

04 September 2017

Newcastle City Council  
282 King Street  
NEWCASTLE NSW 2300

**Attention:** Melissa Thomas



PLANNING DEVELOPMENT PROPERTY

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Dear Madam,

**Re: Request for Information - DA2017/00295 - 90 Vale Street, Shortland NSW 2307**

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## 1 Introduction

This information is provided to clarify the proposed works to amended development application DA 2017/00295 on Lot 2 DP 1215916, commonly known as the Shortland Waters Golf Club at 90 Vale Street, Shortland NSW 2307.

The original application included only tree removal however this application has since been amended under Section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act) to include further works. The application includes the following:

- Tree Removal;
- Cut and Fill works; and
- Establishment and use of golf holes 4 and 9.

## 2 Background

### **Previous Approval (DA 2016/00444)**

A development application for the remediation and use of land as a golf course of Lot 10 DP 1149782 was approved under DA 2016/00444 on the 16<sup>th</sup> of September 2016. The aim of this application was to facilitate the golf course design approved under concept approval DA 2012/10112 and its subsequent amendments as stated in Condition 39 of DA 2016/00444.

Approved with this application were the following documents:

- Statement of Environmental Effects by PEP Consulting;
- Golf Course Earthworks, Cut and Fill, and layout plans by Programmed Turnpoint
- Geotechnical Plans by RCA Australia (April 2016);
- Construction Phase Soil and Water Management Performance by Northrop (April 2016);
- Revised Remedial Action Plan by RCA Australia (April 2016);
- Site Audit Review of Revised Remedial Action Plan by GHD (April 2016);
- Hunter Water and Transgrid approvals and correspondence (April 2016);
- Flood Impact Study by Northrop (April 2016);
- Concept Stormwater Management Plan by Northrop; and
- Vegetation Management Plan by Umwelt (April 2016).

DA 2016/00444 showed works on the entire site however the development application only referenced Lot 10 DP 1149782 and did not include the adjoining Lot 2 DP 1215916.

As part of the process of application DA2016/00444 a referral was carried out to the Department of Primary Industries (Water) seeking a Controlled Activity Approval. This approval was required as a Condition C (i) of the development consent for the masterplan. This Controlled Activity Approval is also relevant to the current DA2017/00295 application as the remediation works is associated with the cut and fill on the adjoining Lot 2 DP1215916. The Controlled Activity Approval was consequently issued on 14 August 2017 under reference OERM2016/0352 which has been attached.

### **Current Application (DA 2017/00295)**

As indicated above, 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 2012/10112 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.

This application included the following supporting documents:

- Statement of Environmental Effects by PEP Consulting
- Tree Clearing Plan by Programmed Turnpoint (March 2017);
- Riparian Zone Plan by Northrop (dated 24 May 2017);
- Flora and Fauna Assessment by RPS (March 2012);
- Survey of Tree Clearing Locations by Programmed Turnpoint (Dated 27 June 2017);
- Sediment and Erosion Control Plan by Northrop (Dated 24 June 2017);
- Arborist Report by Abacus Tree Services (dated 19 June 2017);
- Material Assessment Report by RCA Australia (June 2017);

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.

The Section 55 amendment sought to expand the application to include all necessary works within Lot 2 DP 1215916 required to facilitate the concept plan under DA2012/10112.

The following supporting documentation is now provided to support DA2017/00295:

- Acid Sulfate Soil Comment by RCA Australia (dated 30 August 2017);
- Arborist Report by Abacus Tree Services (dated 19 June 2017);
- Environmental Control Map by Programmed Turnpoint (Dated 26 June 2017);
- Environmental Site Investigation by RCA Australia (January 2012);
- Flood Impact Assessment by Northrop (dated 4 April 2016);
- Flora and Fauna Assessment by RPS (March 2012);
- Landscape Plan by Programmed Turnpoint (June 2017);
- Material Assessment Report by RCA Australia (June 2017);
- Material Assessment Letter by RCA Australia (dated 15 August 2017);
- Riparian Zone Plan by Northrop (dated 24 May 2017);
- Sediment and Erosion Control Plan by Northrop (Dated 24 June 2017);
- Stormwater Civil Plans by Northrop (Dated 24 May 2017);
- Stormwater Management Strategy by Northrop (Dated 5 April 2016);
- Survey of Tree Clearing Locations by Programmed Turnpoint (Dated 27 June 2017);
- Tree Clearing Plan by Programmed Turnpoint (March 2017); and
- Vegetation Management Plan by Umwelt (April 2016).

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.

### 3 Clarifications

A number of factors must be clarified regarding this application, these include:

- Contamination;
- Cut and Fill works;
- Tree Removal;
- Acid Sulfate Soil;
- Stormwater and Flooding;
- State Environmental Planning Policy No. 14 - Coastal Wetland; and
- Compliance with Master Plan Conditions.

A clarification for each point is provided below:

#### 3.1 Contamination

Contamination of land is a concern due to historic land uses such as the Lorna Street Landfill and BHP Research Facility. As such, an Environmental Site Investigation was prepared by RCA Australia to investigate contamination of the site, see enclosed. It was found that further investigation and sampling was required to appropriately assess contamination of the site.

In accordance with the recommendations provided within the Environmental Site Investigation a Material Assessment was undertaken on the subject area by RCA Australia, see enclosed. The material assessment found a single location which exceeded human health guidelines. This was considered to be associated with coal fragments and not considered to pose a human health risk. A number of locations exceeded ecological guidelines however when considered as a whole in accordance with the National Environment Protection (Assessment of Site Contamination) Measure 2013 the site was not determined to be contaminated.

Waste was noted in a single location within the site approximately 0.5 metres below the surface however this location is not within the subject area with no excavation of this location proposed under this application. Management controls will be in place to prevent any disturbance of soil in this location.

Furthermore, the tree removal works will largely comprise cutting of the tree bulk and stump grinding which will limit disturbance of the soil. The proposed tree clearing will not result in any demonstrable soil disturbance, further limiting the risk of exposing any potential contamination.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) governs the requirements for remediation of land. As demonstrated by the Material Assessment and subsequent Material Assessment Letter by RCA Australia, remediation works are not required as the site is not considered to be contaminated. Due to this, the works do not meet the criteria under Clause 9 of SEPP 55 and do not require consent for remediation works under SEPP 55.

### 3.2 Cut and Fill Works

To facilitate the golf course design under the master plan cut and fill works in Lot 2 DP 1215916 are proposed. The works aim to facilitate the approved golf course layout for holes 4 and 9. The proposed earthworks will largely not exceed 1 metre in depth or height with the final result of a typical golf course design.

Due to the sites proximity to a SEPP 14 Coastal Wetland measures are to be put in place to prevent impacts. During cut and fill works the riparian zone area will be protected by a fence line demonstrated in the environmental control plan and structured in accordance with the provided erosion and sediment control plan. Further sediment fencing is proposed along the northern aspect of the proposed cut and fill works. This aims to prevent sediment flowing into the adjoining lot to the north.

Longer term, the wetland riparian zone is to be formed and maintained along the eastern bank line separating the golf course fairways from encroaching upon the wetland. This will stabilise the bank and provide a buffer between the golf course and the wetland.

It is noted that the cut and fill plan that was previously approved with DA 2016/0444 has been slightly amended within this application. It is further noted that all supporting documentation with the previous application has been either revised or an addendum provided to identify that the change in cut and fill will have no impacts on contamination works, sediment and erosion or stormwater and flooding.

### 3.3 Tree Removal

The tree removal within Lot 2 DP 1215916 aims to facilitate holes 4 and 9 of the golf course in accordance with the approved concept. Trees to be removed are demonstrated within the enclosed tree removal plan accompanied by an arborist report.

### 3.4 Acid Sulfate Soils

The Newcastle Local Environmental Plan 2012 Acid Sulfate Soils Map - Sheet ASS\_002 identifies that the majority of the subject lot is classified as Class 5, and a small portion along the north and north-eastern boundary is classified as Class 3.

Clause 6.1 (3) of the of the LEP stipulates that an acid sulfate soils management plan is to be prepared for any proposed work.

The proposed tree clearing is located within the portion of the site that has been identified in the Acid Sulfate Soils Map as Class 3.

RCA Australia who previously carried out studies on the land for the purposes of contamination through the means of geotechnical plans and a remedial action plan have provided further additional comment in relation to the impact the proposed development will have on the acid sulfate soils.

The advice provided by RCA Australia ref 7875c-411/0 dated 30 August 2017 (attached) notes that fill is present above the natural surface level of the site and would not be considered to present an acid sulfate soil risk, and that excavation depths planned for the mapped areas of potential risk are generally less than 1.0m in depth.

On this basis, it is considered that while the portion of land that has been indicated as class 3 acid sulfate soils will be experiencing cut and/or fill, due to the presence of historical fill and that the cut proposed will predominantly not exceed 1m in depth that an acid sulfate soils management plan is not necessary and that the correspondence from RCA Australia sufficiently addresses any concerns regarding acid sulfate soils.

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### 3.5 Stormwater and Flooding

Stormwater must be managed for the site due to its proximity to a coastal wetland. In order to achieve this, a drainage system and environmental controls are to be put in place to manage stormwater impacts.

Drainage lines and pits are proposed to be installed within the subject area leading to a bioretention pond have been approved on Lot 10 DP 1149782. A riparian zone along the bank of the wetland has previously been approved and will be established to stabilise the wetlands bank providing enhanced protection of the coastal wetland.

Due to the cut and fill works and the proximity of the works to the coastal wetland a range of erosion and sediment control measures are to be put in place in order to mitigate impacts. A sediment fence is to be erected along the edge of the riparian zone to prevent sediment reaching the coastal wetland and the riparian zone area as shown within the environmental control map. Further sedimentation fencing is to be installed along the north of the cut and fill works to prevent flows into the northern lot. Stockpiles are to be located in designated areas away from drainage pathways. The approved bioretention basin is positioned to capture stormwater rather than allowing runoff reaching the wetland.

While the majority of Lot 2 DP 1215916 is not impacted by flooding, the subject area at the north of the lot is mapped as having medium to low flood risk as displayed in Newcastle City Councils flood mapping. A flood impact assessment undertaken by Northrop described the site as being within the Hexham Swamp flood storage area. Furthermore, the assessment found that the proposed levels of fill for the proposed golf course works, including adjoining Lot 10 DP 1149782, would have negligible impact to the flood storage of the larger Hexham Swamp area.

### 3.6 State Environmental Planning Policy No. 14 – Coastal Wetlands

The site is in proximity to a coastal wetland as defined under State Environmental Planning Policy No. 14 – Coastal Wetlands (SEPP 14). The proposed development incorporates a number mitigation measures to protect the wetland during construction and during operation of the golf course.

The wetland riparian zone is proposed to be revegetated in accordance with the vegetation management plan enclosed. This will create a buffer zone between the golf course and the wetland that will stabilise the wetland banks and improve the wetlands condition leading to enhanced environmental outcomes for the site. All works will be in accordance with the supplied vegetation management plan by Umwelt.

To protect the wetland during the proposed works a number of mitigation measures are to be implemented, these include:

- Sediment fence is to be erected along the boundary of the riparian zone;
- Planting density appropriately selected for rapid establishment and stabilisation;
- Hydro-seeding, combined planting and direct seeding, brush matting, and jute meshing;
- Limited access to riparian zone; and
- Continued maintenance and monitoring of the riparian zone.

It is noted that the buffering to the riparian zone was approved in a previous application which was approved and that the buffer areas will not change, but rather are being highlighted in this application to identify that we will not be undertaking works within SEPP 14 Coastal Wetlands, but the area will be managed in accordance with previously approved documents for the site.

### 3.7 Compliance with Master Plan Conditions

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> <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>	Noted. This application seeks approval from JRPP for works in accordance with the master plan.
<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>	Noted, the remediation works for the Lorna Street site has been approved.
<b>C. INTEGRATED DEVELOPMENT CONDITIONS</b>	
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><b>C(i). Section 91 of Water Management Act 2000 (Department of Primary Industries - Office of Water)</b></p> <p>1. 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.</p> <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>	Noted, approval for the controlled activity has been obtained for the proposed works.



<p>2. 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.</p> <p>3. The consent holder must prepare or commission the preparation of:</p> <ul style="list-style-type: none"> <li>i. Vegetation Management Plan</li> <li>ii. Works Schedule</li> <li>iii. Erosion and Sediment Control Plan</li> <li>iv. Soil and Water Management Plan</li> <li>v. Amendments to Plans-Provision of 20m riparian buffer around all SEPP 14 wetlands and any other waterfront land.</li> </ul> <p>4. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's Guidelines located at <a href="http://www.nsw.gov.au/Water-Licensing/Approvals/default.aspx">www.nsw.gov.au/Water-Licensing/Approvals/default.aspx</a></p> <ul style="list-style-type: none"> <li>i. Vegetation Management Plans</li> <li>ii. Laying pipes and cables in watercourses</li> <li>iii. Riparian Corridors</li> <li>iv. In-Stream works</li> <li>v. Outlet structures</li> <li>vi. Watercourse crossings</li> </ul> <p>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.</p>	<p>Controlled Activity Approval (CAA) has been received from the NSW office of Water. See enclosed.</p> <p>A vegetation management plan, erosion and sediment control plan, soil and water management plan, and a plan displaying the 20m riparian buffer around the SEPP 14 Coastal Wetland has been undertaken.</p> <p>All plans prepared by suitably qualified persons and have previously been submitted to the NSW Office of Water.</p> <p>Noted. All works will be done in accordance with the approved plans and supervised by suitably qualified person. A certificate of completion will be supplied to the NSW Officer of Water.</p>
<p><b>Rehabilitation and maintenance</b></p> <p>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.</p> <p>7. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approve by the NSW Office of Water.</p> <p><b>Reporting requirements</b></p> <p>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.</p>	<p>Maintenance program for the proposed works is to be put in place.</p> <p>All works will be done in accordance with plans approved by the NSW Office of Water.</p> <p>A suitably qualified person will monitor all works, rehabilitation, and maintenance. A report will be supplied to the NSW Office of Water.</p>

<p><b>Security deposits</b></p> <p>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.</p> <p><b>Access-ways</b></p> <p>10. N/A</p> <p>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> <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>Deposit will be provided as required.</p> <p>No listed pathways and features are located within the riparian zone in accordance with approved plans.</p> <p>N/A, no bridges, causeways, culvers or crossings proposed.</p> <p>All cleared vegetation and materials are to be managed in accordance with the Office of Water approval.</p> <p>Drainage and stormwater flows will be managed in accordance with NSW office of Water approved plans.</p> <p>Noted. Stabilisation will be in accordance with approved plans.</p> <p>Erosion and sediment control works will be in accordance with the plan approved by the NSW Office of Water. These will be maintained during the works until stabilised.</p> <p>All excavation will be in accordance with approved plans.</p>
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<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 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>A 20m wide riparian buffer along the SEPP 14 wetland bank will be instituted in accordance with the approved plans. Remediation of the riparian is in accordance with the vegetation management plan. Suitable prevention access will be in place.</p> <p>A management plan for the riparian buffer is included in the approved vegetation management plan.</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 2006</i>'.</li> </ol>	<p>Noted, the development will comply with the provided conditions.</p> <p>Appropriate EPZ areas have been provided along their respective elevations in accordance with Planning for Bushfire Protection 2006.</p> <p>All utilities comply with Planning for Bushfire Protection 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 'Planning for Bush Fire Protection 2006'.</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>	<p>Internal roads and access is provided in accordance with Planning for Bushfire Protection 2006.</p> <p>Suitable emergency and evacuation arrangements are provided.</p> <p>N/A. No buildings proposed.</p> <p>N/A. No buildings proposed.</p>
<p><b>D. APPROVED DOCUMENTATION</b></p>	
<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>Noted. Development will be in accordance with the approved plans.</p>
<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.</p>	<p>Noted, the proposal complies with these conditions.</p>
<p><b>E. LIMITS ON THE CONSENT</b></p>	
<p>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.</p>	<p>Noted, development consent for the outlined works is sought by this application.</p>
<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</li> </ul>	<p>Noted, all subsequent applications are in accordance with the master plan.</p>

design, location or orientation of housing, roads etc., except where modified by any conditions of this consent.)	
E3. This consent <u>does not authorise</u> : a) the final siting of buildings and dwelling/density yield or total floor area; 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); c) landscaped areas (which may need to be increased/alterd - refer conditions H8, H9, H10, and M8).	Noted, this application includes tree removal in accordance with this condition.
<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 development application was submitted in regards to the concept approval.
<b>G. GENERAL CONDITIONS THAT RELATE TO ALL STAGES AND/OR REQUIREMENTS FOR FUTURE DEVELOPMENT APPLICATIONS AGENCY / AUTHORITY REQUIREMENTS</b>	
<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	N/A
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.	No works 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.	Noted, the CTGM will not be impacted by the proposed development.
G5. Clear and unfettered access is to be provided to the CTGM both during and after construction.	Noted, access will be granted.
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 watermains. Services crossing	Noted. All works will be undertaken in accordance with requirements of Hunter Waters Design Standards.

the CTGM (both existing and future) are to be a minimum of 600mm clear of the main(s).	
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.	Noted, protection is to be provided to the CTGM.
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. Note: This will impact on the landscaping required by Conditions No. H8, H9, H10 and MS.	Noted, Landscaping will be designed as to not be located within the corridor.
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 a n d 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.	Noted, a licence for such works will be obtained if required.
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. Note: Further advice regarding the CTGM is provided in the Advisory Notes at the end of this Consent.	Noted.
<b>G(iv) Australian Rail Track Corporation (ARTC)</b>	
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.	Stormwater will be management as to avoid runoff flowing to the rail corridor as per the provided plans.
G12. Fencing: The boundary of the site with the rail corridor must be fenced with a 1.8m mesh fence to prevent unauthorised entry.	Noted, fencing will be provided.
<b>H. GENERAL CONDITIONS THAT RELATE TO ALL STAGES AND/OR REQUIREMENTS FOR FUTURE DEVELOPMENT APPLICATIONS - OTHER REQUIREMENTS</b>	
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: a) Location of the proposed nest boxes · b) Proposed on-going monitoring and maintenance of nest boxes. c) felling details d) confirmation of an ecologist to be present during clearing.	Nest boxes are to be installed as per the vegetation management plan.
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.	Noted, the provided precautions have been implemented for the Lorna Street site works. In addition, precautions will be provided for proposed works.
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</i>	Noted, details of stormwater management has been provided with this application.

<i>Wetlands</i> (quality and quantity of pre-development water flows).	
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: a) Identification and measures of disposal of invasive species b) Management of the site during and after construction to prevent growth of noxious weeds.	Noted, weed control has been provided.
H5. Future applications are to include a sediment and erosion control plan prepared in accordance with tile requirements of Managing Urban Stormwater: Soils 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.	Noted, sediment and erosion control plan prepared in accordance with the blue book has been provided.
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	Noted.
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'.	Noted, an acid sulfate soils comment has been provided with this section of the application.
H8. 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.  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.	Noted, a detailed site survey has been provided with this component of the development.
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.	Noted. A arborist report has been provided within this application that identifies the removal of trees and why they are unable to be retained.
H10. 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:  a) cross sections through the site where appropriate b) proposed contours or spot levels c) botanical names d) quantities and container size of all proposed trees e) mature tree height of all proposed trees	A vegetation management plan and landscape plan have been provided enclosed.

<ul style="list-style-type: none"> <li>f) shrubs and ground cover</li> <li>g) details of proposed soil preparation</li> <li>h) mulching and staking</li> <li>i) treatment of external surfaces and retaining walls where proposed</li> <li>j) drainage, location of taps and</li> <li>k) appropriate maintenance periods.</li> </ul>	
<p>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.</p>	<p>N/A, utility arrangements are not relevant to this application.</p>
<p>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).</p> <p>Evidence of consultation with the University of Newcastle is to be lodged with each Development Application stage.</p>	<p>N/A, proposal does not propose.</p>
<p>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.</p>	<p>Stormwater management plan is provided in accordance with Council requirements, see enclosed.</p>
<p><b>I. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: CONTAMINATION REMEDIATION WORKS OF THE 'LORNA STREET SITE' (LOT 10 DP 1149782)</b></p>	
<p>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.</p>	<p>N/A.</p>
<p>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 Terms of Approval by the Office of Water (Condition C1. C(i) 22).</p>	<p>N/A</p>
<p>I3. Remediation works must be undertaken in accordance with the approved Remedial Action Plan.</p>	<p>N/A</p>
<p><b>J. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: 'VALE STREET SITE' (LOT 103 DP 881682) - CONTAMINATION REMEDIATION WORKS (IF REQUIRED)</b></p>	
<p>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).</p>	<p>Additional investigations provided, see enclosed material assessment.</p>
<p>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</i></p>	<p>Material assessment deemed the area not contaminated, as such no remedial action plan required.</p>



	<i>Contaminated Sites'</i> and certified by the appointed EPA accredited Site Auditor is to be submitted to the relevant consent authority.	
J3.	If required, remediation works must be undertaken in accordance with the approved Remedial Action Plan.	N/A
<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.	Additional investigations undertaken, see enclosed Material Assessment.
<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: a) height of trees appropriate to the Lorna Street site (having regard to rehabilitation/capping at various depths) b) a detailed site analysis which considers retention of existing trees 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.	N/A
<b>M. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: SENIORS LIVING DEVELOPMENT</b>		
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).	N/A
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: a) Access road upgrade b) Relocation of the 16 golf club parking spaces	N/A
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.	N/A
M4.	Each future development application for the proposed seniors living buildings is to include a report from a suitably	N/A

<p>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>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 (Clause 26);</li> <li>c) design principles (Clauses 33-39);</li> <li>d) standards for self- contained dwellings (Clause 42);</li> <li>e) on site services - to be provided for the development (Clause.44).</li> </ul>	N/A
<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>	N/A
<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>	N/A
<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> </ul>	N/A

<p>c) the compensatory replacement of any existing trees removed to allow these works. 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>M9. The developer enters into a suitable maintenance agreement with a qualified service agent for the sewer 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.</p>	<p>N/A</p>
<p>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.</p>	<p>N/A</p>
<p><b>N CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATIONS: SUBDIVISION OF THE SENIORS LIVING DEVELOPMENT</b></p>	
<p>Nil</p>	
<p><b>O. ADVISORY MATTERS</b></p>	
<p><u>1. Future Development Applications</u> 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>	<p>Noted. This application is lodged in accordance with this matter.</p>
<p><u>2. State Environmental Planning Policy (SEPP) No. 55 - Contamination and Remediation</u> 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  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>	<p>N/A. Area deemed not contaminated. No remediation works required under SEPP 55.</p>
<p><u>3. State Environmental Planning Policy (SEPP) No. 14: Coastal Wetlands</u> 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>	<p>N/A. Controlled Activity Approval received from the NSW Office of Water for proposed works.</p>
<p><u>4. Hunter Water: Chichester Gravity Main ICTGM)</u> 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>	<p>Noted.</p>

<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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## 4 Conclusion

The above information provides clarification as to the intent and reason for Development Application DA2017/00295 and subsequent Section 55 amendment. It should now be clear that the intent for this application was through the omission of works on Lot 2 DP 1215916 from development consent DA2016/00444.

We trust this responds to the concerns raised. If you wish to discuss anything further, please do not hesitate to call me on (02) 4940 0442.

Yours sincerely,



Patrick Quinlan  
**Senior Town Planner**  
**KDC Pty Ltd**