

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

Deferred Business

Panel Reference	2017HCC057
DA Number	8/2017/662/1
LGA	Cessnock City Council
Proposed Development	Construction of tourist accommodation (72 units) including a function centre and ancillary works
Street Address	Palmers Lane, Pokolbin
Lot/DP	Lot 22 DP 791884 and Lot 40 DP 755255
Applicant/Owner	Hephzibah Hunter Valley Investment Pty Ltd
Date of DA lodgement	07/11/2017
Number of Submissions	Seven (7) submissions to original notification.
Recommendation	Approval, subject to conditions
Regional Development Criteria (Section 4.5 of the EP&A Act)	The proposal has a capital investment value of \$35,704,185, exceeding the threshold pursuant to Part 2 of Schedule 7 of the <i>State Environmental Planning Policy (State and Regional Development) 2011</i> .
List of all relevant s4.15(1)(a) matters	• <i>State Environmental Planning Policy No 44 – Koala Habitat Protection</i> • <i>State Environmental Planning Policy No 55 – Remediation of Land</i> • <i>State Environmental Planning Policy No 64 – Advertising and Signage</i> • <i>State Environmental Planning Policy (Rural Lands) 2008</i> • <i>Cessnock Local Environmental Plan 2011</i> • <i>Cessnock Development Control Plan 2010</i>
List all documents submitted with this report for the Panel's consideration	• Signed application form • Lodgement plans (Morris-Nunn Architects; 19 September 2017; 9 sheets) • Landscape drawings (Spackman, Mossom & Michaels; 28 September 2017; 10 sheets) • Proposed Right of Access (Spackman, Mossom & Michaels; 28 February 2018; 2 sheets) • Aboriginal Heritage Assessment (Myall Coast Archaeological Services; 3 March 2017) • Agricultural Report (Neil Nelson Agvice; 26 February 2018) • Bushfire Hazard Assessment Report (Building Code & Bushfire Hazard Solutions; 27 September 2017) • Crime Risk Assessment (JW Planning; April 2017) • Ecological Assessment (BIOCM; 25 October 2017) • Flood Study (WMA Water; 6 January 2016) • Noise Impact Assessment (Spectrum Acoustics; February 2018)

	• Preliminary Effluent Disposal Assessment (revision 1) (Douglas Partners; April 2018) • Preliminary Site Investigation (Contamination) (Douglas Partners; September 2017) • Social Impact Assessment (JW Planning; no date) • Statement of Environmental Effects (JW Planning; no date) • Stormwater Concept Management Plan (Northrop; 10 October 2017) • Traffic Impact Assessment (Seca Solutions; 26 September 2017) • Waste Minimisation and Management Plan • Record of deferral from Hunter and Central Coast Regional Planning Panel, dated 14 February 2019 • Flood Response Management Plan prepared by WMA Water P/L, Project No 117046, dated May 2019
Site Inspection, Briefing & Public Meeting by the Panel	Site Inspection, Briefing and Public Meeting held Thursday 14 February 2019. Verbal submissions taken from objector, Mr Ian Scarborough. Verbal submissions taken from Mr Jason Waziak (JW Planning) on behalf of the applicant. The Panel resolved to defer the determination subject to terms of deferral (record of deferral dated 14 February 2019).
Addendum Report prepared by	Richard Forbes, Team Leader Development Services
Addendum Report date	9 July 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? Yes

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? Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

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? Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? 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
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

PREVIOUS CONSIDERATION BY THE HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL AT THEIR MEETING OF 14 FEBRUARY 2019

Development Application No. 8/2017/662/1 proposing the construction of tourist accommodation (72 units), function centre, restaurant and ancillary landscaping and civil works, at Palmers Lane (Lot 22 DP 791884 and Lot 40 DP 755255), Pokolbin, was considered by the Hunter and Central Coast Regional Planning Panel at their meeting of 14 February 2019.

A copy of the initial assessment report is attached.

At their meeting of 14 February 2019, the Panel resolved as follows:

'to defer the development application for subsequent determination, which may be by electronic means'.

The terms of deferral state as follows:

'The development application be deferred, and the applicant be invited to submit a Flooding Emergency Evacuation Plan for subsequent review by Council staff and the Panel. This report should be prepared by a qualified flooding expert and be submitted within 4 weeks of publication of this decision. The Plan should address (but not be limited to): flooding along the internal access route as well as on Gillards Road external to the site, methods for monitoring flood levels and thresholds for activation of the evacuation plan, emergency services access to the site during flood event, evacuation procedures, processes, communication to occupants (including multi-lingual), website advice, maintenance of emergency supplies, back-up power and water, signposting, liaison with relevant authorities, monitoring and review. A subsequent report shall be prepared by Council staff for consideration of the Panel, which may be by electronic means. This report shall address the Evacuation Plan submitted and also consider the following matters, if approval is recommended:

- Inclusion of the GTA's by NRAR;*
- Prohibition on strata-titling;*
- Specifying the approved use, and conditions to limit any long-stay within accommodation;*
- Condition(s) to address automatic switch off of lighting in the function centre and common/external areas;*
- Location of ancillary structures (ie machinery and storage sheds)'.*

A copy of the 'Record of Deferral' (dated 14 February 2019), is attached.

The abovementioned issues, as raised by the Hunter and Central Coast Regional Planning Panel, are addressed in the following report.

ASSESSMENT OF DEFERRED MATTERS

The issues raised by the Panel in their 'Record of Deferral' (dated 14 February 2019), are addressed below:

Flooding Emergency Evacuation Plan

The applicant submitted a Flood Response Management Plan prepared by WMA Water, dated May 2019.

A copy of the Flood Response Management Plan is attached.

Council staff have undertaken an assessment of the Plan having regard to the issues raised by the Panel in their terms of deferral.

As outlined by Council officers during the Panel briefing, Council's flood studies do not extend to the subject site. The applicant provided a flood study in conjunction with the original proposal, which identifies the extent of flooding on the site relative to the proposed development layout. The flood study illustrates that the third order stream traversing the site will cut off vehicle access to the proposed development during a 100-year rainfall event.

The applicant has demonstrated by reference to the survey and stormwater plans that a proposed culvert over the third order stream will be able to convey the 100-year rainfall event. However, the extent of the flooding in a 1:100 year event at this location is likely to cut off vehicle access via the proposed access road which gives rise to the need for a Flood Evacuation Management Plan. In terms of the culvert design, final details with respect to the structural and hydraulic adequacy of the culvert and access are to be provided prior to the issue of the Construction Certificate for these works, and a condition of consent has been imposed on the draft determination notice in this regard.

The condition of consent referred to above is nominated as Condition 18 in the draft determination notice.

The Flood Evacuation Management Plan has been assessed by Council staff and is considered satisfactory. The report confirms that the accommodation precinct is not affected by the 1:100 year flood event however the access and function centre may be inundated. The approaches to the subject land via Gillards Road are also subject to flooding on a more frequent interval than the 1:100 year planning level where the road is affected by First Creek, approximately 1.7 km to the east of the subject land.

The report states that the flood levels could reach hazardous levels for vehicles and pedestrians in this location and as such, the primary risk to life and property from flooding will be visitors/staff driving through flood waters on Gillards Road.

The proponents consultant WMA Water have undertaken additional flood modelling to determine the accurate extent of potential flooding across Gillards Road at First Creek assuming that a large farm dam identified within the catchment area was full to its capacity and therefore overspilling. The consultant's assessment suggests that flooding of Gillards Road will become hazardous within 2 to 3 hrs of the catchment becoming inundated, and that it may take up to 8 or 9 hrs for flood waters to fall below the existing road level.

The emergency response plan developed for the site relies primarily on remaining on-site/indoors during an extreme storm or flood event (1:100 year or greater recurrence).

The mitigation measures proposed in the Plan have been assessed and are considered satisfactory. The mitigation measures comprise:

- Implementation of the Flood Action Plan for the venue, which will be reviewed annually and following any flooding events.
- Works within the Gillards Road access comprising replacing the existing 600mm pipe (eastern culvert), with a 2.4 m wide by 1.2 m high box culvert.
- In addition to the above, replacing the existing 450 mm pipe (western culvert), with a 1.8 m wide by 0.9 m high box culvert.
- Improvement to the signage at the Gillards Road causeway by placing depth indicators and RMS standard “Road Subject to Flooding” signs on both the eastern and western approaches to First Creek.
- Placement of a vehicle crash barrier on the downstream (northern) side of Gillards Road, for a length of approximately 30 m where the flood hazard exceeds the H1 category (NSW Floodplain Development Manual) in a 1% AEP flood event. This will prevent vehicles which have disregarded the posted warning signage from being washed off the road.

The final engineering details for the proposed infrastructure improvements will be set out in design plans to be submitted to, and approved by, Council prior to issue of a Construction Certificate for the civil works, and a condition of consent has been imposed on the draft determination notice in this regard.

The condition of consent referred to above is nominated as Condition 15 in the draft determination notice.

It is noted that the Plan provides for gathering flood intelligence and communication with guests and staff in the event of an imminent flood event. The measures proposed by the Plan in the event of a flood support the objective of remaining within the venue until the flood event has subsided and the public road access is trafficable.

The scale of the accommodation and nature of the food premises at the venue indicates that the facility can support the predicted population of visitors and staff for the likely duration of a flood event (up to 12 hours) without the need for external supply.

The proposed measures for the management of the venue in a flood event have been assessed and are considered satisfactory. The Flood Evacuation Management Plan will be conditioned under the approved documentation (Condition 1 in the draft determination notice), and as such, is capable of being enforced by way of development compliance in the event any future issues arise. In addition, specific conditions of consent have been recommended in respect of the particular matters highlighted above, as previously outlined.

Inclusion of NRAR GTA's

The General Terms of Approval have been attached to the draft determination notice, and are referenced in Condition 2.

The prohibition of future Strata Title of accommodation

The applicant has been advised that the development subject of the development consent may not be subdivided by way of a strata scheme as this is precluded by Clause 4.2B of the Cessnock Local Environmental Plan 2011 which states as follows:

'The size of any lot resulting from a subdivision of land to which clause applies for a strata plan scheme (other than any lot comprising common property within the meaning of the [Strata Schemes \(Freehold Development\) Act 1973](#) or [Strata Schemes \(Leasehold Development\) Act 1986](#)) is not to be less than the minimum size shown on the [Lot Size Map](#) (40 Hectares) in relation to that land'.

In consideration of the above, the strata titling of any component of the development (inclusive of any accommodation unit), is therefore prohibited by the Cessnock Local Environmental Plan 2011.

In summary, it is not considered necessary to impose a condition of consent in respect of the above, as the prohibition is clearly prescribed within the relevant environmental planning instrument.

Specifying use and limiting long-stay accommodation

A condition of consent has been imposed on the draft determination notice prescribing that no serviced apartment approved under the terms of this development consent shall be occupied on a permanent basis. In addition, a register shall be kept of all lettings of sites/units outlining the name of the occupier, their home address, the date of the commencement of occupation, and the date of departure. This register shall be made available to Council officers upon request.

The condition of consent referred to above is nominated as Condition 62 in the draft determination notice.

Condition(s) to address automatic switch off lighting in the function centre and common/external areas

A condition of consent has been imposed on the draft determination notice stating that prior to the issue of a Construction Certificate, the Certifying Authority must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises, adjacent dwellings and the road reserve, and that the outdoor lighting complies with the relevant provisions of AS 1158.3:2005 Pedestrian area (Category P) lighting –Performance and design requirements and AS 4282:1997 Control of the obtrusive effects of outdoor lighting. In addition to the above, all lighting onsite must be low watt lighting set close to the ground, downward pointing and operated so as to automatically turn off after the hours of operation of the function centre.

The condition of consent referred to above is nominated as Condition 23 in the draft determination notice.

In addition, a condition of consent has been imposed on the draft determination notice stating that no lighting is to be located within 50 metres of the Wedge-tailed Eagle nest tree as shown in Figure 4 'Significant fauna recorded' of the Ecological Assessment by Biodiversity Conservation Monitoring Pty Ltd dated 25 October, 2017.

The condition of consent referred to above is nominated as Condition 23 in the draft determination notice.

Location of ancillary structures (sheds and storage)

The proponent has advised by e-mail dated 10 May 2019, that the intention is to engage contract facility maintenance at the time of occupation. Should the arrangement not prove satisfactory, additional application/s will be lodged with the relevant consent authority for the erection of suitable storage and machinery facilities at the site.

The engagement of maintenance contractors by operators of tourist related developments is common practice in the vineyards district, and supports a network of related and allied businesses located in the area which provide maintenance, cleaning, laundry and transport services.

CONCLUSION AND RECOMMENDATION

It is considered that the matters raised by the Panel at their meeting of 14 February 2019, have been satisfactorily addressed.

Accordingly, it is recommended that Development Application No. 8/2017/662/1 proposing the construction of tourist accommodation (72 units), function centre, restaurant and ancillary landscaping and civil works, at Palmers Lane (Lot 22 DP 791884 and Lot 40 DP 755255), Pokolbin, be determined pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, by the granting of consent subject to the conditions attached to this report.

ATTACHMENTS

1. Initial assessment report considered by the Hunter and Central Coast Regional Planning Panel at their meeting of 14 February 2019
2. Hunter and Central Coast Regional Planning Panel 'Record of Deferral' (dated 14 February 2019)
3. Flood Response Management Plan prepared by WMA Water, dated May 2019
4. Draft determination notice (conditions of consent)

CONDITIONS OF CONSENT

SCHEDULE 1

TERMS OF CONSENT

1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2017/662/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Site A Precinct Plan (1604-DA1.02PRE)	Morris-Nunn Architects	19 September 2017
Site Plan A (1604-DA1.03PRE)	Morris-Nunn Architects	19 September 2017
Site Plan B (1604-DA1.04PRE)	Morris-Nunn Architects	19 September 2017
Reception – Floor Plans (1604-DA2.01PRE)	Morris-Nunn Architects	19 September 2017
Reception – Elevations (1604-DA2.02PRE)	Morris-Nunn Architects	19 September 2017
Elevations (Accommodation) (1604-DA3.03PRE)	Morris-Nunn Architects	19 September 2017
Master Plan (landscaping) (L.DA.100.1 rev D)	Spackman, Mossop and Michaels	28 September 2017
Landscape Detail Design Plan 1 (L.DA.101 rev D)	Spackman, Mossop and Michaels	28 September 2017
Landscape Detail Design Plan 2 (L.DA.102 rev D)	Spackman, Mossop and Michaels	28 September 2017
Landscape Detail Design Plan 3 (L.DA.103 rev D)	Spackman, Mossop and Michaels	28 September 2017
Landscape Detail Design Plan 4 (L.DA.104 rev D)	Spackman, Mossop and Michaels	28 September 2017
Landscape Detail Design Plan 5 (L.DA.105 rev D)	Spackman, Mossop and Michaels	28 September 2017
Landscape Detail Design Plan 6 (L.DA.106 rev D)	Spackman, Mossop and Michaels	28 September 2017
Landscape Detail Design Plan 11 (L.DA.107 rev D)	Spackman, Mossop and Michaels	28 September 2017
Landscape Detail Design Plan 12 (L.DA.108 rev D)	Spackman, Mossop and Michaels	28 September 2017
Figure 5 – Conceptual Regeneration Plan	BIOCM	No date
Proposed Right of Access – Landscaping (Sheet 1)	Spackman, Mossop and Michaels	28 February 2017
Proposed Right of Access – Section (Sheet 2)	Spackman, Mossop and Michaels	28 February 2017
Accommodation – Ground Floor (DA 3.01 rev A)	Dylan Wood Architects	1 October 2018

Accommodation – First Floor (DA 3.02 rev A)	Dylan Wood Architects	1 October 2018
Accommodation – Typical Apartment Plan & Sections (DA 3.03 rev A)	Dylan Wood Architects	1 October 2018
Accommodation – Accessible Apartment Plan x 4 (DA 3.04 rev A)	Dylan Wood Architects	1 October 2018

Document Title	Prepared By	Dated
Letter with Concept Stormwater Management Plan (reference NL167098)	Northrop	10 October 2017
Erosion and Sediment Control Plan (C01DA rev A)	Northrop	9 October 2017
Stormwater Management and Levels Plan (C02DA rev A)	Northrop	9 October 2017
Civil Works Plan – Right of Access (C03DA rev A)	Northrop	9 October 2017
Road Cross Sections (C04DA rev A)	Northrop	9 October 2017
Ecological Assessment	BIOCM	25 October 2017
Flood Evacuation Management Plan	WMA Water P/L	May, 2019
Noise Impact Assessment	Spectrum Acoustics	February 2018

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

2. General Terms of Approval

All General Terms of Approval issued by RFS (21 December 2017 ref no. D17/4275) and Natural Resources Access Regulator (NRAR) (31 August, 2018 ref no. IDAS1103382 shall be complied with prior, during and at the completion of the development, as required.

A copy of the General Terms of Approval is attached to this determination notice.

3. CC, PCA & Notice Required

In accordance with the provisions of Section 6.6 (cf previous s 81A) of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- a) A CC has been issued by the consent authority, Council or an accredited certifier; and
- b) A PCA has been appointed by the person having benefit of the development consent in accordance with Section 6.5 (cf previous s 109E) of the *EP&A Act 1979*; and
- c) If Council is not the PCA, notify Council no later than two (2) days before building work commences as to who is the appointed PCA; and

- d) At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work.

4. BCA Compliance

Pursuant to Section 4.17(11) (cf previous s 80A) of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of a Construction Certificate.

5. Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a CC.

6. Tourism S94 Contributions Plan

A contribution pursuant to the provisions of Section 7.11 (cf previous s 94) of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of a CC:

Contribution Type	Amount Payable
Vineyards Roads and Bridges	\$168,288.42
Tourist Information and Signage	\$125,123.58
Plan Preparation and Administration	\$12,161.32
TOTAL	\$305,573.32

A copy of the Tourism Section 94 Contributions Plan may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

7. Vegetation Management Plan

A Vegetation Management Plan shall be submitted to and deemed acceptable by Council's Ecologist prior to issue of a CC. The Vegetation Management Plan is to include all of the area labelled as 'Map Unit 1 Central Hunter Ironbark – Spotted Gum – Grey Box Forest open forest to woodland, Map Unit 2 Scattered

trees and isolated woodland patches derived from Spotted Gum/Grey Box/Red Gum forest and woodland (with the exception of the areas within the Asset Protection Zones and roads), Map Unit 3 Lower Hunter Spotted Gum – Ironbark Forest in the Sydney Basin Bioregion and Map Unit 4 River Oak Riparian Forest River-Flat Eucalypt Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions’ on Figure 1 and all areas labelled as ‘Eucalypt forest regeneration, Riparian corridor regeneration and Eucalypt forest windrow regeneration and enhancement’ on Figure 5 of the Ecological Assessment by Biodiversity Conservation Monitoring Pty Ltd (dated 25 October 2017).

The following criteria must be addressed in the Vegetation Management Plan:

- a) A brief summary of the findings of the Ecological Assessment, specific aims, quantifiable objectives, specific measurable targets, plant species to be used, planting densities, how the plants will be cared for, proposed ground preparation, fencing details and details of weed control techniques
- b) The site must be divided into management zones to allow management of areas with different management requirements (eg weed control).
- c) The plan is to be implemented by qualified and experienced bush regenerators.
- d) The plan is to be divided into primary, secondary and maintenance phases of management works. A schedule of works will need to be provided outlining what works will be performed in each management phase, what sequence the works will occur in and the duration of each of the works.
- e) The plan is required for a period of at least five (5) years. A monitoring report on the progress of the Vegetation Management Plan’s implementation shall be prepared and submitted to Council at six monthly intervals until the end of the five (5) year period.
- f) Plants used for revegetation are to be native species grown from seed of local provenance, sourced from a plant nursery specialising in growing native plants. Species used are to be characteristic of Central Hunter Ironbark – Spotted Gum – Grey Box Forest, River-flat Eucalypt Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions and Lower Hunter Spotted Gum – Ironbark Forest Endangered Ecological Communities. Native plants that do not naturally occur in the local area are not be used.
- g) Monitoring will need to include 10m by 10m quadrats and photographs from fixed photo points. Details such as dominant species recorded, native species diversity, survival of tube stock (if relevant) and weed cover are to be recorded, in addition to general observations on the effectiveness of the works.
- h) All plans in the plan will need to include a north arrow and scale.

A refundable bond will be required to the amount of 20% of the total cost of vegetation works for the Vegetation Management Plan (site preparation, plant costs, fencing, etc.). The total amount of the bond will be recoverable at a rate of

20% per year over 5 years where maintenance and survival rates are satisfactory to Council. This bond is to be paid to Council prior to the issue of a CC.

8. Conservation Agreement

All of the native vegetation on the site outside of the proposed Asset Protection Zones, including the areas to be replanted, are to be protected via a Conservation Agreement under the *Biodiversity Conservation Act 2016*. The land protected by the Conservation Agreement is to be protected and retained in a natural state in perpetuity to provide protection for the native vegetation and threatened fauna species recorded on the site. The land is not to be grazed, mown, slashed, poisoned, or disturbed, except for the purposes of restoring the native vegetation, educating visitors to the site about the threatened flora and fauna on the site and removing exotic species. Evidence that this has occurred is to be provided to Council's Ecologist prior to the issue of a CC.

9. Fauna Management Plan

A Fauna Management Plan is required to be submitted to the satisfaction of Council's Ecologist prior to issue of a CC. The Fauna Management Plan is to include:

- a) A program of pre-construction and construction monitoring of identified threatened species and the Wedge-tailed Eagle's nest to ensure that threatened fauna species and Wedge-tailed Eagles using the nest are not impacted by pre-construction or construction works.
- b) A program for regular weekly monitoring of the tree used by Wedge-tailed Eagle throughout the spring and summer preceding construction, including an outline of adaptive management responses to minimise potential impacts on this species or any other species that could potentially use the nest.
- c) Habitat enhancement measures to improve and maintain habits for listed species.
- d) Specific and quantifiable key performance indicators, which are to be used to assess the success of management measures.
- e) Costings and timing for all measures and adaptive strategies to arrest any declines in usage of the site by listed species (or other parameters measured).
- f) Costings and timing for all rehabilitation measures proposed to increase habitat for listed species is to be included, including lead in times for development of suitable stock for plantings.
- g) Consideration of sub-regional context for listed species for on-site management of populations in fragmented landscapes.

10. Landscape Plan

All Landscape Drawings by Spackman Mossop Michaels (dated 28 September 2017) approved as part of this consent are to be revised so that no crop species (Wheat, Canola, Sorghum, Corn), flower fields or invasive exotic species are

planted within 20m of intact native vegetation or areas to be managed as part of the Vegetation Management Plan. Planting of native vegetation or fruit trees within 20m of native vegetation or areas to be managed as part of the Vegetation Management Plan would be acceptable. Revised plans are to be submitted to and approved by the CA prior to the issue of the CC.

11. Amended Plans Required – Internal Roads

All plans approved under this consent that show roads or tracks within 50m of the Wedge-tailed Eagle nest tree (as shown in Figure 4 'Significant fauna recorded' of the Ecological Assessment by Biodiversity Conservation Monitoring Pty Ltd dated 25 October 2017) are to be revised so that all roads and tracks are located more than 50 m from the tree. Revised plans are to be submitted to and approved by the CA prior to the issue of the CC.

12. Car Parking

On-site car parking shall be provided for a minimum of one hundred and fifteen (115) vehicles, of which a total of three (3) spaces shall be reserved for the use by persons with a disability, and such being set out generally in accordance with Council's Development Control Plan.

The design of the vehicular access and off street parking facilities must comply with:-

- AS 2890.1:2004 Parking Facilities – Off-Street Car Parking.
- AS/NZS 1428.1:2009 Design for access and mobility – General requirements for access – New building work.
- AS/NZS 1428.4.1:2009 Design for access and mobility – Means to assist the orientation of people with vision impairment – Tactile ground surface indicators.

Details, including a design certificate, satisfying these requirements is to be issued by a suitably qualified professional engineer and submitted to the CA prior to the issue of a CC.

13. Servicing/Delivery Vehicles

A separate off-street loading/unloading facility with capacity to accommodate the largest delivery vehicle likely to deliver goods to and from the premises shall be provided for all loading and unloading of vehicles wholly within the property. Such facilities shall be constructed clear of the car parking area and driveways and designed to avoid long distances of reversing.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

14. Roadworks Bond

The applicant shall lodge payment of fees and contributions as follows:-

Based on a road length of approximately 230 metres. Final bond amounts will be levied on accurate dimensions contained within the engineering plans.

- a) Road fees - engineering plan checking and supervision of \$9,800.00.
- b) A performance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (transferable).
- c) A road maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (refundable).

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts. If no contract price is submitted, Council will estimate the value of construction works.

The fees and bonds shall be payable prior to the issue of a CC for the Civil Works and shall be in accordance with Council's adopted fees and charges current at the time of payment.

The bond may be used to meet any costs referred to above, and on application being made to the Council by the person who provided the bond, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the bond within 6 years of the date of issue of the Construction Certificate for the development, the Council may pay the balance to the Chief Commissioner of State Revenue under the *Unclaimed Money Act 1995*.

15. Formation of Gillards Road

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a CC for the civil works.

- a) Construct 230m of Gillards Road, from the end of the existing formation to the end of the road reserve.
- b) Construct a turning circle at the end of the Gillard Road reserve.
- c) Place two (2) coat hot bitumen seal on new works.
- d) Construct drainage works as necessary crossing First Creek as follows;
 - Replacing the existing 600 mm pipe (eastern culvert) with a 2.4 m wide by 1.2 m high box culvert,
 - Replacing the existing 450 mm pipe (western culvert) with a 1.8 m wide by 0.9 m high box culvert,
 - Improve signage at the causeway by placing depth indicators and RMS standard "Road Subject to Flooding" signs on both the eastern and western approaches to First Creek.

- e) Place a crash barrier on the downstream (northern) side of Gillards Road, for a length of approximately 30 m where hazard exceeds the H1 category in a 1% AEP event as shown on the flood response management plan prepared by WMA dated May 2019, to prevent cars from being washed off the road

Under the *Roads Act 1993*, a S138 Roads Act Approval will need to be obtained from Council for the above works. In this regard, the applicant is to make a formal application to Council and the S138 application is to be submitted to, and approved by, Council prior to works commencing.

16. Access within the Right of Carriageway

The registered proprietor of the land shall construct an access road within the right of carriageway easement for access contained within Lot 40 to service Lot 22 in accordance with the approved plans, Council's 'Engineering Requirements for Development' and RFS requirements to serve the service apartments and function centre/restaurant.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

17. Internal Access Roads

The registered proprietors shall provide details of an all-weather access road from the property boundary to the approved serviced apartments and function centre/restaurant. The access road will need to be constructed to 4m wide, 100mm thick pavement with 1m wide clear verges either side and ensure appropriate space for the movement of 22-seater buses as a minimum. All works are to be in accordance with Council's 'Engineering Requirements for Development' and NSW Rural Fire Service 'Planning for Bushfire Protection' to serve the proposed development.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

18. Creek Crossing Requirements

The registered proprietor of the land shall provide structural and hydraulic design details of the approved road crossing of the 3rd order stream. Such crossing shall be designed and constructed in accordance with Council's 'Engineering Requirements for Development' and shall include flood warning signage, depth indicators and reflective guideposts in accordance with AS 1743. The detailed plans, specifications, and copies of the calculations, including existing and proposed surface levels, catchments and conduit sizing appropriate for the development, prepared by a professional engineer and submitted to, and approved by, the CA prior to the issue of a CC.

Please note it is the developer's responsibility to ensure that all approvals from other authorities are obtained for the works prior to construction.

19. Detailed Stormwater Design Requirements

The registered proprietor of the land is to provide a stormwater detention facility within the boundaries of the site to reduce the peak stormwater discharge from the developed lot to that of the peak stormwater discharged from the undeveloped lot for all storm events from the 1 in 1 year to the 1 in 100 year Average Recurrence Interval (ARI) storm event. A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details shall include on-site storage, the method of controlled release from the site, and connection to an approved drainage system in accordance with Council's 'Engineering Requirements for Development'.

Detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development, shall be prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics. The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

20. Flooding – Fencing

Any fencing proposed across the required floodway or overland flowpath shall be of an open mesh or rod style with an open area of not less than 80%.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

21. Accessibility Management Plan

An Accessibility Management Plan must be prepared for the approved building demonstrating compliance with BCA Part D3 "Access for People with a Disability" and the BCA adopted version of AS1428. The report and any relevant plans and specifications are to be submitted with the application for a CC and approved by the CA as complying with the BCA and AS's prior to the issue of a CC.

22. Food Premises

The construction and operation of areas involving food preparation in the development shall comply with all applicable legislation, regulation and standards including:

- a) *Food Act 2003*
- b) *Food Regulation 2015*
- c) Food Standards Australia and New Zealand – Food Standards Code 2003
- d) AS 4674-2004 for Design, Construction and Fit out of Food Premises
- e) AS 1668.2-2002 – The use of ventilation and air conditioning in buildings
- f) BCA.

Details submitted in association with the CC application are to demonstrate compliance with this requirement, and shall include the following:

- a) a separate floor and sectional plan detailing:
 - i) the kitchen/cafe area floor, wall, and ceiling surface finishes
 - ii) location of the required handwash basin/s and cleaning sinks/s
 - iii) location of dry and cold storage areas,
 - iv) fit-out details for the kitchen and servery, including proposed refrigeration and cooking equipment
 - v) designated cupboard or locker for the storage of staff clothing and personal belongings
 - vi) location of the bar area.

The details are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

23. Outdoor Lighting

Prior to the issue of a CC, the CA must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises, adjacent dwellings and the road reserve, and that the outdoor lighting complies with the relevant provisions of *AS 1158.3:2005 Pedestrian area (Category P) lighting – Performance and design requirements* and *AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

In addition to the above, all lighting onsite must be low watt lighting set close to the ground, downward pointing and operated so as to automatically turn off after the hours of operation of the Function Centre. No external lighting shall be located within 50 metres of the Wedge-tailed Eagle nest tree as shown in Figure 4 'Significant fauna recorded' of the Ecological Assessment by Biodiversity Conservation Monitoring Pty Ltd dated 25 October 2017.

24. Smoke Free Premises

The construction and fit out of the premises shall comply with the *Smoke-Free Environment Act 2000* and *Smoke-Free Environment Regulation 2016*. Details demonstrating compliance with this condition are to be provided to the CA prior to the issue of a CC.

25. Mechanical Exhaust System

Details of any proposed mechanical exhaust systems, detailing compliance with the relevant requirements of Clause F4.12 of the BCA and *AS 1668 Parts 1 and 2* (including exhaust air quantities and discharge location points) are to be provided to the CA prior to the issue of a CC.

26. Cooling Towers

If a water cooling process or recirculating type is to be installed, the system and maintenance program shall comply with the provisions of:

- a) AS 3666 of 2002 and Parts 1-2 inclusive
- b) *Public Health Act 2010* and the *Public Health Regulation 2012*
- c) AS 3666.1:2002 and 3666.2:2002 respectively
- d) AS 1470
- e) AS 1657
- f) Australian and New Zealand Standards 1892.1 and 2865

Detailed plans and specifications for the design, installation, maintenance, and operation of the facilities are required to be submitted including

- a) Details on the locations of all plant and equipment
- b) Specifications for the design, installation, maintenance, and operation of the facilities

Such plans and specifications must be approved by the CA as satisfying this requirement prior to the issue of a CC.

Prior to commencement of use, the owner or occupier of the premises must apply to Council for the registration of water cooling systems/warm water systems installed on the premises in accordance with the *Public Health Regulation 2012*.

27. Section 68 Approval

Application shall be made to Council under Section 68 of the Local Government Act 1993 to Install, Construct or Alter an Onsite System of Sewage Management.

The application shall be accompanied by the required documentation, as specified under Clause 26 of the *Local Government (General) Regulation 2005*. The design of the onsite sewage management system shall be in accordance with the Environmental Health Protection Guidelines and AS/NZS 1547-2012 (The application form and further information is available on Council's website www.cessnock.nsw.gov.au).

The Section 68 application shall be considered and approved by Council prior to the release of a CC for the development.

28. Section 50 Hunter Water Act 1991

Evidence shall be submitted to Council that the registered proprietors of the land on whose behalf the application was made have complied with the requirements of Section 50 of the *Hunter Water Act 1991*. Such evidence shall be submitted to Council prior to the issue of a CC.

If the approved development cannot be connected to a potable water supply then the applicant must demonstrate that the drinking water supplied to the premises

will consistently meet the *Australian Drinking Water Guidelines 2011* and any subsequent amendments to the Guidelines.

29. Acoustic Report – Certification Requirement

Prior to the issuing of any CC, Certification is to be submitted to the CA, confirming that the recommendations from the Reverb Revised Noise Impact Assessment (Report No.17-2052-R3), have been incorporated into the design of the site and that the design and plant equipment will achieve the project specific noise goals.

PRIOR TO COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to the commencement of works on the subject site/s.

30. Construction and Traffic Management Plan

The applicant must prepare a Construction Management and Traffic Management Plan incorporating the following matters. The plan must be submitted to and approved by the CA as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.

- x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.
- b) During excavation, demolition and construction phases, noise generated from the site must be controlled.
- c) All site works must comply with the work health and safety requirements of SafeWork NSW.
- d) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
- e) All traffic control plans must be in accordance with the *RMS publication Traffic Control Worksite Manual* and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

31. Soil and Water Management Plan

The applicant must prepare a Soil and Water Management Plan, being compatible with the Construction Management and Traffic Management Plan referred to in this Development Consent and incorporating the following matters.

- a) Minimise the area of soils exposed at any one time
- b) Conservation of top soil
- c) Identify and protect proposed stockpile locations
- d) Preserve existing vegetation. Identify revegetation technique and materials
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner
- f) Control surface water flows through the site in a manner that:
 - i) Diverts clean-runoff around disturbed areas
 - ii) Minimises slope gradient and flow distance within disturbed areas
 - iii) Ensures surface run-off occurs at non erodible velocities
 - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

The plan must be submitted to and approved by the CA as satisfying these matters prior to the commencement of works.

The requirements of the Soil and Water Management Plan shall be in place prior to the commencement of demolition works and/or construction works and shall be maintained throughout the demolition and/or construction process.

32. Vegetation Management Plan and Fauna Management Plan

The Vegetation Management Plan and the Fauna Management Plan are to be implemented prior to works commencing.

33. Protection of Vegetation

No clearing is to be undertaken outside of the development area, including the Asset Protection Zone, on the site. Prior to the commencement of works, areas outside this area are to be clearly delineated using protective fencing or brightly coloured tape to prevent encroachment of clearing works into the native vegetation.

34. Public Liability Insurance

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note, and provide protection for Cessnock City Council as an interested party, and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

DURING WORKS

The following conditions are to be complied with during works.

35. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment and Heritage Noise Guide for Local Government.

36. Virgin Fill To Be Used

All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste, and which has been excavated from areas of land that are not contaminated with

human made chemicals as a result of industrial, commercial, mining or agricultural activities, and which do not contain sulphate ores or soils.

37. Removal of Contaminated Soil

Any soil proposed to be disposed of off-site must be classified, removed and disposed of in accordance with the New South Wales Environment and Heritage *Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-liquid Wastes 1999* and the *Protection of the Environment Operations Act 1997*.

Any soil which fails to meet the criteria is not to be disposed of off-site unless agreed to in writing by the Environment Protection Authority. Results of testing are to be forwarded to Cessnock Council for acknowledgement before any off-site disposal, and before proceeding with any construction works.

38. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

39. Protection of Trees to be Retained

Any trees to be retained within 20m of the development footprint are to be fenced after clearing has been completed and prior to construction works beginning. The fencing is to encompass the maximum possible area within the drip line of the canopy and remain in place until completion of construction works. All areas within the fencing are to be covered with woodchip mulch to a depth of 100mm. Tree protection signage is to be attached to the fencing surrounding the retained trees.

All workers on the site are to be made aware of the location and significance of the native vegetation on the site and are to be advised to avoid impacting on the area.

40. Stockpiling and Materials Storage.

Stockpiling, storage or mixing of materials (including soil), vehicle parking, disposal of liquids, machinery repairs and refuelling is not to occur within the native vegetation to be retained as shown in Figure 1 of the Ecological Assessment by Biodiversity Conservation Monitoring Pty Ltd dated 25 October 2017.

41. Construction Impacts on the Wedge-Tail Eagle Nest

All works on site including construction works are not to occur during the Wedge-tailed Eagle nesting season (June to October).

All works on site are to stop if Wedge-tailed Eagles are observed using the nest tree.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of either an Interim or Final Occupation Certificate (as specified within the condition):

42. All Services Provided

Certification that all services as required (eg water supply, gas, electricity, telephone, sewer), are available to the site, shall be submitted to the *PCA* prior to issue of an *OC*.

43. Food Premises

Council must be notified that the premises is being used for the preparation, manufacture, or storage of food for sale, and an inspection of the completed fit out is to be conducted by Council prior to the issue of an *OC*.

44. Completion of Landscape Works

All landscape works, including the removal of all noxious weed species, are to be undertaken in accordance with the approved landscape plan and the conditions of this consent prior to the issue of an *OC*.

45. Completion of Parking/Loading Bay

All car parking, disabled access parking and loading facilities shall be marked out and clearly indicated by signs. The parking requirements secured in this consent shall be completed prior to the issue of an *OC*.

46. Trade Waste Disposal

Prior to the issue of an *OC* and/or commencement of the use of the building, whichever is earlier, the owner must ensure that there is a contract with a licensed contractor for the removal of all trade waste. No garbage is to be placed on the public way e.g. footpaths, roadways, plazas, and reserves at any time.

47. Completion of Works in Gillard Road

Prior to the issue of an *OC*, the *PCA* must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Council's S138 Roads Act Approval.

Works-as-Executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a registered surveyor, together with certification by a qualified practising Civil Engineer, to verify that the works have been constructed in accordance with the approved design and relevant AS, must be provided to Council prior to the issue of an *OC*.

The Works-as-Executed plan(s) must show the as-built details in comparison to those shown on the plans approved with the road works permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

48. Completion of Access Road and Internal Roadworks

Construction of all access roads, road works (including the removal and restoration of redundant vehicular crossings, etc), driveways, access corridors, car parking areas and loading bays, including the provision of appropriate line marking and other traffic management devices, are to be completed prior to issue of an OC.

49. Completion of Creek Crossing

The registered proprietors of the land shall construct the road crossing of the 3rd order stream in accordance with the approved plans and any relevant condition of consent prior to issue of an OC.

50. Inspection for Onsite Sewage Management

Prior to the use of the premises for the purposes approved by this consent, and prior to the issue of an OC, a satisfactory final inspection report from the Council must be received by the PCA, verifying the associated onsite wastewater management system has been supplied and installed in accordance with the approval under Section 68 of the *Local Government Act 1993*.

51. Completions of Stormwater Management System

Prior to the issue of an OC, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant AS.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a licensed plumber or qualified practising civil engineer, that the drainage system has been constructed in accordance with the approved design and relevant AS, must be provided to the PCA prior to the issue of an OC.

52. Stormwater Plan of Management

The registered proprietor of the land shall prepare a Plan of Management for the stormwater facilities within the development. The plan shall set out all design and operational parameters for the detention facilities, including design levels, hydrology and hydraulics, inspection and maintenance requirements, and time intervals for such inspection and maintenance. The plan shall be submitted to the PCA for approval prior to the issue of an OC.

53. Flooding Evacuation Management Plan

The applicant shall prepare a flood emergency evacuation and management plan for the approved development. The plan should advise occupants of flood evacuation procedures and emergency contact telephone numbers. The management plan should avoid the letting of the premises during periods of flood emergency or when flood warnings are issued. The applicant should contact Council and the State Emergency Service for advice in the preparation of the management plan.

The evacuation procedures should be permanently fixed to the building in a prominent location, and kept up to date at all times.

The management plan shall be submitted to, and approved by, Council prior to the issue of an OC.

54. Drinking Water Management System

An appropriate drinking water management system, in compliance with NSW Health requirements and the *Public Health Act 2010* and *Public Health Regulation 2012* is to be provided.

55. Nest Boxes

At least 10 nest boxes are to be installed in the retained native vegetation on the site outside of the Asset Protection Zones. Nest boxes are to be a variety of types and sizes to provide additional habitat for the threatened fauna recorded on the site. Evidence of this is to be provided to the CA prior to the issue of an OC.

56. Compliance with Acoustic Report

A certificate must be submitted to and approved by Council's Environmental Health team prior to the issue of an OC or before the commencement of the use (whichever is earlier). The certificate must be prepared by an accredited Acoustic consultant, and must certify that the recommendations in the approved acoustic report have been complied with and the desired acoustic performance achieved.

ONGOING USE

The following conditions are to be complied with as part of the ongoing use of the premises.

57. Hours of Operation

The function centre/restaurant is to be used for the purpose approved only within the following hours:

Monday – Sunday (inc. public holidays) 7am to 12pm

The LAeq* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz– 8k Hz inclusive) by more than 5dB during operating hours at any nearby affected residence.

**For the purposes of this condition, the LAeq can be taken as the level of noise equivalent to the energy-average of noise levels occurring over a measurement period.*

58. Occupant Capacity

The seating capacity of the function centre/restaurant is restricted to a maximum of 200 patrons at any one time.

A notice is to be displayed in the premises stating that the maximum total occupancy of the premises allowed by this consent is 200 persons/seats.

All seating is to be provided within the restaurant and no external seating on the terrace is permitted without further Development Consent.

59. Parking Areas to be Kept Clear

At all times, the loading area, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.

60. Discharge into Waterways

No waste water, chemicals or other substances harmful to the environment shall be permitted to discharge to the waterway that runs through the site, or to Council's stormwater system. Only clean, unpolluted water is permitted to discharge. Waste oil shall be stored in a covered and suitably bunded area, pending regular removal to a waste oil recycler.

61. Maintenance of Landscaping

Landscaping shall be maintained in accordance with the approved plan in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development.

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

62. Tourist Accommodation

No Serviced Apartment subject of this development consent shall be occupied on a permanent basis. A register shall be kept of all lettings of sites/units giving the name of the occupier, their home address, the date of the commencement of occupation, and the date of departure. This shall be made available to Council officers at all times.

63. Noise Complaints

Where a noise complaint is received by Council from a place of different occupancy and the noise source is proven by a Council Officer to be non-compliant, the Council may employ a consultant to measure noise emanating from the property, and to recommend (if necessary) appropriate actions to ensure compliance.

The consultant must be a member of the Australian Acoustical Society, Engineers Australia, or the Association of Australian Acoustical Consultants. The cost of such appointment and associated work shall be borne by the applicant, who shall also ensure the recommendations of the acoustic consultant are implemented.

64. Noxious Weeds

All noxious weeds on the site, including *Ageratina adenophora* (Crofton Weed), *Cortaderia selloana* (Pampas Grass), *Lycium ferocissimum* (African Boxthorn), *Senecio madagascariensis* (Fireweed) and *Opuntia stricta* (Common Prickly Pear) are to be removed from the site.

65. Fencing

Any new fencing using wire is to be constructed with plain wire. Barbed wire is not to be used in any new fencing on the site. Any new fencing is to be designed and erected so that native fauna movement is not impaired or restricted to reduce the chance of native fauna being injured.

ADVISORY NOTES

A. Road Advice

The applicant is advised that Council will not accept responsibility for the road access from Gillards Road to the approved development. In this respect, the care, control and maintenance thereof, is the sole responsibility of the user/s, in perpetuity.

B. Disability Inclusion Act

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Inclusion Act 2014*. The applicant/owner is responsible for ensuring compliance with this, and other, anti-discrimination legislation. The *Disability Inclusion Act 2014* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4* provide the most comprehensive technical guidance under the *Disability Inclusion Act 2014* currently available in Australia.

C. “Dial Before You Dig” Dig 1100

Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au

D. Other Approvals and Permits

The applicant shall apply to Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other approvals under *Section 68 (Approvals)* of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

E. Site Contamination Issues during Construction

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination, Council must be immediately notified by the applicant, and works must cease. Works must not recommence on site until approval is granted by Council.

F. Aboriginal Heritage

As required by the *National Parks and Wildlife Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from the Heritage Division of the OEH.

Note: The *National Parks and Wildlife Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and/or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

G. Signage and Fencing Advice

The application has been determined on the basis of the information submitted by the applicant and therefore no signage or fencing has been approved under this consent. The holder of this consent is to be aware that should any fencing or signage be proposed that does not comply with the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, it will be subject to a future Development Application.

SCHEDULE 2



Natural Resources
Access Regulator

General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1103382
Issue date of GTA: 31 August 2018
Type of Approval: Controlled Activity
Description: Construct New Tourist Accommodation (72) units including function centre and Ancillary Works
Location of work/activity: Palmers Lane Pokolbin
DA Number: DA8/2017/662/1
LGA: Cessnock City Council
Water Sharing Plan Area: Hunter Unregulated and Alluvial Water Sources

The GTA issued by NRAR do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for the relevant approval **after** development consent has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
Design of works and structures	
GT0009-00010	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.
GT0019-00003	Any proposed excavation on waterfront land must be undertaken in accordance with a plan submitted as part of a controlled activity approval, to be approved by Natural Resources Access Regulator.
Erosion and sediment controls	
GT0014-00007	A. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.
GT0021-00002	The proposed erosion and sediment control works must be inspected and maintained throughout the construction period of the controlled activity and must not be removed until the site is fully stabilised.
Plans, standards and guidelines	
GT0002-00491	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 82017.662 provided by Council to Natural Resources Access Regulator. B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.
GT0004-00003	A. A security deposit must be provided, if required by Natural Resources Access Regulator. B. The deposit must be: i. a bank guarantee, cash deposit or equivalent, and ii. equal to the amount required by Natural Resources Access Regulator for that controlled activity approval.

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water.enquiries@dpi.nsw.gov.au | www.water.nsw.gov.au



General Terms of Approval

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LGA:	Cessnock City Council
Water Sharing Plan Area:	Hunter Unregulated and Alluvial Water Sources
GT0005-00207	A. The application for a controlled activity approval must include the following plan(s): - i. Detailed Civil Construction and Drainage Plans; ii. Erosion and Sediment Control Plans; iii. Vegetation Management Plan including plans indicating fully structured native vegetation plantings and offsetting as required by the NRAR guidelines; iv. Detailed Project Costings; v. Stormwater Management Plans; and vi. Detailed Stormwater Outlet Structure Plans. B. The plan(s) must be prepared in accordance with Natural Resources Access Regulator's guidelines located on the website www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities .
GT0010-00006	All documents submitted to Natural Resources Access Regulator as part of an application for a controlled activity approval must be prepared by a suitably qualified person.
GT0012-00004	Any proposed controlled activity must be carried out in accordance with plans submitted as part of a controlled activity approval application, and approved by Natural Resources Access Regulator.
GT0030-00006	The application for a controlled activity approval must include plans prepared in accordance with Natural Resources Access Regulator's guidelines located on the website https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities .
Rehabilitation and maintenance	
GT0023-00001	Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).
Reporting requirements	
GT0016-00003	The consent holder must inform Natural Resources Access Regulator in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA8/2017/662/1 as provided by Council:

- 1) Statement of Environmental Effects;
- 2) Stormwater Management Plans; and
- 3) Lodgement Plans.



NSW RURAL FIRE SERVICE



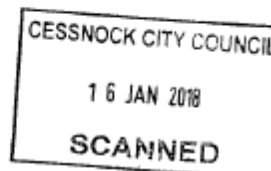
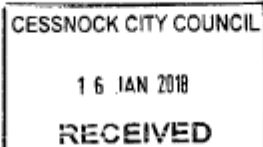
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PO Box 152
CESSNOCK NSW 2325

Your reference: DA 8/2017/662/1
Our reference: D17/4275

21 December 2017

Attention: Luke Mannix

Dear Sir/Madam,



Integrated Development - Proposed Construct New Tourist Accommodation (72 Units) Including Function Centre and Ancillary Works - LOT: 22 DP: 791884, LOT: 40 DP: 755255 Palmers Lane POKOLBIN

Reference is made to Council's correspondence dated 15 August 2017 seeking general terms of approval for the above application for integrated development in accordance with Section 91 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service advises that this response is be deemed to be a bush fire safety authority subject to the following conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

- At the commencement of building works and in perpetuity the Asset Protection Zones proposed around the structures shall be consistent with those nominated in the document 'Constraints Overlay, 22 Palmers Lane, Pokolbin NSW', prepared by Building Code & Bushfire Hazard Solutions, Ref: 170316B, Rev: A, dated 25/09/2017. They shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- The Asset Protection Zones shall be consistent with Appendix 5 of 'Planning for Bush Fire Protection 2006', including as follows:
 - Suitable impervious areas being provided immediately surrounding the building such as courtyards, paths and driveways;
 - Grassed areas/mowed lawns/ or ground cover plantings being provided in close proximity to the building;
 - Restrict planting in the immediate vicinity of the building which may over time and if not properly maintained come in contact with the building;

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- Maximum tree cover should be less than 15%, and maximum shrub cover less than 15%;
- Planting should not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters);
- When considering landscape species consideration needs to be given to estimated size of the plant at maturity;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such timber garden furniture way from the building; and
- Use of low flammability vegetation species.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- Where a reticulated water supply complying with AS2419 – 2005 is not provided, a 50,000L litre static water supply shall be provided to the serviced apartments and a 10,000L static water supply be provided to the function centre within the subject property. Where this supply is a water tank it shall be plumbed so that 50% of this volume is dedicated for firefighting activities and comply with the following:
 - A suitable connection for firefighting purposes is made available and located within the IPA and away from the structure. A 65mm Storz outlet with a gate or Ball valve is provided.
 - Gate or Ball valve and pipes are adequate for water flow and are metal rather than plastic.
 - Underground tanks have an access hole of 200mm to allow tankers to refill direct from the tank. A hardened ground surface for truck access is supplied within 4 metres of the access hole.
 - Above ground tanks are manufactured of concrete or metal and raised tanks have their stands protected. Plastic tanks are not used. Tanks on the hazard side of a building are provided with adequate shielding for the protection of fire fighters.
 - All above ground water pipes external to the building are metal including and up to any taps. Pumps are shielded.
 - That a 5hp or 3kW petrol or diesel firefighting pump set with suitable suction and supply hoses (inc. 38 mm storz fittings) and two (2x) 30 metre long delivery hose lines with a nozzle are maintained and available for each firefighting static water supply.
- Electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

- The proposed function centre and serviced apartments shall comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone area' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

- The access within the Right of Carriage Way and within the subject site shall comply with the following requirements of section 4.1.3 (1) & 4.2.7 of PBP:
 - Internal roads are two-wheel drive, sealed, all-weather roads;

- Traffic management devices are constructed to facilitate access by emergency service vehicles and suitable turning provisions are incorporated in the design.
- A minimum vertical clearance of four metres to any overhanging obstructions, including tree branches, is provided.
- Curves have a minimum inner radius of six metres and are minimal in number to allow for rapid access and egress.
- The minimum distance between inner and outer curves is six metres.
- Maximum grades do not exceed 15 degrees and average grades are not more than 10 degrees.
- Crossfall of the pavement is not more than 10 degrees.
- Roads do not traverse through a wetland or other land potentially subject to periodic inundation (other than flood or storm surge).
- Roads are clearly sign-posted and bridges clearly indicate load ratings.
- The internal road surfaces and bridges have a capacity to carry fully loaded firefighting vehicles (15 tonnes).

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs.

- An access way consistent with the requirements for fire trails as outlined under section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006' shall be provided between the proposed tourist accommodation and function centre and the identified Riparian Corridor to the east.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments.

- Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Landscaping

- Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
- A landscape plan prepared by a qualified landscape architect /landscape consultant and certified by a suitably qualified bush fire planning and design consultant shall be submitted to Council or the principal certifier for approval with the construction certificate. The landscape plan and certification shall demonstrate compliance the requirements of Appendix 5 of 'Planning for Bush Fire Protection 2006' and the Rural Fire Service 'Standards for asset protection zones' as conditioned under the Asset Protection Zones in the General Terms of Agreement in this Bush Fire Safety Authority. The plan is to include the location of all proposed and existing planting, delineating existing trees to be retained, removed or transplanted. The plan should include a detailed planting schedule which includes species listed by botanical and common names, quantities of each species, pot sizes, and the estimated size of the plant at maturity.

If you have any queries regarding this advice, please contact Josh Calandra, Development Assessment and Planning Officer, on 1300 NSW RFS.

Yours sincerely,



Jason Maslen
Team Leader, Development Assessment and Planning
Planning and Environment Services (East)