water mains, the Developer will be required to apply for and obtain a formal construction license for the proposed works with the submission a "works as executed" plan providing full details and information on the completed works.</p>	<p>The current application does not include works at the CTGM crossing.</p>
<p>G10. Access rights (being formal Easement for Right of Carriageway) for the service/road crossings will need to be negotiated with Hunter Water prior to the lodgement of the relevant development application.</p> <p>Note: Further advice regarding the CTGM is provided in the Advisory Notes at the end of this Consent.</p>	<p>The applicant has confirmed that easements have been created for the crossings over CTGM.</p>
<p><b>G(iv) Australian Rail Track Corporation (ARTC)</b></p>	
<p>G11. Stormwater: Stormwater from the development must not affect the rail corridor. The applicant must submit details of stormwater disposal to Council for approval for all stages which demonstrates that the flow of stormwater toward the rail corridor will not be increased by the proposed development.</p>	<p>Council's Engineer has reviewed the proposal and confirmed that stormwater to the rail corridor will not be increased.</p>
<p>G12. Fencing: The boundary of the site with the rail corridor must be fenced with a 1.8m mesh fence to prevent unauthorised entry.</p>	<p>The applicant will be required to comply with this condition ongoing.</p>
<p><b>H. GENERAL CONDITIONS THAT RELATE TO ALL STAGES AND/OR REQUIREMENTS FOR FUTURE DEVELOPMENT APPLICATIONS - OTHER REQUIREMENTS</b></p>	
<p>H1. Future applications are to include details of a nest box installation program to compensate for removal of hollow-bearing trees in accordance with the Flora and Fauna Assessment prepared by RPS dated March 2012. The submitted nest box installation program is to identify the following:</p> <ul style="list-style-type: none"> <li>a) Location of the proposed nest boxes -</li> <li>b) Proposed on-going monitoring and maintenance of nest boxes.</li> <li>c) felling details</li> <li>d) confirmation of an ecologist to be present during clearing.</li> </ul>	<p>The SEE prepared by Pep Consulting dated 22 March 2017 notes the proposed tree removal will result in the loss of six hollow-bearing trees. The loss of hollow-bearing trees is proposed to be offset by the installation of nest boxes at a 2:1 ratio resulting in the installation of 12 nest boxes. Further details of the nest box installation program may be undertaken prior to the issue of a Construction Certificate and will be addressed by a recommended condition of consent.</p> <p>The applicant has submitted the original concept plan document, detailing the location of the hollow bearing trees, which reaffirms the previous</p>



	<p>methodologies approved in previous stages in relation to tree removal.</p> <p>Conditions of consent are recommended to ensure that tree removal is adequately mitigated in this regard.</p>
H2. Future applications to address tree-removal recommendations of the Flora and Fauna Assessment prepared by RPS dated March 2012, including precautions to be implemented during vegetation clearance to avoid negative impacts upon the remnant vegetation within the study area.	The current application is supported by an Arborist's Report, and the applicant has reaffirmed the methodologies approved in previous stages in relation to tree removal.
H3. Future applications are to include a stormwater plan which demonstrates how stormwater and surface drainage from the site will be appropriately managed to prevent impacts on the <i>State Environmental Planning Policy 14 – Coastal Wetlands</i> (quality and quantity of pre-development water flows).	The applicant has submitted stormwater management documents, in addition to details of the Controlled Activity Approval issued in accordance with the <i>Water Management Act 2000</i> . Council's engineer has confirmed that the proposal will create no significant impacts to the SEPP14 wetlands.
<p>H4. Future applications are to include details of a weed management plan to control and manage flora listed under the Noxious Weeds Act 1993 and other invasive species. The submitted weed management plan is to identify the following:</p> <ul style="list-style-type: none"> <li>a) Identification and measures of disposal of invasive species</li> <li>b) Management of the site during and after construction to prevent growth of noxious weeds.</li> </ul>	<p>The applicant advises:</p> <p><i>'There are no noxious weeds currently on the site. Construction vehicles will utilise a shaker grid or similar to access and depart the site to remove any potential weed remnants. On-going landscape maintenance will form part of the existing golf course landscape maintenance. Weed management will include a range of manual removal, frill or basal injection, scrape and paint and cut and paint methods in response to the type of weed encountered. All weeds will be disposed of with the general waste.'</i></p> <p>It is considered that the proposal can be adequately managed in relation to weed management. Conditions of consent are recommended in this regard.</p>
H5. Future applications are to include a sediment and erosion control plan prepared in accordance with the requirements of Managing Urban Stormwater: Soils	A sediment and erosion control plan was submitted with this application.

	and Construction 4th Edition - Vol. 1 (the "Blue Book") published by Landcom, 2004. Sediment and nutrient controls will be required to prevent pollutants, sediment and seed dispersal into the Ecologically Endangered Community vegetation.	
H6.	Future applications are to include an investigation of the connection of the existing golf course maintenance shed to the sewer of the Hunter Water Corporation	The current application does not include works relating to the maintenance shed.
H7.	Future applications are to include an assessment of acid sulfate soil potential at the site and/or submission of an acid sulfate soils management plan in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee's 'Acid Sulfate Soil Manual'.	The applicant has prepared 'Comments on Potential Acid Sulfate Soils' from a Geotechnical Consultant, addressing this condition. It is considered that acid sulfate soils can be managed through conditions of consent.
H8.	<p>Each future development application for each stage must provide a detailed site survey/site analysis, site plan (existing and proposed) and landscape plan in accordance with the relevant Council requirements as applicable at the time the associated DA is lodged.</p> <p>Site features, including but not limited to all existing vegetation, opportunities for tree retention and associated tree retention value assessment/arborist report, proposed changes to ground levels, proposed tree species, roof garden details, etc.</p>	<p>The current application includes the required documents.</p> <p>Tree removal has been considered in an Arborist's Report, which is discussed in detail in this assessment report.</p>
H9.	The development must, where possible, retain high value trees (particularly within the green space areas and spine road/cul-de-sac roads of the Seniors Living Development), and strong justification for removal of high value trees will be required. This may impact on the density/dwelling yield as identified within the concept staged development application.	<p>Tree removal has been considered in the Arborist's Report, which is discussed in detail in this assessment report.</p> <p>The application includes the details required by this condition.</p>
H10.	<p>Each future development application for each stage must detail all proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be provided and is to include details of the following:</p> <ol style="list-style-type: none"> <li>cross sections through the site where appropriate</li> <li>proposed contours or spot levels</li> <li>botanical names</li> <li>quantities and container size of all proposed trees</li> <li>mature tree height of all proposed trees</li> <li>shrubs and ground cover</li> <li>details of proposed soil preparation</li> <li>mulching and staking</li> <li>treatment of external surfaces and retaining walls</li> </ol>	The current application includes the landscaping details that satisfactorily address the compensatory planting requirements. Conditions of consent are recommended in this regard.

where proposed j) drainage, location of taps and k) appropriate maintenance periods.	
H11. Written evidence that satisfactory arrangements can be made with the relevant authorities for the provision of water supply, sewerage, electricity supply and telecommunications is to be submitted with the relevant stages of the proposed development.	This condition is not required to be addressed in relation to tree removal and earthworks.
H12. Development applications for each stage are to address via a traffic report and traffic management plan the impacts of construction and operation on the operation of the land owned by the University of Newcastle (Lot 1 DP 1188100).  Evidence of consultation with the University of Newcastle is to be lodged with each Development Application stage.	The applicant advises: <i>There will be no additional traffic movements associated with the tree clearing. Existing equipment and personnel onsite as part of the approved Lorna Street (DA2016/00444) and Stage 1 (DA2016/10112) work will be utilised.</i>  Council's Engineer has provided the following comments: <i>The amended proposal will not change traffic generation to and from the site therefore no impact and no additional information required.</i> In this regard, it is considered that this condition is satisfactorily addressed.
H13. Each future Development Application for each stage must comply with the applicable water efficiency, flood management and drainage/stormwater management requirements of Council that apply at the time of submission of each application.	The applicant has submitted stormwater management documents for this current proposal, which satisfactorily considers the matters detailed in this condition.
<b>I. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: CONTAMINATION REMEDIATION WORKS OF THE 'LORNA STREET SITE' (LOT 10 DP 1149782)</b>	
I1. As part of the future development application for work on Lorna Street site, a revised Remedial Action Plan prepared in accordance with the Environment Protection Authority's (EPA) <i>'Guidelines for Consultants Reporting on Contaminated Sites'</i> and certified by the appointed EPA accredited Site Auditor is to be submitted to the relevant consent authority. The revised Remedial Action Plan is to address the Review Comments and Conclusions and Recommendations from the Interim Advice #1 prepared by Ian Gregson dated 10 April 2013.	The current application does not include works on the Lorna Street site. It is noted that the required RAP was approved as part of DA2016/00444. It is noted that the soil excavated from the Vale Street site as part of this application will be used in the remediation of the Lorna Street site. The application has included details demonstrating that the soil is appropriate for this use.
I2. Confirmation of the extent of the remediation works and proximity to the SEPP 14 Wetland is required. Refer also to buffer requirements within the General	The current application does not include works on the Lorna

	Terms of Approval by the Office of Water (Condition C1. C(i) 22).	Street site.
I3.	Remediation works must be undertaken in accordance with the approved Remedial Action Plan.	The current application does not include works on the Lorna Street site.
<b>J. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: 'VALE STREET SITE' (LOT 103 DP 881682) - CONTAMINATION REMEDIATION WORKS (IF REQUIRED)</b>		
J1.	Additional investigations as recommended in the Phase 1 Environmental Site Assessment prepared by RCA Australia dated January 2013 is to be submitted to the relevant consent authority as part of any future development application lodged for Lot 103 DP 881682 known as 90 Vale Street, Birmingham Gardens and Lot 151 DP1143683 known as 50A Queen Street, Waratah (the Vale Street site).	The proposal has been considered by Council's Senior Environmental Protection Officer in relation to contamination considerations. It is considered that the current proposal has adequately addressed contamination. Details of this assessment are discussed in the report.
J2.	If the additional investigations identify remediation works are required, then a Remedial Action Plan prepared in accordance with the Environment Protection Authority's (EPA) <i>'Guidelines for Consultants Reporting on Contaminated Sites'</i> and certified by the appointed EPA accredited Site Auditor is to be submitted to the relevant consent authority.	As above. The details submitted with this application demonstrate that a RAP is not required for this section of the Vale Street site.
J3.	If required, remediation works must be undertaken in accordance with the approved Remedial Action Plan.	As above.
<b>K. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: 'VALE STREET SITE' (LOT 103 DP 881682) - GOLF COURSE REDESIGN WORKS</b>		
K1.	As part of any future development application lodged for Lot 103 DP 881682 known as 90 Vale Street, Birmingham Gardens and Lot 151 DP 1143683 known as 50A Queen Street, Waratah ('the Vale Street site') additional investigation as recommended in the Phase 1 Environmental Site Assessment prepared by RCA Australia dated January 2013 is to be submitted to the relevant consent authority.	As above.
<b>L CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATIONS: 'LORNA STREET SITE' (LOT 10 DP 1149782) - GOLF COURSE DESIGN AND WORKS</b>		
L1.	The future development application/s for the golf course on the Lorna Street site must include an overall detailed site landscaping masterplan which addresses the landscape design having regard to the site constraints/limitations imposed by the required land remediation for the development and including the following: <ul style="list-style-type: none"> <li>a) height of trees appropriate to the Lorna Street site (having regard to rehabilitation/capping at various depths)</li> <li>b) a detailed site analysis which considers retention of existing trees</li> </ul>	The current application does not relate to the golf course design and works on the Lorna Street site. This condition was addressed as part of DA2016/00444.

<p>c) a landscape buffer which softens/minimises visual impact of seniors living development as viewed from the golf course. The buffer must be wholly located within the proposed golf course and not rely on landscape buffer to be provided within the proposed seniors living development site boundary.</p>	
<p><b>M. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: SENIORS LIVING DEVELOPMENT</b></p>	
<p>M1. An Occupation Certificate for the 61<sup>st</sup> self-contained seniors housing dwelling must not be issued until the remediation works for the Lorna Street site are fully complete and certification to this effect by the appointed EPA Accredited Site Auditor is submitted to the relevant consent authority (as referred to in B - Order of Development).</p>	<p>The current application does not relate to the seniors housing component of the concept plan, and accordingly this condition does not apply.</p>
<p>M2. If the construction of the seniors living development is to be undertaken as further divided stages, then the first stage must comprise (but not be limited to) the following works:</p> <ul style="list-style-type: none"> <li>a) Access road upgrade</li> <li>b) Relocation of the 16 golf club parking spaces</li> </ul>	<p>The current application does not relate to the seniors housing component of the concept plan, and accordingly this condition does not apply. This condition was addressed as part of the Stage 1 approval.</p>
<p>M3. Each development application for the Seniors Living Development must demonstrate design excellence. Streetscapes of the proposed self-care housing (villas and townhouses) must not result in repetitive streetscapes comprising identical and/or similar housing designs. A variety of roof forms, and design solutions utilising high quality materials, textures and colour schemes must be submitted for each stage.</p>	<p>The current application does not relate to the seniors housing component of the concept plan, and accordingly this condition does not apply.</p>
<p>M4. Each future development application for the proposed seniors living buildings is to include a report from a suitably qualified acoustical consultant certifying the design of the buildings meets the requirements and standards applicable at the time of lodgement. The proposed acoustic measures must not be lesser than those recommended with the Acoustic Assessment prepared by RCA Acoustics dated 10 April 2013.</p>	<p>The current application does not relate to the seniors housing component of the concept plan, and accordingly this condition does not apply.</p>
<p>M5. Future development applications for the Seniors Living Development will need to comply with the provisions of the <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> (NSW) or the applicable version of the "senior housing" environmental planning instruments at the time of lodgement. In particular the following clauses may require alterations to submitted concept design and/or the provision of detailed information:</p> <ul style="list-style-type: none"> <li>a) amelioration of land use conflicts and management measures with the existing registered club (Clause 23);</li> <li>b) provision of a private mini-bus; pathway gradients</li> </ul>	<p>The current application does not relate to the seniors housing component of the concept plan, and accordingly this condition does not apply.</p>

<p>(Clause 26);</p> <p>c) design principles (Clauses 33-39);</p> <p>d) standards for self- contained dwellings (Clause 42);</p> <p>e) on site services - to be provided for the development (Clause.44).</p>	
<p>M6. The proposed seniors housing development is to be occupied exclusively by 'seniors or people who have a disability, people who live within the same household with seniors or people who have a disability or staff employed to assist in the administration of and provision of services' as defined under Clause 18(1) of <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> (NSW).</p>	<p>The current application does not relate to the seniors housing component of the concept plan, and accordingly this condition does not apply.</p>
<p>M7. The first development application for the Seniors Living Development is to include an overall detailed site landscaping master plan for the entire Senior Living development site which must address the following:</p> <ul style="list-style-type: none"> <li>a) a detailed site analysis which considers retention of existing trees</li> <li>b) a landscape buffer which softens/minimises visual impact of seniors living development as viewed from the golf course. The buffer should be located within the proposed seniors living development site boundary</li> <li>c) the areas of landscaping and deep soil zones must achieve a meet the minimum 30% of the total area of the senior living development area.</li> </ul> <p>This area must not include the golf course site, which is intended to be subdivided from the parcel of land and will have future separate ownership and ongoing management. The 30% landscape area must incorporate a combination of existing vegetation and compensatory planting of additional trees.</p>	<p>The current application does not relate to the seniors housing component of the concept plan, and accordingly this condition does not apply.</p>
<p>M8. The development application for the first stage of senior living development must include details addressing the construction of the following works for access to the site:</p> <ul style="list-style-type: none"> <li>a) widening of the access road at the intersection with the NEIR Facility access road to adequately cater for at least a ten (10) seater bus and heavy vehicle entry/exit.</li> <li>b) construction of any car parking to replace any displaced for the construction of the access road.</li> <li>c) the compensatory replacement of any existing trees removed to allow these works.</li> </ul> <p>Should the road be dedicated as a public road, then all works are required to be completed to the required standards specified by Council as applicable at the time the development application is lodged.</p>	<p>The current application does not relate to the seniors housing component of the concept plan, and accordingly this condition does not apply.</p>
<p>M9. The developer enters into a suitable maintenance agreement with a qualified service agent for the sewer</p>	<p>The current application does not relate to the seniors housing</p>

pump station and associated infrastructure (or temporary alternative arrangements) and written evidence of such an agreement being provided to Council prior to any occupation of the seniors living development.	component of the concept plan, and accordingly this condition does not apply.
M10. The developer providing an appropriate overflow relief structure for the sewer pump station in accordance with the Hunter Water Corporations Standard Detail Ref: SCP-500 and a turfed swale drain, such being addressed within any future development application.	The current application does not relate to the seniors housing component of the concept plan, and accordingly this condition does not apply.
<b>N CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATIONS: SUBDIVISION OF THE SENIORS LIVING DEVELOPMENT</b>	
Nil	Noted.
<b>0. ADVISORY MATTERS</b>	
<p><u>1. Future Development Applications</u></p> <p>Each stage of the concept development will require separate development applications that will be assessed under the applicable legislation and planning policies at the time.</p>	Consideration of the current legislation and planning policies is discussed in this assessment report.
<p><u>2. State Environmental Planning Policy (SEPP) No. 55 - Contamination And Remediation</u></p> <p>a) A detailed assessment under SEPP 55 is required to be undertaken as part of each subsequent development application for each stage of the concept development, and</p> <p>b) Whether the consent authority will be satisfied as required under clause 7 and thus able to grant consent to a subsequent stage of the development is not known in the absence of the assessment as part of the concept DA. Consent to carry out a subsequent stage accordingly may not be granted.</p>	The current application has been considered in accordance with SEPP55, as detailed in this assessment report.
<p><u>3. State Environmental Planning Policy (SEPP) No. 14: Coastal Wetlands</u></p> <p>a) The remediation works associated with the concept proposal (Lorna Street site) may trigger Clause 7 of <i>State Environmental Planning Policy (SEPP) 14 - Coastal Wetlands</i>, making these works "designated development". Whether the consent authority will be satisfied as required under Clause 7 and thus able to grant consent to a subsequent stage of the development is not known in the absence of the assessment as part of the concept Development Application. Consent to carry out a subsequent stage accordingly may not be granted.</p>	The current application does not include works on the Lorna Street site. The current proposal is considered to not be 'designated development'.
<p><u>4. Hunter Water: Chichester Gravity Main ICTGM)</u></p> <p>a) The developer should note the proximity of the CTGM to the proposed aged care facility and residents. Whilst catastrophic failures of these types of pipelines are rare, given the size of this main, if a failure occurred, there would likely be a large volume of water released until the main could be isolated.</p>	These matters are advisory comments for the applicant.



<p>b) The developer should also be aware of the HWC Easement containing the Sewer Rising Main and an effluent water main which traverses the land in an uneven corridor from west to east between the pond and the lake and that no construction will be permissible over any part of the easement without Hunter Water formal approval.</p> <p>c) Hunter Water is concerned that suitable ingress and egress options need to be further explored by the developer of this proposal as the additional emergency egress point was being planned to traverse a further HWC Easement for major water pipeline on the north western boundary and through a noted swamp area to the main road.</p>	
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As detailed in the above table, it is considered that the current proposal for tree removal, golf course fairway/holes and associated earthworks and landscaping is consistent with the approved concept plan.

### 5.1.3 Section 91 – Integrated Development

The application is considered to not be 'integrated development' in accordance with the EP&A Act, as the applicant has not sought any relevant approvals as part of the application. It is noted that the applicant has been granted a Controlled Activity Approval in accordance with the *Water Management Act 2000* for the proposed works under separate cover.

### 5.1.4 Section 79C Evaluation

The proposal has been assessed under the relevant matters for consideration detailed in s.79C (1) EP&A Act as follows:

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

##### *State Environmental Planning Policy (State and Regional Development) 2011*

This policy sets out the functions of regional panels in determining applications for regional development. Clause 20 and 21 of the SEPP require the Joint Regional Planning Panel to be the determining authority for development included in Schedule 4A of the Act. This includes applications for development over \$20 million in value.

The concept approval (DA2012/0419 and JRPP Ref No.2012HCC016DA) was approved by the JRPP on 11 March 2014 and the value of works was \$66,536,395. The subject application is a staged development application that relates to the concept approval.

In relation to Staged development applications, Clause 22 states:

*22. Staged development functions for development exceeding minimum capital investment values If:*

- (a) *development of a class or description included in Schedule 4A to the Act is described in that Schedule by reference to a minimum capital investment value, other minimum size or other aspect, and*
- (b) *development the subject of a staged development application under Part 4 of the Act is development so specified, and*
- (c) *the relevant regional panel is satisfied that development the subject of a separate development application forming part of the staged development application is part of a single proposed development so specified,*

*the functions of a council conferred on the regional panel under this Part extend to the determination of the separate development application.*

Accordingly, the application is submitted to the Hunter and Central Coast JRPP for determination.

#### *State Environmental Planning Policy (Infrastructure) 2007*

*State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency.

Schedule 3 of the ISEPP, relates to traffic generating development and requires certain applications to be referred to the RMS. The concept plan was considered to be '*traffic generating*'. The current stage of the application is not required to be referred to the RMS. It is noted that the proposal remains consistent with the approved concept plan.

The proposal was not required to be referred to Transgrid or Ausgrid in accordance with Clause 45(2).

#### *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP SH)*

The overall concept approval is approved under the provisions of SEPP SH. The current application does not relate directly to the seniors housing component, and it is noted that the SEPP SH does not contain specific controls in relation to tree removal and earthworks. It is considered that the current application facilitates the construction of the Seniors Housing development, and is consistent with the approved concept plan in this regard.

#### *State Environmental Planning Policy No.55 (Remediation of Land) (SEPP55)*

This policy requires consideration to be given to previous uses on the site and whether the site needs to be remediated for future uses. Clause 7(1)(b) and (c) of SEPP55 require that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

The following comments have been made by Council's Senior Environment Protection Officer in relation to contamination issues:

*'The proposed earthworks area within this DA does not appear to be covered by the approval issued for DA 2016/00444. The contamination reports submitted for DA 2016/00444 do not appear to cover the new earthworks area, but the submitted Material Assessment prepared by RCA dated June 2017 does. The Material Assessment prepared by RCA dated June 2017 does not identify any significant contamination within the earthworks area and the area is suitable for continued use as a golf course. In terms of the removal of waste from this area to the 'Lorna Street site' can be covered by conditions in relation to waste classification and transport.'*

It is noted that the soil excavated from the Vale Street site as part of this application will be used in the remediation of the Lorna Street site. The application has included details demonstrating that the soil is appropriate for this use, subject to recommended conditions of consent.

Accordingly, it is considered that the proposal is satisfactory having regard to this policy, and that the land will remain suitable for use as a golf course.

*State Environmental Planning Policy No.71 - Coastal Protection (SEPP71)*

The subject land is identified as being within the coastal zone, and accordingly this policy applies. It is noted that some land included in the proposal is in a '*sensitive coastal location*', being within 100m of mapped SEPP14 wetlands. The proposed works within the sensitive coastal location are considered to be acceptable. In this regard, it is noted that a controlled activity approval has been issued in accordance with the *Water Management Act 2000*, which facilitates the improvement of the water front lands.

The proposal is considered to be suitable given its type, location and design and its relationship with the surrounding area. The proposal will not have any detrimental impacts on the amenity of coastal foreshores or the scenic qualities of the coast. The proposal, which forms part of a previously approved Concept Plan includes sufficient measures to conserve animals and plants (within the meaning of the *Threatened Species Conservation Act 1995*), and their habitats, and existing wildlife corridors.

The proposal is considered to be acceptable in relation to the likely impact of coastal processes and coastal hazards and the cumulative impacts on the environment. Conditions of consent are recommended in relation to measures to protect any potential Aboriginal sites.

In addition, the proposal does not involve the discharge of untreated stormwater into nearby SEPP14 wetlands.

The matters for consideration detailed in SEPP71, specifically Clause 8, have been considered, and the proposal is acceptable in this regard.

*State Environmental Planning Policy No.44 - Koala Habitat Protection (SEPP44)*

During the assessment of the concept plan, it was demonstrated that the site was not considered to be '*core koala habitat*'. Accordingly the provisions of SEPP44 do not apply to the proposal.

*State Environmental Planning Policy No.14 - Coastal Wetlands (SEPP 14)*

The subject land includes areas mapped as SEPP14 Wetlands. The application includes a plan referenced 'Office of Water Site Plan' which demonstrates that no works are proposed within the SEPP14 boundary. A condition of consent, requiring this boundary to be surveyed prior to the commenced of works is recommended.

*Newcastle Local Environmental Plan 2012 (LEP)*

*Clause 1.3 – Land to which Plan applies*

The LEP applies to land identified upon the '*Land Application Map*'. The subject development occurs within this area.

*Clause 2.3 Land Use Table - Zoning*

The site is zoned RE2 Private Recreation under the LEP. The proposed development, being tree removal, golf course fairway/holes and associated earthworks and landscaping, is defined as works for an existing *Recreation facility (outdoor)* under the LEP. The proposal is permissible with consent and is consistent with the objectives of the zone.

*Clause 5.5 Development within the Coastal Zone*

The proposal is acceptable having regard to the principles of the NSW Coastal Policy. The proposed development will not impact on access to any foreshore areas. It also will not impact on the amenity of the foreshore through overshadowing or loss of views from a public place.

The development will not have a negative impact on existing ecosystems or biodiversity in the area. Adequate effluent and stormwater management systems have been proposed as part of the development to minimise any impacts from water and effluent disposal.

The proposal is acceptable having regard to this clause.

*Clause 5.9 Preservation of trees or vegetation*

To facilitate the proposed works there will be an impact on existing trees and other vegetation prescribed for the purpose of this clause and by Newcastle DCP 2012.

In support of the proposed works, the applicant has submitted an Arborist's report which details species, location, size, health and values. The report is prepared generally in accordance with Council tree assessment requirements, and it is considered that the proposed tree removal is acceptable, subject to compensatory planting.

It is considered that the amenity of the area will not be significantly impacted in respect of the local character and appearance.

Compensatory planting is proposed and appropriate conditions have been recommended to ensure the replacement vegetation enhances the biodiversity values of the area.

*Clause 5.10 Heritage Conservation*

The subject site is not listed for its cultural heritage significance in Schedule 5, Part 1 of Newcastle Local Environmental Plan 2012 and it is not an identified archaeological site.

Further, the site is not located within a Heritage Conservation Area or positioned directly adjacent to any heritage listed items.

#### *Clause 6.1 Acid Sulfate Soils*

The subject site is mapped as containing Class 2, 3 and 5 Acid Sulphate Soils. The applicant has prepared 'Comments on Potential Acid Sulfate Soils' from a Geotechnical Consultant, which provides a preliminary assessment of the likelihood of acid sulfate soils. Based on available information, it is considered that an Acid Sulfate Soils Management Plan is not required in accordance with this clause. It is considered that acid sulfate soils can also be managed through recommended conditions of consent.

#### *Clause 6.2 Earthworks*

The earthworks proposed in association with the proposal have been considered in accordance with this clause, and in this regard the application is acceptable as demonstrated in the below table:

<b>Consideration</b>	<b>Comment</b>
(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,	Council's Engineer has reviewed the proposal and confirmed that stormwater will be appropriately managed as part of the application.
(b) the effect of the proposed development on the likely future use or redevelopment of the land,	The proposed works are consistent with the approved concept and ongoing use of the site as a golf course.
(c) the quality of the fill or the soil to be excavated, or both,	The applicant has provided the relevant reports to demonstrate that the earthworks will be acceptable having regard to contamination considerations.
(d) the effect of the development on the existing and likely amenity of adjoining properties,	The proposed works will not have any significant impacts on adjoining properties.
(e) the source of any fill material and the destination of any excavated material,	Standard conditions of consent are recommended to require that the works are completed appropriately.
(f) the likelihood of disturbing relics,	Standard conditions of consent are recommended, aimed at ensuring that the works do not have any significant impacts in this regard. There are no known relics on the site.
(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.	This consideration has been discussed in the assessment, noting the proximity of the works to a watercourse/SEPP14 wetland. The proposal includes appropriate safeguards in this regard.
(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The proposal is considered to be satisfactory.

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

##### *Draft State Environmental Planning Policy Coastal Management*

Draft State Environmental Planning Policy (Coastal Management) 2016 was exhibited between 11 November 2016 and 20 January 2017. If the draft SEPP is made it will

supersede the coastal zone considerations of SEPP71 and the Newcastle Local Environmental Plan 2012.

It is considered that the proposed development is satisfactory in respect of the provisions of Draft State Environmental Planning Policy (Coastal Management) 2016.

#### **5.1.4.3 Section 79C(1)(a)(ii) any development control plan (and section 94 plan)**

The main planning requirements of relevance in the Newcastle Development Control Plan 2012 (DCP) are discussed below.

##### *3.08 - Seniors Housing*

This section does not contain specific controls, but rather refers to SEPP SH. The current application does not relate directly to the seniors housing component of the approved development.

##### *4.01 - Flood Management*

The proposed earthworks remain generally consistent with the earthworks plan considered by Council in accordance with DA2016/00444. In relation to this current application, Council's Engineer has made the following comments:

*'Northrop Engineers have reviewed the amended plans (new levels) and determined that the net change in flood storage is not significant enough to have any major impact on flood levels within the catchment. Noting that the size of the Hexham flood plain is extremely large compared to the area of the work and that the level differences are minor I would concur with this assessment. No impact and no additional information required.'*

The proposal is satisfactory in relation to stormwater management.

##### *4.02 - Bushfire Protection*

The current application, which involves clearing and compensatory plantings, is acceptable having regard to bushfire protection. Conditions are recommended which require that the compensatory planting be consistent with the bushfire safety authority conditions issued for the concept approval.

##### *4.05 - Social Impact*

It is considered that the proposal will have positive social impacts, in facilitating the implementation of a seniors housing development, which will provide a needed form of accommodation for seniors or persons with a disability.

##### *5.01 - Soil Management*

A Sediment and Erosion Management Plan has been submitted with the application, providing for minimisation of sediments being removed from the site during the construction period. A condition has been recommended to require that such measures be in place for the entire construction period.

##### *5.02 - Land Contamination*

Reference is made to the previous comments in relation to SEPP55.

### 5.03 Tree Management

As detailed in the concept approval conditions, the original concept plan approval did not resolve specific provisions for tree removal. However, it was acknowledged that large scale tree removal would be required within the development footprint.

The concept plan approval conditions required that the development, where possible, retain high value trees, and strong justification for removal of high value trees was required. Accordingly, the applicant submitted an Arborist's Report, which considers the tree removal proposed, in the context of the requirements of the DCP.

The Arborist's Report identifies a total of 166 trees are proposed to be removed, with 12 trees to be retained as part of the proposal. Of the 12 trees to be retained, 11 are of moderate value, one is of low value.

Of the 166 trees to be removed, 110 trees have been assessed as having a moderate value, while the remainder are of low value. In the context of this site, it is considered that a reasonable compensatory planting rate is in the order of 2:1 for these moderate to high value trees. This results in a requirement to plant 220 trees and shrubs.

The application includes a conceptual landscaping plan, which identifies the general areas and number of specimens to be planted to compensate the proposed tree loss. In the context of this site, this conceptual approach is considered to be acceptable, subject to recommended conditions of consent.

Compensatory planting for 460 trees has been included in the submitted landscaping plan. The landscaping plan also includes extensive shrubs which, in accordance with the DCP and associated Technical Manual, can be included as compensatory planting. It is considered acceptable to require planting specifically for compensation to be at a large pot size. In this regard, it is recommended that 220 trees be a minimum 100L pot size.

The Arborist's Report makes recommendations in relation to protection of the trees to be retained.

Subject to recommended conditions of consent confirming the compensatory planting and the methodologies identified in the Arborist's Report, it is considered that the proposal is satisfactory in relation to tree removal.

### 5.04 - Aboriginal Heritage

The applicant has provided the following commentary:

*'The site itself is not identified as having any aboriginal heritage significance or significant items. The site is disturbed and current a golf course. It is therefore considered unlikely that any potential artefacts remain.'*

An assessment in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW, 2010) has indicated that an Aboriginal Heritage Impact Permit is not required for this proposed development. Reference to the Aboriginal Heritage Information Management System confirmed that there are no sites of Aboriginal significance recorded on the site.

The proposal is acceptable having regard to this section. A standard condition of consent is recommended.



*5.05 and 5.07 - Heritage Items and Heritage Conservation Areas*

The site is not State listed or locally listed for its cultural heritage significance and it is not an identified archaeological site. The site is not located within a Heritage Conservation Area and/or positioned directly adjacent to listed items.

It is considered that the proposal is acceptable in relation to heritage considerations.

*5.06 - Archaeological Management*

The site is not listed as an 'Archaeological site' in accordance with the LEP.

*7.02 - Landscape, Open Space and Visual Amenity*

The proposal, being for tree removal, golf course fairway/holes and associated earthworks and landscaping is not specifically identified as a category of development in the DCP. The application includes a conceptual landscaping plan, which identifies the general areas and number of specimens to be planted to compensate the tree loss. In the context of this site, this conceptual approach is considered to be acceptable, subject to recommended conditions of consent.

*7.03 - Traffic, Parking and Access*

Traffic generation for these works will be limited to construction traffic. The amended proposal will not change traffic generation to and from the site, therefore there is no impact and no additional information is required, ie the works will be performed in conjunction with the approved DA2016/00444. Traffic generation is also only temporary for the period of the construction works and could be managed through a construction traffic management plan.

*7.06 Stormwater and 7.07 Water Efficiency*

The proposed earthworks remain generally consistent with the earthworks plan considered by Council in accordance with DA2016/00444. In this regard, Council's Engineer has made the following comments:

*'Essentially the site will remain a 100% impervious area being for golf course use and the golf course design will ensure suitable stormwater strategies are in place. Northrop have modelled the stormwater and determined that no additional stormwater will flow off the site and that the quality of the stormwater flow off the site will not only improve but will achieve NCC requirements under the DCP. Northrop have reviewed the plan amendments and determined they will not impact on the stormwater strategy and outcomes for the site. I would concur with this assessment therefore no impact from the changes will occur and no additional information required.'*

The proposal is satisfactory in relation to stormwater management.

*7.08 - Waste Management*

The applicant has advised that the trees will be mulched and applied on site. Standard conditions regarding the management of soil waste (if applicable) are recommended. The waste strategy proposed is acceptable.

*8.00 - Public Participation*

The proposal was not required to be notified in accordance with this policy. No submissions have been received in relation to the proposal.

### Newcastle Section 94A Development Contribution Plan

Based on the value of works of this current application (i.e. less than \$100,000), the application does not attract a Section 94A Contribution pursuant to section 80A(1) of the EP&A Act and the *Newcastle Section 94A Development Contributions Plan*.

#### **5.1.4.4 Section 79C(1)(a)(iia) Planning agreements**

No planning agreements are relevant to the proposal.

#### **5.1.4.5 Section 79C(1)(a)(iv) the regulations (and other plans and policies)**

The application has been considered pursuant to the provisions of the EP&A Act and EP&A Regulation.

### Hunter Regional Plan 2036

The Hunter Regional Plan provides an overarching framework to guide land use plans, development proposals and infrastructure funding decisions. The NSW Government's vision for the Hunter is to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

The proposal, which is an element of an overall concept approval, is consistent with the aim of providing greater housing choice in existing communities, close to jobs and services and well supported by transport options.

### Lower Hunter Regional Strategy 2006-2031

The primary purpose of the Lower Hunter Regional Strategy is to ensure that adequate land is available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years. It is considered that the proposal, which is an element of an overall concept approval, facilitates higher residential density, in an area with adequate access to existing services and infrastructure.

#### **5.1.4.6 Section 79C(1)(a)(v) Coastal management plan**

No Coastal Management Plan applies to the site or the proposed development.

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

Further to the discussion in this report, additional impacts of the proposal are discussed below.

### Tree removal

As detailed in the concept plan approval conditions, the original concept plan did not include approval for any specific tree removal. However, it was acknowledged that large scale tree removal would be required within the development footprint. The concept plan approval conditions required that the development, where possible, retain high value trees (particularly within the green space areas and spine road/cul-de-sac roads of the seniors living development), and strong justification for removal of high value trees will be required.

Accordingly, the applicant submitted an Arborist's Report, which considered the tree removal proposed as part of this application, in the context of the requirements of the DCP. As detailed in the DCP section of this report, it is considered that the proposal is satisfactory in relation to tree removal.

### Ecological Impacts

The following comments have been made by Council's Senior Environment Protection Officer in relation the potential ecological impacts of the proposal:

*The assessment of Development Application No: 2012/419 included analysis of potential ecological impacts of the overall concept proposal. The Flora and Fauna Assessment prepared by RPS dated March 2012 included an assessment of impacts on threatened flora and fauna listed under the Threatened Species Conservation Act 1995 including a seven-part test of significance for relevant species. The Flora and Fauna Assessment prepared by RPS dated March 2012 concluded the concept proposal would not result in significant impacts upon threatened flora, fauna or ecological communities provided recommended mitigation measures were undertaken. The recommended mitigation measures are included within Part H of the consent for Development Application No: 2012/419.*

*Condition H1 of Development Application No: 2012/419 relates to the submission of a nest box installation program. The Statement of Environmental Effects (SEE) prepared by Pep Consulting dated 22 March 2017 notes the proposed tree removal will result in the loss of six hollow-bearing trees. The SEE prepared by Pep Consulting dated 22 March 2017 advises the loss of hollow-bearing trees will be offset by the installation of nest boxes at a 2:1 ratio resulting in the installation of twelve nest boxes. Further details of the nest box installation program may be undertaken prior to the issue of a Construction Certificate and will be addressed by an appropriate condition of consent.*

*Condition H2 of Development Application No: 2012/419 required a tree felling procedure to be included in subsequent applications. Section 6 of the Ecological Assessment prepared by Umwelt Pty Ltd dated October 2015 includes a tree felling procedure and the felling procedure will be included as a condition of consent.*

As detailed in this assessment report, the proposal remains consistent with the approved concept plan, and the conditions of consent that relate to the management of tree removal. It is considered that, subject to compliance with conditions, the proposal will not have a significant impact in relation to ecological considerations.

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

The site has been identified for development of this nature, though the approval of the concept plan, and is not affected by significant environmental constraints. As detailed in the assessment, it is considered that the site is suitable for the proposed development.

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

The application was not required to be notified in accordance to the Regulations and no submissions were received.

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

The development is in the public interest and will allow for the orderly and economic development of the site, in accordance with the concept plan previously approved. The current application is to facilitate the concept approval that allows for the creation of seniors housing and housing for people with a disability in a range of accommodation sizes and levels of care.

### **6. CONCLUSION**

The proposal is considered to be acceptable against the relevant heads of consideration under section 79C of the *Environmental Planning and Assessment Act 1979*.

### **7. RECOMMENDATION**

THAT the Hunter and Central Coast JRPP determine to grant development consent to DA2017/00295 (2017HCC016) for tree removal, golf course fairway/holes and associated earthworks and landscaping, as part of approved Staged Development (Concept approval for a seniors housing development and associated works (DA2012/0419) at 90 Vale Street Shortland, pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979*, subject to the recommended conditions in **Appendix A**.