Including assessment in accordance with Section 4.15 Environmental Planning and Assessment Act 1979



ADDRESS:	LOT: 2 DP: 1169320			
	150 Gundy Road S	cone		
APPLICATION No:	DA 163-2017 PPSI	HCC-107–10.201	17.163.2	
PROPOSAL:	423 Lot Subdivisior	n since amended	l to 384 lots	
PLANS REF:	DRAWINGS NO. PLANNING RELAT	DRAWN BY	DATE / INFO	RECEIVED
	Ref: 217133 Subdivision Plan Version M	MM Hyndes Bailey and Co	21.07.2021	31.08.2021
	Ref: 217133 Subdivision Plan Version O	MM Hyndes Bailey and Co	15.02.2022	21.02.2022
	Ref: 217133 Subdivision Plan Version P	MM Hyndes Bailey and Co	8.03.2022	15.03.2022
OWNER:	Charles David Pty I	Ltd		I
APPLICANT:	Charles David Pty Ltd C/- Perception Planning PO Box 107 PO BOX 107 Clarence Town NSW 2321			
AUTHOR:	David Crofts/Paul Smith			
DATE LODGED:	22 November 2017, an application for a review of the determination (refusal) of 30/09/2020 was lodged on 10/09/2021			
AMENDED:	Amended plans were submitted with the application for a review of determination, and the plans have been subject to two (2) amendments during the assessment process. The most recent amended plans for the subdivision are listed above as Version P.			
ADD. INFO REC'D:				
DATE OF REPORT:	25 April 2022			

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SUMMARY OF FACTS

ISSUES:

The proposed development will deliver a substantial increase in the supply of land for housing in Scone. The second revised amended proposal seeks consent (as an outcome of the determination review process) for a 384 lot residential subdivision, including roads and other essential service infrastructure (reticulated water, reticulated gravity sewer, stormwater, electricity, telecommunications), public open space and landscaping. The proposed lots will have areas from approximately 700m2 to 1,650m2 with the average size 829 sq m. Access will be via a single entrance road, which intersects with Gundy Road. It is proposed to carry out the development in 16 stages with approximately 13 to 35 lots per stage. Stages 1-3 will be separated from Stages 4-16 by a drainage reserve (to be dedicated to Council) which will incorporate an existing dam, two (2) stormwater detention basins, open space/playgrounds and biodiversity conservation.

Since the application was refused the Proposal has been amended largely in response to the following issues:

- Salinity issues
- Biodiversity/riparian
- Fire risk management
- Lot and street layout
- Nature of the 88B instruments

SUBMISSIONS: 12 on exhibition of the amended application (review) and 9 on re-exhibition

RECOMMENDATION:

Notwithstanding the multiple amendments that have been made to the plans in an attempt to address outstanding issues. The applicant has also provided a number of revised supporting reports and assessments in response to Council's and the Planning Panel's concerns. Nonetheless, a number of fundamental issues have not been resolved.

In particular, salinity remains a significant issue. Council's consultant expert (Dr Banks – Soil Futures) has peer reviewed this work (01/03/2022), and is of the view that the applicant's amended salinity assessment uses inappropriate methodology and inadequate data. In response, the applicant has submitted a revised salinity report (10/03/2022). Advice from officers of the Basin Salinity Program -Water of the Department of Planning and Environment (01/04/2022) in response to the revised salinity report of 10/03/2022 essentially support the findings of the peer review remaining valid, concluding "there is no recognition that there is a very serious salinity situation below the proposed development and that the proposed development may make situation significantly worse".

In relation to stormwater management, southwestern "bioretention" basin of the amended plan relies on a 40m wide by approximately 25m long easement on the adjoining property, and relies on dispersement of the discharged water from the basin across the adjacent paddock. It is not clear where the bioretention basins numbered 3a and 3b discharge.

Easements for transmission lines existing along the eastern and western boundaries of the Site. The interaction between these easements and the proposed vegetative buffer is not discussed.

The Rural Fire Service (RFS) (11/03/2022) raised a number of concerns with the amended plans and accompanying bushfire risk assessment. As a result, a second amended bushfire risk assessment

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(30/03/2022) was submitted by the applicant. The second amended assessment has been sent to RFS for further comment, however a response had not been at the time of writing this report. It is noted that the amended assessment continues to rely on a performance based approach for fire trails in lieu of perimeter roads. The assessment states these trails will be "all weather", but no further details are provided. Similarly, the construction detail of the northeasterly emergency access road is not provided, even at a cursory level, nor the operational arrangements during emergencies. The only detail is in the subdivision plans (Version P Plan EMERG 001) which states "Emergency exit 18m right of carriageway to Gundy Road to be constructed in accordance with Planning for Bushfire Protection 2019".

The proposed development relies heavily on adjacent land to provide fire asset protection zones, landscaped buffers, and emergency access.

The applicant proposes a number of 88B instruments to create easements as well as responsibilities on the adjacent landowner. These include maintenance of the APZ and fire trail, maintenance of the landscaped buffer and maintenance of the emergency access road. It is noted that the draft legal agreements appear to burden the development lot rather than the adjacent affected lot. This may be a legal drafting error. It is general practice to provide for these matters within the development parcel. Further, works are proposed on the adjacent lot however, this lot is not the subject of the application.

Further, the nature of the instruments is that they impose a responsibility on Council to monitor the condition of this infrastructure and if the adjacent land owner is unwilling to meet their responsibilities under the 88B instruments to undertake the works and take civil action to recoup the cost.

Complicating the above is that the development will take some 20 years to reach staged completion. The applicant's documentation does not discuss how these off site matters (APZ etc) are proposed to be managed during the 20-year development phase.

It is recommended that the Regional Planning Panel confirm its decision of 30 September 2020 to refuse Development Application No. 163/2017 as amended for development of 384 Lot Subdivision on land at Lot: 2 DP: 1169320, 150 Gundy Road Scone 2337, as shown on the submitted plans, for the following reasons:-

- Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed 423 lot Torrens Title subdivision does not comply with the Upper Hunter Development Control Plan 2015 in relation to lot width, salinity impacts, open space, and bushfire risk management
- 2. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed 423 lot Torrens Title subdivision is likely to adversely impact on land, vegetation and existing infrastructure and buildings in the sub-catchment through increased dryland salinisation.
- 3. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the application has not demonstrated that the land is suitable for the proposed 384 lot Torrens Title subdivision as it is within a sub-catchment with known saline soil and groundwater conditions which could be exacerbated by urban development.
- 4. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 the development is not in the public interest as the salinity risk has not been adequately assessed.

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LOCATION MAP



DESCRIPTION OF PROPOSAL

The revised amended proposal seeks consent for a 384 lot residential subdivision, including roads and other essential service infrastructure (reticulated water, reticulated gravity sewer, stormwater, electricity, telecommunications), public open space and landscaping. The proposed lots will have areas from approximately 700m2 to 1,650m2 with the average size 829 sq m. Access will be via a single entrance road, which intersects with Gundy Road. It is proposed to carry out the development in 16 stages with approximately 13 to 35 lots per stage. Stages 1-3 will be separated from Stages 4-16 by a drainage reserve (to be dedicated to Council) which will incorporate an existing dam, three stormwater detention basins and biodiversity conservation. A number of 88B instruments are proposed to manage matters such as APZ etc on the adjacent rural lot.

The key development data is provided in **Table 1**.

Table 1: Key Development Data	

Control	Proposal
Site area	57.5 ha
No Lots	384

Amended proposal submitted with the application for a review

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Latest revised amended proposal (Version P 08/03/2022)

1.1 Background

RELEVANT HISTORY

The land is zoned rural and appears to have been used for rural purposes for some time. It is currently used for extensive cattle grazing.

The development application was lodged on 22 November 2017. The application was determined by the Panel; on 30 September 2020.

The Panel provided the following reasons for its decision:

- The proposed biodiversity outcomes lack finality and potentially imposes unnecessary burden on the public
- The extent of tree loss is unacceptable. The engineered solution to stormwater management results in an unnecessary and unacceptable loss of hollow bearing trees
- The proposed lot layout and configuration has failed to achieve the integration of the drainage reserve and its biodiversity value as part of the open space network and linkages to maximise the amenity for future residents

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• The lot layout and yield proposed does not respond to the constraints and interfaces of the site.

On 10 September 2021, an application was lodged with Council to review the determination. In addition, on 24 September 2021, an appeal was lodged with the Land and Environment Court.

A revised proposal in response the Council and Panel comments was received on 22 February 2022. A chronology of the development application since lodgement is outlined in Table 2. Since then the proposed has been refined further with the latest amended proposed being Version P 08/03/2022.

Table 2: Chronology of the DA

Date	Event
11 January 2018	Exhibition of the original application
30 September 2020	Refusal of application by RPP
10 September 2021	Request for review of determination lodged
22/09/2021- 07/10/2021	Exhibition of revised DA- review of determination (refusal)
24 November 2021	DA referred to external agencies
15 December 2021	Request for Information from Council to applicant
9 December 2021	Panel kick off briefing
22 February 2022	Revised amended plans (Plan P) lodged in response to Panel and Council comments. There were numerous changes including removing lots adjoining the drainage reserve in Stages 1 and 2.
8 March 2022	Panel site visit and briefing by Council
15 March 2022	Further revised amended plans (Plan Version O) lodged in response to Panel and Council comments, including peer review comments on salinity and stormwated studies as well as RFS. There have been numerous changes. These changes are discussed below.

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30 March 2022 Further documentation received from the applicant in response to feedback from Council and other agencies

REFERRALS

- <u>Infrastructure Services (Water & Sewer)</u> The development application was referred to Council's Infrastructure Services (Water and Sewer) for comment. The following response was provided:
 - Water: Author: Longman: 220426: the water supply is proposed to be from an existing 250 mm water main. The council does not have a 250 mm water main in this vicinity. Can developer offer more details on the Main and connections, including the source of water (ie Scone main Reservoirs or Scone High Level Reservoir) and proposed pressure management.
 - Water: Author: Longman: 220426: The Council adopt water mains to be on both sides of a road to recue road crossings
 - Sewer: Author: Longman: 220426: The Council note that the submission included the Sewerage Drainage Strategy of November 2017, MM Hyndes.
 - Sewer: Author: Longman: 220426: Council make reference to a report previously furnished, the RG Report of April 2018, For Charles David Pty Ltd. And in particular reference to the requirement to upgrade Joan Street sewer pump station. As The Joan Street Sewer Pump Station has been identified as at capacity by the Council, Council will require details of how additional load will be managed
 - Sewer: Author: Longman: 220426: Council require further details on flow calculation and sizing of sewer pipes in particular demonstrating sufficient flow is adopted to prevent stagnation and long retention times in pipe work.

Should the development application be approved it is recommended that appropriate conditions of consent are applied to address these issues.

Infrastructure Services (Assets)

In relation to infrastructure that is likely to become a Council asset such as roads, footpaths/cycleways, open space and stormwater. The following comments were provided:

- Do not support interlinking pathways as they create the potential for noise, vandalism and public safety
- Proposed public park location and arrangement is not supported would prefer a central park on corner site not between residential lots
- Local streets should have a footpath which is a minimum of 1.5m wide

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- ______
 - Kerb and guttering is required along the Gundy Road frontage
 - Bus shelters are to be provided on school bus routes
 - Stormwater/Flooding issue being further reviewed by Northrop, awaiting their comment.

External referrals for concurrence

Referral/Consultation Agencies			
Ausgrid	Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007.	Advice regarding activities within the 66KV electricity easement to the west.	Y
Rural Fire Service	S4.14 – EP&A Act Development on bushfire prone land	RFS raised a number of concerns, particularly regarding the fire trail, interaction between the APZ and vegetation buffer, eastern emergency access detail. The applicant provided amended plans which were referred back to the RFS on 5.04.2022. A response had not been provided at the time of writing this report.	Ν
Transport for NSW	Clause 104 / Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007.	TfNSW does not support any intensification of the left-in / left- out arrangement at Kelly Street / New England Highway, i.e., emergency access exit. All vehicular access arrangements (emergency or otherwise) must be provided to the local road network. NOTE: In response to this advice, the emergency access has been relocated to Gundy Road (Plan Version P) in the revised amended plans. Gundy Road is not a TfNSW controlled road) A range of other advisory issues were raised. Of particular	Y

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		 interest: consider an upgrade of the intersection of Gundy Road and Kelly Street to provide a right turn out storage lane along Gundy Road. Council should consider an extension of the existing 50km/h zone past the new development. 	
Integrated Dev	elopment (S 4.46 of the EP&A Ac	t)	
Rural Fire Service	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	As above	Ν
Transport for NSW	S138 - Roads Act 1993 for works in the road reserve.	Council is the Roads Authority for Gundy Road	N/A
Heritage NSW	S58 of the Heritage Act 1977 for demolition or works etc to an item listed on State Heritage Register or with an interim heritage order.	Nil items or places of European heritage significance. An AHIMS search found no places or items of Aboriginal heritage significance. A possibly modified tree was located in the Aboriginal Cultural Heritage Archaeological Due Diligence Assessment, and will be protected in proposed open space.	N/A

SUBMISSIONS

Surrounding properties were notified of the development proposal between 22 September 2021 and 7 October 2021 (Plan Version M), and 16 March 2022 and 31 March 2022 (Plan Version P).

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Twelve (12) unique submissions were received to the September/October 2021 exhibition, comprising 12 objections and nil submissions in favour of the proposal. The issues raised in these submissions included the following:

- Salinity/ground water, including impact on downstream biodiversity and agriculture
- Exacerbating existing local flooding
- Lots are too small (450 sq m- 992 sq m)
- Congestion on Gundy road
- Loss of native vegetation

Nine (9) unique submissions were received to the March 2022 exhibition, comprising 11 objections and one support in principle but concerned about small block sizes. The issues raised in these submissions included the following

- Not much change from the original proposal
- Increased salinity
- Stormwater and increased flood potential
- Loss of biodiversity
- Increased traffic
- Need for more housing in Scone and inappropriate urban planning for the area

A summary of submissions is in the Appendix 1.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act* 1979, are assessed under the following headings:

ENVIRONMENTAL PLANNING INSTRUMENTS

LIPPER HUNTER LOCAL ENVIRONMENTAL PLAN 2013

OPPER HUNTER LOCAL ENVIRONMENTAL PLAN 2013		
	COMMENT	
Land Use Table		
Zoning classification	R1 General Residential	
	Consistent with the objectives, particularly:	
Zaning chiectives	 To provide for the housing needs of the community. 	
Zoning objectives	 To provide for a variety of housing types and densities. 	
Zoning permissibility	The proposal is permissible as a subdivision in the R1 zone.	
Clauses (Part 4)		
Minimum Subdivision Lot Size (Clause 4.1)	The minimum lot size if 600m2. The proposed lots comply with this requirement.	
Minimum Subdivision Lot Sizes Community Title	N/A	

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(Clause 4.1AA)	
Minimum Subdivision Lot Sizes Strata Plan Schemes (Clause 4.1A)	N/A
Exceptions to minimum lot sizes for certain residential development (Clause 4.1B)	300 m2 (conditional). Not applicable to the development application.
Minimum subdivision lot sizes in certain split zones Allotments (Clause 4.1C)	N/A
Boundary Adjustments (Clause 4.1D)	N/A
Rural Subdivision (Clause 4.2)	N/A
Exceptions to minimum subdivision lot sizes for certain rural subdivisions (Clause 4.2A)	N/A
Erection of dwelling- houses on land in certain rural zones (Clause 4.2B)	N/A
Erection of rural workers' dwellings in Zone RU1 (Clause 4.2C)	N/A
Height of buildings (Clause 4.3)	8.5 m
Floor space ratio (Clause 4.4 and 4.5)	0.5:1
Exceptions for development standards (Clause 4.6)	N/A
Part 5 – Miscellaneous provisions	N/A
Development near zone boundaries (Clause 5.3)	N/A
Controls relating to miscellaneous permissible uses (Clause 5.4)	N/A
Architectural roof features (Clause 5.6)	N/A
Conversion of fire alarms	N/A



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(Clause 5.8)	
Dwelling house or	
secondary dwelling	
affected by natural	N/A
disaster	
(Clause 5.9)	
Trees or vegetation not	
prescribed by a	Repealed
development control plan	
(Clause 5.9AA)	
Heritage conservation	N/A
(Clause 5.10)	
Eco-tourism facilities	N/A
(Clause 5.13)	IN/A
Part 6 – Additional Local	
Provisions	
Earthworks (Clause 6.1)	Noted
Flood Planning (Clause	N/A Netfleed grand an along edgeted by Council
6.2)	N/A. Not flood prone land on plans adopted by Council.
Terrestrial Biodiversity	
(Clause 6.3)	N/A
Groundwater	
vulnerability (Clause 6.4)	N/A
Drinking water	
catchments (Clause 6.5)	N/A
Riparian land and	
watercourses (Clause	N/A
6.6)	
Airspace operations	
(Clause 6.7)	Noted
Development in areas	
subject to aircraft noise	N/A
(Clause 6.8)	
Events permitted without	
development consent	N/A
(Clause 6.9)	
Essential Services	
(Clause 6.10)	Water, Sewerage and telecommunications serves are available
Location of sex services	
	N/A
premises (Clause 6.11)	

STATE ENVIRONMENTAL PLANNING POLICIES

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Regional Development		
SEPP 55 – Remediation of Land	Clause 7 - The development site comprises land that has been used for agricultural purposes and as such has the potential to be contaminated. Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	Y
SEPP 44 – Koala Habitat Protection	 The Site meets the definition of 'Potential Koala Habitat' as defined by SEPP 44. No evidence or sightings of Koalas (Phascolarctos cinereus) were recorded within the site. Due to the distance and highly fragmented habitat present within the area and the Subject Site Kleinfelder concluded that the site would not constitute 'Core Koala Habitat' as defined by SEPP 44. 	Y
SEPP Infrastructure 2007	 Clause 45 (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions. Clause 101 Development with frontage to classified road Clause 102(2) Impact of road noise or vibration on non-road development Clause 104(3) - Traffic-generating development 	Y (45), (104(3)
Draft EPIs	No compliance issues identified.	Ν
LEP	No compliance issues identified.	
DCP	Compliance issues identified. Note: some aspects of the DCP relating to the "St Aubins Estate" no longer reflect best practice.	

REGIONAL ENVIRONMENTAL PLANNING POLICIES

There are no REP's applicable to the site or list any relevant regional environmental planning

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policies.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft EPI's applying to the land or list any relevant planning draft environmental planning instruments.

DEVELOPMENT CONTROL PLANS				
Development control plan	Considered?	Comment (only if necessary)		
Upper Hunter Development Control Plan 2015	YES	The development application has been assessed in relation to the UHDCP. While it complies in some areas, there are non- compliances relation to lot widths, biodiversity conservation, salinity impacts, open space, erosion and sediment control and stormwater management. Refer to Appendix 2 and 3 for consideration of UHDCP.		
Section 94A Levy Contributions Plan 2008	NO			
Upper Hunter Development Contributions Plan 2017	YES	Contribution required for the following facilities: Recreation and Open Space Facilities \$1343.21 per lot Community and Cultural Facilities \$678.54 per lot Transport Infrastructure \$1372.50 per lot Plan Management and Administration \$31.12 per lot TOTAL \$3425.37 per lot @384 lots = \$1,315,342.08 (indexed)		
Development Servicing Plan for Water Supply and Sewerage	YES	Under the current fees and charges the contributions for water and sewer are: Water - \$7,553.90 per lot Sewer - \$8,742.65 per lot		

PLANNING AGREEMENTS

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There are no planning agreements relevant to the proposal

REGULATIONS

There are no provisions in the regulations relevant to the proposal

LIKELY IMPACTS OF THE DEVELOPMENT

Context and Setting

The Site

The site is known as 150 Gundy Road, Scone, and can be identified as Lot 2 DP1169320. The site is located within the Upper Hunter LGA, and comprises a 57.5 hectare residential zoned lot with an approximate 395m frontage to Gundy Road, Scone as shown on the Location Map.

The subject site is currently vacant, and consists mainly of cleared grasslands/pastureland, with scattered native vegetation and trees (which are largely located in the vicinity of the watercourse).

The site also contains an identified blue-line watercourse within the northern portion of the site, which connects two dams at opposite ends of the site (east and west).

The Locality

The site represents a southern extension to the urban area of Scone township. It is located close to a range of urban services, including within walking distance of the public high school and a catholic primary school. The town centre of Scone is located to the northwest, via Gundy Road and Kelly Street.

The surrounding environment consists primarily of cleared grazing land, with residential development located to the north of Gundy Road. An aged care facility has recently been developed immediately adjacent, to the north/north-west of the subject lot.

Scenic qualities and features of the landscape

The overall landscape theme is of a space extensive sweeping rural landscape and a low density rural town.

The landscape to the south, east and west undulating grazing land with scattered woodland. In the middle distance wooded ridgelines rise from the Hunter River valley floor. The landscape to the north is urban in character, and is the outer edge of the Scone urban area. It consists of detached housing, and to the northwest and aged housing development.

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The Site is separated from the urban area of Scone by Gundy Road, with the exception of the aged development to the northwest. As such, Gundy Road provides a buffer between the existing urban development and the proposed subdivision. The aged development is separated from the proposed subdivision by a watercourse/riparian area which is proposed to be rehabilitated, with the exception of 8 proposed lots whose rear boundaries adjoin the aged development.

Potential Impact on Adjacent Properties

The potential impacts on adjacent/ nearby properties are:

- Restrictions on rural activities due to sensitivities of residential development to acoustic impacts at night, spray drift, dust etc.
- Interface issues with the aged persons development, particularly plant and equipment noise
- Visual impact on properties north of Gundy Road due to loss of rural views
- No overshadowing impacts expected
- Visual impact on rural views from vantage points to the west, such as Kelly St/New England Highway due to housing development in the middle distance
- Downstream drainage/stormwater impacts
- Onsite and downstream salinity impacts

Access, Transport and Traffic

The development application proposes to create 384 residential lots in 156 stages and as such will result in traffic generation, particularly along Gundy Road. The 2007 Traffic Impact Assessment (TIA) undertaken by SECA identified that traffic volumes are likely to increase from the existing 2,700 vehicles per day to 3,130 vehicles per day with the majority turning west (towards the New England Highway). The projected increase is likely to be less due to the reduction in lot numbers since the original proposal.

The TIA concluded: From the site work completed and the review of the development proposal against the requirements of the RTA Guide to Traffic Generating Developments, it is considered that the proposal should be approved on traffic and access grounds. The additional traffic movements generated by the development will have an acceptable impact upon the local road network and the traffic movements associated with the development can be accommodated within the existing New England Highway / Gundy Road intersection. An addendum produced by SECA in April 2022 using updated current traffic flows and modelling has the above conclusion.

The proposed development has a single day to day access to Gundy Road. In their April 2022 Addendum SECA state: The proposed access on Gundy Road has been reviewed against Section 3 of the Austroads Guide to Road Design Part 4A and AS2890.1 to confirm suitable sight lines. The sight distance is consistent with the Austroads requirements.

SECA reviewed likely construction traffic, and concluded traffic volumes associated with these are expected to be less than the typical daily flows associated with the completed subdivision and so will be consistent with the impacts determined as being acceptable for the proposed development.

As discussed the development application was referred to the RMS and Council's Infrastructure Services Department, neither have raised concerns about the capacity of the existing road network to support the development.

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SECA recommended improved pedestrian and cyclist connections, and suggested these be funded as part of the S94 contributions to be paid by the proposed development, However Council would require that any pedestrian and cycle connections within and fronting the site are undertaken by the developer as a condition of development consent, as a direct consequence of the demand created by the development.

The 385 lot residential subdivision relies on a single access road from Gundy Road. Following discussions about the undesirability of an emergency (second) access for the proposed development, the applicant has proposed that the emergency access be to the west, off Gundy Road. SECA assessed this access and concluded the emergency access point off Gundy Road has acceptable sight visibility and permits safe vehicle movements.

Comments by Transport for NSW highlighted:

- Council should consider an upgrade of the intersection of Gundy Road and Kelly Street to provide a right turn out storage lane along Gundy Road to manage the additional queuing and Level of Service (LOS) reductions.
- Council should consider an extension of the existing 50km/h zone past the new development and remove the existing 60km/h zone currently east of Barton Street. Formal approval through the Local Traffic Committee (or similar) will be required to formalise this arrangement.

The former comment by TfNSW could be addressed by a condition of consent, should the development receive consent as an outcome of the determination review. The later comment can be referred to the Local Traffic Committee for their consideration.

Utilities

The development will place additional demand on water supply, sewerage, electricity and telecommunications infrastructure.

Electricity: the applicant has not provided details of whether any capacity upgrades are required. However, the application was referred to Ausgrid who did not raise any concerns about the development.

Sewerage

Sewerage - In relation to sewer the site has been divided into two catchments that drain to a central 300mm gravity trunk main which will be located to the north of the proposed drainage reserve, and one catchment that drains to a 150 mm gravity trunk main, and hence links to the 300m main in the northwestern corner of the site. However, it is proposing to drain to a location within an unformed road (to the rear of Lot 38 DP 813932). Infrastructure Services (Water and Sewer) have advised that the existing sewer infrastructure will need to be upgraded to support the development. An appropriate condition of consent could be imposed to address this issue.

Water

Water supply - The Water Supply Report (MM Hyndes Bailey, 9 November 2017) demonstrates that adequate provision has been main for a reticulated water supply from the main on Gundy Road. Infrastructure Services

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(Water and Sewer) have advised that the proponent will need to demonstrate how water will be provided to the development. An appropriate condition of consent could be imposed to address this issue.

Telecommunications.

A search on the NBN website indicates that NBN broadband and telephony is available at the Site.

Heritage

The extensive areas of land disturbance and vegetation clearing are proposed for the construction of roads and other infrastructure.

The applicant has submitted an Aboriginal Cultural Heritage Archaeological Due Diligence Assessment (Insite Heritage, November 2017). This involved a site survey which identified a potential archaeological site in the form of a possible modified tree. Apart from this no other items of archaeological significance were identified.

The report proposes that the tree be avoided and incorporated into public space to enable the long term conservation of the potential site. This tree is located within the area of open space in Stage 2.

Should the application be approved it is recommended that a condition of consent is imposed that requires measures to be undertaken to prevent the tree being either removed or damaged during the construction stage.

There is however potential for unexpected items of archaeological significance to be under covered during the construction stage. In this regard it is recommended that an unexpected finds procedure be a condition of consent is imposed should the application be approved:

Soils/ Geotech

Valley Civilab have undertaken a geotechnical assessment of the site for the applicant, and provided a range of parameters and recommendations that should be applied when development is being considered. The geotechnical report did not raise any fundamental issues in relation to the Site being unsuitable for the nature of the proposed land use.

The development involves the disturbance of the ground surface in order to undertake civil infrastructure works such as road construction, installation of water supply system and upgrading of stormwater system. This has the potential to result in erosion and sedimentation. A preliminary soil and water management plan, comprising the guidance notes and diagrams taken from Managing Urban Stormwater: Soils and Construction has been submitted. However, it does not include an actual erosion and sediment control plan specific to the site that demonstrates mitigation measures during construction. It is recommended that should the development receive consent; a condition of consent be placed on the development that requires the submission of a detailed erosion and sediment control for the development prior to the issue of a Construction Certificate for each stage of the development.

Stormwater

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Stormwater drainage – A Stormwater Management Plan was produced by ACOR consultants with the most recent version being Revision 03 March 2022, following a Council commissioned peer review by Northrop.

According to ACCOR:

There is an upstream catchment north east of the site that drains to the culverts under Gundy Road and then feeds the stream through the development site from the east. This catchment is approximately 98 Hectares and is mostly grassland with some trees. The most northern part of this catchment is within the Scone Mountain National Park and has more vegetation than the lower section of the catchment.

There is an upstream catchment to the east of the site that feeds the stream through the development site. This catchment is approximately 53 Hectares and is mostly grassland.

The development site has frontage to Gundy Road. Gundy Road has a grassed swale along both sides of the road. In minor storm events, flows are directed to the west along Gundy Road but in major storm events the flows that cannot be contained within the grassed swale overflow into the development site and are directed south west to the stream traversing through the site.

There is a second order stream traversing through the site from east to west. This stream is fed from the upstream catchments to the north east under Gundy Road and to the east of the site. The stream is not well defined in places but is generally in good condition with minimal scouring.

The Stormwater Management Plan divides that part of the site proposed for development into 4 catchments. Each catchment drains to a separate bioretention basin for water quality control purposes. Three of these basins are located on the periphery of the drainage reserve, and drain into the east west stream, and one basin is located in the southwestern corner of the Site, and drains into the adjacent rural land via an easement, presumably to disperse the water.

The ACOR report concluded:

The catchment wide modelling undertaken using DRAINS has shown that stormwater detention is not required for the proposed development. Due to the large upstream catchments draining through the existing stream traversing the development site, the post developed flows at the downstream boundary are generally below the predeveloped flows.

The proposed installation of the reinforced box culverts under the road crossing between the northern and southern sections of the subdivision also provide some control to the post development flows downstream.

The MUSIC modelling undertaken has shown that the proposed treatment train of rainwater tanks, GPTs and bioretention basins has sufficiently reduced the mean annual pollutants loads from the proposed development. The bioretention basin configuration, levels and inlet/outlet details will need to be confirmed at the Construction Certificate design stage.

During the construction phase of the development, an Erosion and Sediment Control Plan will be implemented to minimise the water quality impacts. Erosion and Sediment Control Plans and details will need to be prepared at the Construction Certificate design stage.

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was submitted.

Because of the specialised nature of this issue, Northrop have been asked to peer review ACORs response as well as the Flood Assessment by Torrent Consulting. The outcome from the peer review is not yet available.

Salinity

The Site is within a sub-catchment where dryland salinity is an issue.

Urban development in saline area can further mobilise salt in the soils by increasing groundwater recharge which then exacerbates salinisation both on the development site and off-site.

The site of the development is within an approximate 284ha sub-catchment area that flows east to west into Parsons Gully.

The sub-catchment is predominantly undeveloped land, however there is also urban development including the retirement village, existing residential area (Honeysuckle Crescent), Scone High School, the Ausgrid sub-station, service station, New England Highway and land that is now part of the golf course.

A number of studies including groundwater monitoring have been carried out by various state government agencies (NSW Soil Conservation Service, Department of Land and Water Conservation and Hunter-Central Coast Catchment Management Authority), consultants and community groups have identified the presence of a groundwater with inherent low to extremely high concentrations of soluble salt. These reports and advice to Council indicate that the development site is likely to be an aquifer recharge area that contributes to high soil salinity.

Salinity was a significant issue in the Planning Panel refusing DA 163/2017 with the Determination stating, amongst other matters:

- 1. Salinity is a known constraint and is affecting immediately surrounding lands, which warrants a precautionary approach within the catchment
- 2. There are fundamental differences between the Council and Proponent on salinity. Council's position, informed by an independent review and advice from the Department of Industry Saline Support Unit, is that the model provided by the applicant is not the correct model it needs to be salinity modelling
- 3. Accordingly, there is not sufficient information for the Panel to be confident and satisfied that onsite and offsite salinity impacts are minimised and mitigated."

The applicant has undertaken a number of salinity assessments, the most recent being by Martens Consulting. (February 2022).

Marten's reviewed a number of alternative models for groundwater (salinity) impact analysis.

Martens undertook salinity modelling based on existing hydrogeological data for the Site and surrounding area as well as site field investigations. They then developed/utilised a groundwater model (MODFLOW)

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to determine the long term impacts of the proposed development. Martens also developed a Groundwater Management Plan which including monitoring during construction and for 5 years post construction.

Martens concluded:

1. Groundwater modelling demonstrates that groundwater levels will not be detrimentally impacted at nearby registered groundwater bores, and that basic landholder rights in respect of groundwater availability or quality will not be degraded.

2. Groundwater modelling demonstrates that groundwater levels will decrease slightly in the local area due to development, and will therefore not increase the risk of dryland salinity in the surrounding area.

3. On the basis of the outcomes of the detailed groundwater impact modelling, further salinity modelling is not required.

4. The groundwater impacts of the proposed development have been assessed in relation to the NSW Aquifer Interference Policy and been found to comply with the requirements.

5. No change to the subdivision development plan is required or recommended, and no further controls are required or need to be placed on future dwellings other than what have been previously recommended by other consultants.

This assessment has been peer reviewed by Soil Futures Consulting (Dr Robert Banks) who stated "the document does not show the scale of potential salinity impacts within or downslope of the site, it is inadequate for planning purposes with respect to salinity"

The peer review concluded the Martens Report :

- Fails to indicate spatially any offsite potential salinity impacts or required management.
- Does not indicate areas of affect nor does it propose mitigation measures.
- Does not use a large amount of real data available for the study area.
- Does not consider impacts of increased run-on onto adjacent saline salt stores
- Used MODFLOW to model groundwater changes, however groundwater data for the model was confined to just the proposed development site, instead of the whole catchment including the site.

The Principal Salinity Officer (PSO) of the Basin Salinity Program of the Department of Planning and Environment has also reviewed the Martens Report and version P of the subdivision plan. The PSO reaffirms the Peer Review undertaken by Soil Futures in so far as the Martens Report failed to adequately address "the impact of the development offsite on existing highly salinised infrastructure and landscape, and the associated risk to council and individuals assets".

In particular, the PSO notes:

- There is NO recognition that a high saline groundwater situation already exists in the catchment
- The site itself has salinity issues evidenced by previous EM survey and soil testing, as well as recent bore construction.
- MODFLOW has only used data from a short monitoring period (12 weeks) and local to the site information.

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- No information from sourced GIPA data of the surrounding developments and salinity monitoring data has been used, especially in the highly salinized lower areas around the high school
- The 10 new boreholes undertaken by Martens were within the development area, and was not referenced to any bore data off site where salinity issue exists.
- The recharge figures used take no account of applied water by watering gardens and leaky pipes/ stormwater, This is often extraordinarily high such as 42meg/ha applied water in the urban area of Dubbo.

Further, the PSO states that the proposed bioretention basins will induce extreme salinity risk, both onsite and offsite because:

- The detention basins will increase the hydraulic loading and connect local aquifers causing more salinity (while lining the detention basin may minimise water leakage it does not address the hydraulic loading)
- The area is already saline, and with evaporation will become saltier, providing contamination downstream with salt.
- Saline & sodic soils have high chance of failure in constructed earthworks.
- Areas across the state where this has been proposed have been refused development consent, due to extreme salinity risk

The revised subdivision plan (Plan Stage 004) seeks to place a restriction to user over that part of the site which is especially affected by salinity (proposed Lot 514). Version P of the subdivision plan proposes this lot be the site of a bioretention basin. The applicant has provided details of the restriction to user which requires approval of a "prescribed authority" (which is not defined) prior to submitting a development application for work on the proposed lot. However, this does not preclude complying development being approved (complying development being defined separately under the Act). It should be noted that this is contradicted in the legal advice from the applicant that states the restriction to user is deleted on proposed Lot 514.

Martens (30 March 2022) has responded to the Soil Futures peer review of the Martens Report. This response is lengthy and should be read in full by the Panel because of the importance of this issue. For this reason, the full Marten's response is at Attachment XX. In summary, Martens state

- 1. "The amended groundwater modelling indicates that the proposed development is not likely to cause soil salinity impacts. This is because groundwater levels will not be increased within or downslope of the site, considering a range of long-term climatic conditions, and there are therefore no anticipated changes to the groundwater capillary fringe.
- 2. The potential impacts of increased urban water usage, urban gardens and lawns, and stormwater releases, are counteracted by reduced overall groundwater recharge due to urbanisation.
- 3. We recommend that if consent were granted, that a condition be imposed that would require the stormwater basins to be designed to be impermeable and that a construction testing regime and certification requirements be imposed to confirm appropriate standards have been met."

Notwithstanding Martens response, there is a divergence of professional specialist views about the management of salinity in relation to the proposed development. The nature of salinity and its long term impacts is such that a precautionary approach is warranted. Until there is greater certainty as to the outcome, it would be prudent to not proceed with development.

Air/Microclimate

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The proposed development may experience dust from the adjacent rural land from time to time particularly during drought or during slashing/cultivation of paddocks. This is not unusual for the rural/urban interface at the periphery of a rural town.

The construction works have the potential to impact on air quality (mainly dust) with adverse impacts on adjacent residents and land uses (including the safe operation of Gundy Road).

According to the Local Government Toolkit (Air Quality Guidance Note: Construction Sites) construction sites can generate particulates (e.g., dust, smoke) and odour. Possible sources of particulates include demolition, on-site vehicle movements, diesel exhaust emissions, earthworks, stockpiles and a range of other construction works. This issue has not been fully addressed in the Statement of Environmental Effects submitted by the applicant.

In this regard it is recommended that prior to the issue of a Construction Certificate for each stage of the development a Construction Environmental Management Plan is required that addresses air quality issues during the construction phase.

Flora and Fauna

A flora and fauna assessment has been undertaken by Kleinfelder (June 2021) for the applicant.

In summary, the assessment concluded,

The proposed development has the potential to impact 47.59 ha of native vegetation within the Subject Site.

Direct impacts of the proposed development on fauna habitat includes the following:

- The clearing of 13 Hollow-bearing Trees
- The removal of a stack of fallen logs/timber

There are also a number of indirect impacts that may be experienced during the construction phase.

No threatened flora species was recorded within the Subject Site.

The proposed development will impact a total of 1.21 ha of Box-Gum Grassy Woodland. However, impacts are predominantly within areas of grassland with only 13 mature trees proposed to be removed. The majority of the Critically Endangered Ecological Community within the Subject Site (3.04 ha) will be retained (inclusive of 79 HBTs) and managed as the Drainage Reserve.

Approximately 1.21 ha of vegetation representing marginally suitable potential habitat for one threatened flora species, Dichanthium setosum (Bluegrass) (not identified on site)

Seven (7) threatened fauna species were detected within the Study Area, including: Yellow-bellied Sheathtail Bat (Saccolaimus flaviventris), Southern Myotis (Myotis macropus), Large Bent-winged Bat (Miniopterus orianae oceanensis), Greater Broad-nosed Bat (Scoteanax rueppellii), Eastern Cave Bat (Vespadelus troughtoni) [Vulnerable BC Act], Grey-headed Flying-fox (Pteropus poliocephalus) and Corben's Long-eared Bat (Nyctophilus corbeni) (Vulnerable BC Act and EPBC Act). Also included are the further five (5) species assessed to have preferred habitat onsite. In accordance with Section 7.3 of the

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Biodiversity Conservation Act, an 'assessment of significance' determined that the proposed development is unlikely to have a significant impact on these species.

There is a first order stream running from east to west. There are potential direct impacts to the waterway where the road dissects the drainage line

Avoidance and mitigation measures are described to reduce potential impacts to biodiversity values. Importantly, some redesign of the proposed development has occurred, primarily around the drainage reserve, to reduce biodiversity impacts.

Importantly Kleinfelder note that most trees within the proposed drainage reserve contain hollows and are unlikely to be suitable for nest box installation (to replace those hollows lost through clearing). As a result, nest boxes are proposed to be installed within vegetation to the direct north, south, and west of the proposed Development Site (under the same land ownership but a different lot).

A Plan of Management (PoM) for retained vegetation within the Study Area (the "Drainage Reserve") has been submitted by the applicant, as part of these measures. The PoM has most of the characteristics of a Vegetation Management Plan (VMP).

Vegetation monitoring, nest box monitoring, revegetation works and weed management have been estimated for the 20-year period. Section 3.1.3 of the PoM states that the applicant will be responsible for bearing the costs of the drainage reserve maintenance until it is dedicated to Council, which will likely take up to 20 years. Once dedicated, Council will be responsible for bearing the costs of maintenance. Presumably this matter would be addressed in a condition of consent, and no other mechanisms, such as a bond or planning agreement, are proposed by the applicant to ensure that the PoM is adequately implemented over the 20 year period. The implementation of the POM and other "open space" matters have not yet been discussed by the applicant with the relevant area of Council.

Waste

The completed development would receive Council's normal domestic kerb side waste collection.

The application documentation does not refer to the generation of surplus fill, or otherwise as a result on earthworks, and therefore does not discuss the disposal of this fill. In the absence of any statements in the application, it is assumed the site is "balanced" as far as fill is concerned.

Energy

There is no statement in the Application regarding the subdivision design and its suitability for energy efficient dwellings. However most lots are oriented east west or north south, permitting an energy efficient design with good solar orientation to be achieved on most lots.

The subdivision has adequate provision for pedestrian and cyclist pathways to encourage use of (energy efficient) active transport.

Noise & Vibration

There is not considered to be an acoustic impact as a result of the proposed development.

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The primary acoustic impact likely to be experienced by future residents of the Proposal is from vehicle noise on Gundy Road. RAPT consulting has undertaken an acoustic assessment of the acoustic impact on Lots adjacent to Gundy Road for the applicant ,and concluded that compliance with Department of Planning Guideline "Development near Rail Corridors and Busy Roads – Interim Guideline" Section 3.5 can be achieved. However, to achieve this certain measures from the Guideline would need to be incorporated into the residential buildings. To ensure these measures are incorporated a restriction to user (88B) would need to be incorporated into the title of the resultant lots.

The other possible noise impact is potential noise from vehicles or plant associated with the aged housing development to the west. This would be a matter of managing future development on that (undeveloped) part of the age housing site.

Natural Hazards

Bushfire hazard (bushfire hazard assessment)

A bushfire assessment has been undertaken for the applicant by Firebird. The primary measures proposed by the assessment are an asset protection zone on the rural land (different lot and not part of the proposed development) surrounding the Site development accompanied by a fire trail for fire fighting vehicles. In addition, an emergency access road is proposed to the west from the Site to Gundy Road. The emergency access road would pass through the adjacent rural lot.

The Rural Fire Services (RFS) has commented to the proposed fire management measures (as shown in Plan Version O).

RFS raised a number of concerns, and in response the applicant has revised the subdivision plan (now Version P) to include a perimeter road to the majority of affected lots without an external boundary.

Where a perimeter road is not provided, an APZ is proposed outside of the vegetation buffer zone. An access track for emergency fire vehicles to the full perimeter of the site. Firebird claim this arrangement meets the performance requirements of *Planning for Bushfire Protection* (2019); however, this has not yet been confirmed by RFS.

The emergency access road crosses a watercourse. Detail of this crossing has not been provided nor has detail of how the opening and closing of the access way will occur in practice.

The APZ, associated access road and emergency access road (including maintenance) has proposed to be managed by a restriction to user (88B) burdening the adjacent rural lot upon which the APZ and access trail are to be located. There is a high dependence on adherence to the restriction to user to ensure this important infrastructure is kept in functional condition at all times.

Flooding hazard (flood study)

A flood impact assessment report has been undertaken by Torrent Consulting for the applicant. This followed a Council commissioned peer review by Northrop of the previous stormwater strategy, which recommended flood study be undertaken. The flood impact assessment found

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The flood impact assessment has found the impacts of the proposed subdivision to be almost entirely contained within the Site, with negligible off-site impacts. It recommended:

- the removal of Basin 3 from the floodplain
- formalisation of a spillway for the existing dam to better contain flood extents and reduce the risk of a dam failure
- creation of a drainage swale along the toe of the Stage 5 earthworks batter
- the relocation of the park adjacent to Stage 5 further to the east.

In relation to flood risk the assessment concluded the risk to property from flooding can be managed through application of flooding planning level requirements. All proposed lots are above the modelled flood planning level (FPL)(1% AEP flood level plus a 0.5 m freeboard).except lots 225 and 226, where the risk to further buildings can be managed through application of FPL requirements.

The assessment concluded risk to life from flooding can be managed through seeking on-site flood refuge and access to low hazard egress to high ground. An alternative emergency access should not be required as the access road would only be overtopped for a short period of time (less than one hour) for events rarer than its design standard.

Safety, Security & Crime Prevention

A crime prevention through environmental design (CPTED) report was undertaken for the applicant by Octagon Planning and a latter addendum by Perception Planning.

The crime risk assessment did not identify elements of high risk in the proposal, and recommended a number of measures to reduce crime risk during the construction and ongoing operational stages of the proposed development. These measures particularly related to design of the public realm and public open space. The construction phase measures related to physical measures to improve site security including access control and well maintained development sites. The construction phase may continue for 20 years, and as a result it is important that these measures be undertaken to ensure the medium term security of construction sites and residents persons and property.

Social Impact on the Locality

The proposed subdivision will provide long term (20 years) supply of housing to expand the urban area of Scone. In turn, the additional population will help support and provide critical mass for local services including community and health services. Additional housing will also draw younger people to the area, attracted by the schools near to the Site. It will be important to ensure market competition by ensuring the Proposal is complemented by other providers of land for housing- thus providing competitive pricing (with positive affordability impacts), diversity of location and product ,and avoiding potential dependence on a single provider.

Open Space

The proposed subdivision has a central core of open space ("drainage reserve" running east west along the watercourse. Most of this open space is degraded riparian woodland and will be rehabilitated. As a result, it will be suitable for low intensity informal recreation, such as walking. Three more formal open space areas are proposed on the periphery of the drainage reserve. These are 2000 sq m, 2520 sq m

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and 2610 sq m in size respectively. One of these areas is proposed to feature play equipment, while the others are likely to be mown and landscaped areas with seating but otherwise minimal infrastructure. The submitted landscape plan detail (Version D, LO7) indicates a level of facilities in excess of what could be reasonably supported with open space areas of this size, e.g., sporting field for multiple codes, and the function of some spaces is contrary to Version P of the subdivision plan.

Three other open space areas are proposed- a 1369 sq m area whose main function is to protect and provide a suitable setting for an Aboriginal modified tree; a 2170 sqm long linear park that provides midblock connectivity between two streets, and a roughly triangular shaped lot of 2831 sq m whose purpose is unclear.

Council's infrastructure services area has commented that they do not support not support interlinking pathways (i.e., the linear park between two streets) because they create the potential for nuisance noise, vandalism and public safety. The applicants crime risk assessment makes no comment on this particular proposed park probably because the park was not proposed when the CPTED assessment was undertaken. Council's asset section also do not support the number and location of the parks a central park on corner site not between residential lots is preferred. The CPTED report also refers to a corner park location being preferred, and suggests some locations. Despite previous comments on the need for the applicant to discuss open space, particularly ongoing management, with the relevant area of Council, this does not appear to have occurred.

Landscape

A landscape plan has been prepared for the applicant by GSP. The plan describes the nature of street tree planting, the "formalised" open space area, the Gundy Road buffer and the urban rural buffer planting. Planting in the drainage reserve is addressed in the Drainage Reserve Plan of Management (Kleinfelder).

Notwithstanding the Upper Hunter DCP specifies a mixture of exotic and native planting for the St Aubins area (i.e., this site), and this theme is adopted by the landscape plan, Council officers are concerned that the street planting and some other landscaped areas should utilise native, and preferably endemic, species to a greater extent. Further, there is some concern that the proposed species list be reviewed to ensure suitability/viability for the locality.

There is also concern that the proposed arrangement for the Gundy Road buffer is requires refinement. The proposed double fence arrangement is likely to lead to "unloved" areas and difficult access for residents responsible for maintenance of the buffer adjacent to their lot. The Gundy Road buffer is important to maintain a high aesthetic quality streetscape along Gundy Road.

While the applicant's bushfire risk consultant is satisfied that the proposed location of the urban/rural landscape buffer relative to the asst protection zone (APZ) has addressed concerns expressed by the RFS, it is important that the RFS review the proposed arrangement to ensure it meets their requirements.

Economic Impact on the Locality

The construction of the subdivision and subsequent construction of new dwellings will create additional employment and economic activity in Scone. Further, the residents occupying the dwellings will consume goods and services, leading to greater ongoing employment and economic activity. The proposed

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subdivision will provide greater certainty in the supply of housing in the town. It will be important to ensure market competition by ensuring the Proposal is complemented by other providers of land for housing-thus providing diversity of location and product and avoiding potential dependence on a single provider.

The development exacerbates salinity through increasing groundwater recharge, there could be adverse economic impacts associated with future repairs and replacement of buildings and infrastructure in the down catchment area such as Scone High School, the Ausgrid sub-station and Honeysuckle Crescent.

Site Design and Internal Design

The revised amended proposal seeks consent for a 384 lot residential subdivision, which is relatively conventional in layout and largely intended for detached dwellings.. The proposed lots will have areas from approximately 700m2 to 1,650m2 with the average size 829 sq m. Dwelling lots in Scone tend to be larger than those found in greenfield metropolitan developments. The road system has good connectivity, with only three short cul de sacs (one of which is the termination of a road which may be extended to the east if approval is granted in the future for an easterly extension of the residential development). Three, potentially four, other opportunities exist to extend the subdivision to the south, east and west, should this be desired in the future (none of this "extension" land is currently zoned for urban purposes).

Access will be via a single entrance road, which intersects with Gundy Road. It is not ideal to have a single access road (in case of blockages or emergencies), however multiple access points would lead to increased disturbance of the biodiversity values of the east west watercourse ("drainage reserve"). As a result, an emergency access road is proposed to intersect with Gundy Road further to the east.

The subdivision has three components, a smaller subdivision of housing to the north, adjacent to Gundy Road, the biodiversity important east west watercourse, and a larger subdivision to the south. The two housing areas are linked by a single road, which intersects with Gundy Road to the north.

There is no energy analysis of the subdivision. However most lots are oriented east west or north south, permitting an energy efficient design with good solar orientation to be achieved on most lots.

The subdivision plan shows a number of proposed duplex lots. These appear to have been distributed throughout the proposed development, but the criteria applied to identify these lots are unclear. Given duplex development is permissible throughout within the R1 zone, subject to planning considerations, it is suggested the relevant plan (DUPLEX 001) be deleted from the subdivision plans should consent be grant for the proposed development.

Open space is focused on the periphery of the drainage reserve, with one area identified for the installation of play equipment. The open space areas are large enough for low scale informal use only (with areas between 2813-1369 sq m), and organised sport or games would need to utilise playing fields elsewhere in the township. The balance of open space is in effect the drainage reserve which is intended to protect the biodiversity values of the riparian area and remnant bushland rather than support intensive recreational activity.

The landscaping plan requires further refinement to confirm an appropriate species mix, a more practical interface to Gundy Road and reframing of open space expectations (for example, "Recreation Space 1" is described as a sporting field for multiple codes, which is not practical because of its size, amongst other reasons.

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Construction

The subdivision work (construction phase) has the potential to cause erosion and sedimentation, air quality issues associated with dust and plant emissions, noise and loss of visual amenity, as well as heightened crime risk on and around construction sites.. The long term staging of the subdivision requires consideration of maintaining suitable measures over an extended time period. These impacts are generally common to most developments of this nature.

Appropriate conditions of consent to ensure the above matters are addressed at an operational level should be included if consent is granted to the Proposal..

Legal Matters

The applicant proposes a number of 88B instruments pursuant to the Conveyancing Act 1919 (letter from Morgan and English 4 March 2022) at Attachment 10).

In summary the instruments relate to:

Rural Vegetation Buffer:

- Lots Burdened: Lot 2 DP 1169320
- Lots Benefited: Lot 2 DP 1169320 and Upper Hunter Shire Council
- 6 m easement on the adjoins rural land
- Positive covenant for the burdened party (adjacent rural land owner to maintain the buffer and permit Council to inspect its condition, and require and/or carry out works to achieve the above (redress on costs).

Asset Protection Zone 10m wide and 12 m wide:

- Lots Burdened: Lot 2 DP 1169320
- Lots Benefited: Lot 2 DP 1169320 and Upper Hunter Shire Council
- Right of the benefited parties to access and manage the APZ on the adjoining rural land for bushfire hazard reduction, and to maintain the access track within the APZ
- This instrument appears unclear in relation to responsibilities of the burdened parties and the burdened lots

Gundy Road Interface:

- Lots Burdened: Proposed lots 101-103, 201-206, 301-307 inclusive
- Lots Benefited: Upper Hunter Shire Council
- Lots burdened maintain the landscaped buffer
- No access through the buffer
- Council can enter and maintain the buffer to carry out its maintenance (no redress on costs)

Easement for Stormwater Discharge (South West Corner):

- Lots Burdened: Lot 2 DP 1169320
- Lots Benefited: Lot 2 DP 1169320 and Upper Hunter Shire Council
- Right for benefited parties to enter the easement on adjacent rural land and carry out maintain as necessary for stormwater management
- The burdened party can not hinder the easements ability to dissipate stormwater.

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Issues:

In many cases the Lot burdened appears to be Lot 2 DP 1237000 however, Lot 2 DP 1169320 (the development lot) is stated as the burdened lot, yet it appears to be the benefited lot. It is noted that both lots are currently in the same ownership This needs to be clarified.

It is assumed that references to the development lot will legally refer to the subsequent residential lots over time as the subdivision developments, should consent be received.

It is not clear why the Gundy Road Interface instrument refers to the proposed resultant lots, whereas the other instruments refer to the existing lot. (this may be a legal drafting matter)

Importantly, there is no proposed instrument for the emergency access road to the east, despite this being referred to as an easement in the subdivision plan. This is a major omission.

Notwithstanding the above, should the proposed development receive consent, Council is reliant on the 88B instruments and ultimately civil action to achieve compliance if the burdened party does not comply with the requirements of the instrument. This is a potentially risk approach from Council's perspective. There is no bond or the greater simplicity of achieving compliance through a planning agreement framework. This mechanism has been suggested to the applicant but they have declined to pursue this path. Council is not supportive of the reliance on Section 88B Instruments to address such a range of planning outcomes.

Further, there appear to be works arising from the proposed subdivision on Lot 2 DP 1169320 which will be carried out on the adjacent rural land Lot 2 DP 1237000. However, this lot is not the subject of the application.

SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The site is potentially suitable for the development in the sense that there is sufficient area to accommodate the lots, roads, infrastructure and open space. It is a logical extension to the urban area of Scone. There is connection to the existing road network and it is close to existing infrastructure, services and facilities in the Scone township. Although the site is within a bush fire prone area, the risk of bush fire can be managed. The Site is predominantly cleared of native vegetation and much of the existing tree vegetation adjacent to the watercourse can be maintained and enhanced.

However, as has been already been discussed, peer review and NSW Government salinity expert's comments are of the strong view that applicant has not provided an adequate salinity investigation report. As a result, the risks of granting consent are considerable given the potential long term impacts of salinity, both on-site and off-site. As a result, it is considered that the applicant has not demonstrated that this issue can be satisfactorily managed with the current proposal.

There are a range of other matters which are less substantive and which could be addressed through further amendment of the plans, further detail, further development of legal arrangements, and/or conditions of development consent. These include management of the emergency access, and the risk to Council arising from a heavy reliance on restrictions to user (88B) instruments to manage significant ongoing aspects of the development, including fire risk, This risk is magnified by that matters such as

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Asset Protection Zone/ Fire trial management and the emergency access are reliant on adjacent land, rather than internal to the development lot.

THE PUBLIC INTEREST

The primary reason the development is not considered to be in public interest is it has the potential to exacerbate the existing inherent salinity problem and cause damage to existing properties and infrastructure within the sub-catchment (e.g., the electricity sub-station, Scone High School, Honeysuckle Crescent).

SUMMARY OF LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENV	CONSIDERED	
1	Statutory controls	YES
2	Policy controls	YES
3	Design in relation to existing building and natural environment	YES
4	Landscaping/open space provision	YES
5	Traffic generation and car parking provision	YES
6	Loading and servicing facilities	N/A
7	Physical relationship to and impact upon adjoin development (views, privacy, overshadowing, etc.)	
8	Site Management issues	YES
9	All relevant S79C considerations of Environmental Planning and Assessment Act 1979	YES
10	Section 89 LGA 93 including Clause 12 considerations of Local Government Regulations 1993	N/A

CONSISTENCY WITH THE AIMS OF PLAN

The development is inconsistent with the specific aims of the plan and/or the objectives of the zone and/or the objectives of the controls as outlined in this report and as such, consent must not be granted.

SUBMITTORS CONCERNS

The issues raised in the submissions have been addressed in the body of this report

CONCLUSION

The application has been assessed as unsatisfactory against Section 79C of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2008.

Including assessment in accordance with Section 4.15

Environmental Planning and Assessment Act 1979



The proposal is in keeping with the site context, is potentially appropriate form of development for the site but in its current form there is not sufficient certainty that it will not result in any significant adverse impacts. In addition, there is a range of less substantive issues that still require resolution, including clarification of the 88B instruments applying to the property..

Accordingly, it is recommended that the review of the determination of XXX reaffirm the decision that the application be refused.

RECOMMENDATION

Pursuant to section 4.16/4.17 of Environmental Planning and Assessment Act 1979 (as amended),

THAT the Regional Planning Panel confirm its decision of 30 September 2020 to refuse Development Application No. 163/2017 as amended for development of 384 Lot Subdivision on land at Lot: 2 DP: 1169320, 150 Gundy Road Scone 2337, as shown on the submitted plans, for the following reasons:-

- Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed 423 lot Torrens Title subdivision does not comply with the Upper Hunter Development Control Plan 2015 in relation to lot width, salinity impacts, open space, and bushfire risk management
- 6. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed 423 lot Torrens Title subdivision is likely to adversely impact on land, vegetation and existing infrastructure and buildings in the sub-catchment through increased dryland salinisation.
- 7. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the application has not demonstrated that the land is suitable for the proposed 384 lot Torrens Title subdivision as it is within a sub-catchment with known saline soil and groundwater conditions which could be exacerbated by urban development.
- 8. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 the development is not in the public interest as the salinity risk has not been adequately assessed.

REASONS FOR RECOMMENDED DECISION

The recommendation that the development application be refused as the development has been assessed as unsatisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979.

There were a number of public submissions in response to the development application these have been considered. The broader community views have also been incorporated through the consideration of environmental planning instruments, the Upper Hunter Development Control Plan 2015 and the Environmental Planning and Assessment Act 1979.



Including assessment in accordance with Section 4.15 Environmental Planning and Assessment Act 1979

Including assessment in accordance with Section 4.15 Environmental Planning and Assessment Act 1979



Appendix 1: **Summary of Submissions**

Exhibition Period: 22.09.2021 to 6.10.2021

Submitter	Objection (Yes or – raises concerns)	Issues
Peter Bennetto Canonbar Gundy	Yes	The development will exacerbate existing salinity problems.
Brian Adams 19 Honeysuckle Cres Scone	Yes	Potential for increased flooding
C Leake 119 Waverley Street Scone C Hopton	-	Supports the development in principle, however is concerned that the proposed lot sizes are too small. Traffic - Increased traffic flows along Gundy Road are
13 Honeysuckle Cres Scone		likely to lead to congestion particularly around Scone High School. Suggest there be a direct connection to the New England Highway. Concerns about the proposed Emergency road going back to the exit from Scone.
		Stormwater – concerns about flooding from the two drainage systems that intersect – causing water to back-up. The increased hard surfaces would lead to increased run-off. Suggests stormwater should be piped through the waterways to the western side of the highway.
J.E Taylor 425 Turanville Road Scone	Yes	Potential to increase salinity – causing damage to existing buildings and infrastructure. Also it is likely to cause increased salinity downstream leading to damage to the rich agricultural land by stimulating an existing saline plume that will move down Kingdon Ponds. This could impact on the Red Gum trees on his land (the largest remaining Red Gum forest in the Hunter Valley.
L and C Parkinson 5 Bottlebrush Place Scone	Yes	Increased salinity levels – high groundwater levels on their property (water levels just 1.4m below surface. Trees on their land have died or are in stressed state. Potential salt damage to buildngs.
S C Eccles	Yes	Increased salinity and it potential off-site impacts

Including assessment in accordance with Section 4.15 Environmental Planning and Assessment Act 1979



		Destruction of native vegetation Stormwater management
D & F Barry 10 Bhima Drive Scone	Yes	Stormwater management
Hunter Waterkeeper Inc (Kathryn Ludeke) 5 Wilson Street Gundy	Yes	Little has changed with the subdivision since the initial refusal by the Planning Panel. Concerns – stormwater, crime, traffic, noise, amenity, biodiversity – grass box woodland (significant habitat). Martens Salinity Report was not available. Salinity issues – who will compensate property owners for damage to existing houses?
Katherine Brooks St Aubins 2471 New England Highway Scone	Yes	Down stream landowner and cattle breeder. The main concerns are increased salinity and it downstream impacts. It notes that the information that was provided does not address the reasons for refusal.
Marc Waters 117 Waverley Street Scone	-	Raises concerns about the current situation – the groundwater is blocked and rising levels are causing salt damage. The development will only increase the severity of the environmental problems that already exist for residents and Scone High School.
Dr Patrice Newell AM Elmswood 56 Miranee Road Gundy	Yes	Conflicting information about weather UHSC needs new housing. Potential to increase salinity Existing salinity issues with Scone High School Inappropriate urban planning for the area

Exhibition Period: 16.03.2022 to 31.03.2022

Submitter	Objection	Issues
	(Yes or –	
	raises	
	concerns)	
Kathryn Ludeke	-	I refer to 30 September 2020 and the NSW
President		Governments previous determination and statement

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Hunter Waterkeeper Inc	 of reasons for refusing this development stated via the Hunter and Central Coast Regional Planning Panel. 'The panel determined to refuse this development application pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979. The decision was unanimous." Why didn't council state this in its letter of 9 March 2022??? Version 2 of this application shows very little changes to Version 1. Why has Council rushed through this version with such a short exhibition period of 2 weeks when the development is so enormous. Your letter of 9 March should have advised those objecting to the development. Let alone advising the general population of Scone and surrounds of what the Council's position is. If Council has more information about this DA the public should know about it and the exhibition period should be extended. Is anyone going to gain anything of importance by this project being rushed though so quickly? This raises many questions.
	If Council thinks that building a huge residential development on a severely compromised, salinity affected area of land, is a good idea, this again raises many questions.
J.E Taylor 425 Turanville Road Scone	- Down stream landowner High salinity level – close to that of sea water

425 Turanville Road Scone		High salinity level – close to that of sea water Concerned about potential damage to his land by increased salinity levels.
C Hopton	-	Traffic
13 Honeysuckle Cres		Increased salinity
Scone		Increased stormwater
		Lot sizes
L and C Parkinson	Yes	No major changes have been made to the
5 Bottlebrush Place		development.
Scone		Reiterates concerns about stormwater and potential
		for increased flood.
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Katherine Brooks St Aubins 2471 New England Highway Scone N D Frazer	Yes Yes	 Raises further concerns about salinity impacts of the development. "I already have salt damage on my property, and this proposed development will potentially increase this issue for my land and farming operation." No significant changes have been made to address issues of concern. Concerned about increased stormwater.
7 Honeysuckle Cres Scone		
S C Eccles	Yes	Increased salinity – Version 2 of the DA is basically the same as the previous one, it fails to address or correctly investigate or use the correct model or data. Loss of biodiversity – the landscaping plan proposes species that are non-natives and/or not endemic to the local area. A number of the plants have the potential to invade surrounding areas.
Keith F. Thompson, J.P. (Retired) 44 Barton Street, Scone. NSW. 2337.	Yes	Properties on the outskirts of Scone could be negatively impacted, if this development goes ahead due to the increased salinity , which will be created by the proposed subdivision. The soil in western paddocks and the golf club , situated next to the bypass will be impacted and I am also concerned regarding the impact on the underground aquifer . St Aubins is one of the areas affected by this proposed development, and as you know one of the most historical properties in the Scone area, being established in the 1880s and is historically closely linked to Scone.
Brian Adams 19 Honeysuckle Cres Scone	Yes	Concerned about increased stormwater and flooding

Appendix 2:

Consideration of Upper Hunter Development Control Plan 2015 Part 3 - Subdivision



Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/ NA)	Comments (If the development does not comply with the design guidelines, how does it satisfy the Outcomes to be achieved?)
Subdivision layout	& general desig	gn	
A. Subdivision purpose & general considerations	No		The outcomes to be achieved are: The subdivision pattern will accommodate future and existing structures and be suitable for appropriate likely future land uses and site activities.
			Overall, it appears that future structures, land uses and site activities can be accommodated.
			The subdivision proposal responds to the existing site attributes and constraints.
			At this stage it does not demonstrate an adequate response to the catchment salinity issue.
B. Adjoining development			 The outcomes to be achieved are: The design and layout is compatible with adjoining or nearby development, especially in relation to: possible land use conflicts the need for any buffer areas heritage conservation primary production public open space (such as potential security, surveillance and visual amenity issues)
			The land is immediately adjacent to primary production zoned land to the south, east and partly to the west. This creates the potential for land use conflict between the primary production and residential uses.



Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/ NA)	Comments (If the development does not comply with the design guidelines, how does it satisfy the Outcomes to be achieved?)
			Notwithstanding the primary production uses comprises extensive agriculture in the form of livestock grazing. In this regard it is unlikely to result in land use conflict sufficient to require buffer zones.
C. Lot size, shape & orientation	No	No	 The design guidelines are: Residential & Village (R1, R5 & RU5). Each lot within the proposal should: have a minimum width of 20 metres at the building line (lots which front a cul-desac head should have a minimum frontage of 10 metres) with the exception of battleaxe shaped lots. be not less than 20 metres in depth be able to accommodate a building envelope of 200 m² with a minimum dimension of 10 metres.



The development application proposes a number of lots likely be less than 20m at the build line. In total an estimated 35 of the proposed 384 lots do not satist the design guidelines in relation the minimum lot widths. The applicant was requested to provi- plans that demonstrate that the lots with frontages less than 20 have sufficient area accommodate future and exist structures, allow sufficient of street parking, allow the provision of infrastructure and facilitate go solar access. This information the not been forthcoming to date.	v to ing he sfy to he ide se Dm to ng off- ion iod has
The outcomes to be achieved a	re:
 Each lot in the proposal has a sufficient size and shape to: accommodate future and existing structures accommodate anticipated site activities allow sufficient off-street c parking allow the provision of infrastructure facilitate good solar acces The development application h not demonstrated that all t proposed lots can accommodate future buildings. It seems likely th the lots have sufficient area accommodate future building activities, infrastructure and so 	ar s. has he ate to gs,



Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/ NA)	Comments (If the development does not comply with the design guidelines, how does it satisfy the Outcomes to be achieved?)
D. Natural site features	Yes	Yes	The outcomes to be achieved are: The design and layout takes into account natural site features such as significant native vegetation, wildlife corridors, topography and rock
			outcrops. The design and layout gives consideration to the native vegetation on the site which is identified as White Box-Yellow Box Woodland, which is an Endangered Ecological Community
			Therefore, it should be regarded as significant native vegetation. The trees are also hollow- bearing. The development proposes to conserve the majority of these trees in the proposed drainage reserve,13 hollow bearing trees of the 88 trees will need to be removed.
			The development takes into account the topography of the site in the sense that urban development is not proposed within the riparian area and adjacent woodland. Modelling indicates that stormwater detention is not necessary, however bioretention basins are necessary for water quality reasons.



Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/ NA)	Comments (If the development does not comply with the design guidelines, how does it satisfy the Outcomes to be achieved?)
E. Natural hazards	No	No	The outcomes to be achieved are: The design and layout takes into account natural hazards such as bushfire, flooding and geotechnical conditions. Salinity management remains an area of uncertainty, and requires a precautionary approach Bushfire management strategy requires verification from the
F. Landform modification	Yes	NA	 RFS. The design guidelines require: Lots should be designed to allow for the construction of future buildings which do not involve more than 1 metre cut or fill of 1 metre measured from natural ground level. The design should respond the following DCP sections: 10c Geotechnical hazard. 11f Soil & water management. The site does not contain steep slopes and is unlikely to be subject to landslip.
			The outcomes to be achieved are: The design and layout takes into account site topography, geological conditions, existing soils and drainage., and minimises the need for landform modification when buildings are placed on the site. The proposal considers these factor, and provides an appropriate response to the topographic conditions However, there remain a number of design



Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/ NA)	Comments (If the development does not comply with the design guidelines, how does it satisfy the Outcomes to be achieved?) issues to be resolved, particularly salinity management
G. Land contamination	Yes		Considered in relation to SEPP 55 Remediation of Land
Movement & acces	s networks		
H. Street network	Yes		 The design guidelines requires: Intersections should be either T-junctions or roundabouts. Four way intersections should be avoided. The layout of the road and movement network should be designed to: provide for the safe and efficient movement of all road users. facilitate walking and cycling within the neighbourhood and to local centres. facilitate the use of public transport. maximise solar access to allotments. provide road links to adjoining properties. allow on-street car parking. provide efficient access for service vehicles (for example, emergency vehicles and garbage trucks). ensure safe vehicle speeds. provide for utility services, driveways, street lighting and landscaping. be compatible with the existing road pattern in the locality.



Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/ NA)	Comments (If the development does not comply with the design guidelines, how does it satisfy the Outcomes to be achieved?)



Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/ NA)	Comments (If the development does not comply with the design guidelines, how does it satisfy the Outcomes to be achieved?)
			 Road and movement network design specifications. Cul-de-sacs for residential roads should have a minimum sealed radius of 8.5 metres and boundary radius of 12.0 metres. Cul-de-sacs for residential roads should service no more than 25 lots. The outcomes to be achieved are: The street and access network is designed so as to: respond to site features such as topography, drainage and vegetation provide a logical hierarchy of streets provide convenient linkages to open space, public transport, schools and local centres encourage healthy communities by providing safe and convenient pathways for pedestrians and cyclists allow sufficient access and manoeuvring for garbage collection services.
			Council's Assets Manager has not raised any concerns in this regard. The development is considered to comply.(However note issues regarding the emergency access road)
I. Crown roads	NA	NA	



Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/ NA)	Comments (If the development does not comply with the design guidelines, how does it satisfy the Outcomes to be achieved?)
J. Future road widening & upgrading	NA	NA	The outcomes to be achieved are: Existing roads are upgraded to accommodate increased traffic flow resulting from the subdivision proposal. The development application is proposing a BAL/BAR intersection treatment from Gundy Road. The TfNSW have provided comment which advises there is no proposal that requires any part of the
			 property. TfNSW notes that : Council should consider an upgrade of the intersection of Gundy Road and Kelly Street to provide a right turn out storage lane along Gundy Road to manage the additional queuing and LOS reductions. Council should consider an extension of the existing 50km/h zone passed the new development and remove the existing 60km/h zone currently east of Barton Street.
K. Access to lots from public roads	Yes	Yes	The DCP also requires that the minimum access handle and driveway widths for battle-axe lots (Table 10 in Part 4a Urban Dwellings) where they are servicing 2-10 dwellings to be 6m wide, a minimum sealed driveway width of 30m + passing bays in accordance AS2890.1 and a maximum access handle length of 60m.
L. Pedestrian & cyclist access	Yes	Yes	The plans provided incorporate a pedestrian and cycleway at least to that required by Map 23 in Part 13a – St Aubins Estate.



	achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/ NA)	Comments (If the development does not comply with the design guidelines, how does it satisfy the Outcomes to be achieved?)
				T I II (1 1 1 1 1 1 1
М.	Reticulated water	Yes	NA	The applicant has submitted a plan showing that reticulated water will be provided to the lots.
N.	Reticulated sewerage	Yes	NA	The applicant has submitted a plan showing that reticulated sewer will be provided to the lots. It shows that the sewer system will connect to a manhole in the north- western corner of the current lot.
О.	On-site waste water management	NA	NA	
P.	Stormwater management	No		Awaiting the peer review by Northrop to ACORs revised stormwater plan
Q.	Street lighting	Yes		It is recommended that a condition of consent is placed on the development that requires the installation of street lighting.
R.	Electricity & telecoms	Yes		



Οι	utcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/ NA)	Comments (If the development does not comply with the design guidelines, how does it satisfy the Outcomes to be achieved?)
S.	Public open space	No	No	While all lots within the estate are likely to be within 400m of open space (park) it is considered that the nature of the open space is inappropriate. Open space areas are small, and difficult to operationally manage, and the location of several adjacent to the biodiversity sensitive drainage reserve may cause interface issues
				The design guidelines recommend that the amount of open space is provided at a rate of 1ha per 1,000 people (or part thereof) based on a dwelling occupancy rate of 2.63 persons per lot. Based on this the 384 residential lots would house a total of 1,001 people and as such at least 1ha of public open space must be provided. The total combined area of open space (park) is approximately 11,482 sq m (In this regard the development application satisfies the spatial allocation guidelines but the functional requirements for neighbourhood open space.
				The drainage reserve has limited public open space functions as its primary functions are water management and biodiversity protection.

Including assessment in accordance with Section 4.15 Environmental Planning and Assessment Act 1979



Appendix 3:Consideration of Upper Hunter Development Control Plan 2015 Part
13a St Aubins Estate, Scone

Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/NA)	Comments
Design & siting	1		
A. Concept and Land Uses	Yes	NA	The development application as submitted shows that the proposed subdivision is generally in accordance with the St Aubins Concept Development Plan (Map 19) and the Preferred Land Use Plan (Map 20) in the amended DCP (Part 13a) that was adopted by Council on 25 February 2019.
B. Staging	Yes	NA	The subdivision as proposed is in accordance with the Staging Strategy (Map 21) in the amended DCP.
C. Public Road Network and Street Design	Yes	Yes	The plans show that the roads of the subdivision will comprise a 30m wide collector road from the intersection of Gundy Road to the first roundabout and then 18m wide local roads for the rest of the estate.
D. Pedestrian and cycling network	Yes	Yes	The applicant has provided a plan showing the pedestrian and cycle paths that is generally in accordance with the Pedestrian Cycle Network (Map 23).
E. Biodiversity, open space	No	No	The outcomes to be achieved include:
and landscape strategy			Significant trees and other vegetation of ecological, aesthetic and cultural significance are conserved.
			The Ecological Assessment advises that a total of 13 of the site's 74 hollow-bearing trees would need to be removed. In this regard while the development has



Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/NA)	Comments
			not conserved all the trees, the design has minimised loss of hollow bearing trees.
			Riparian corridors which contain habitat features are provided, enhanced and protected.
			The proposed drainage reserve would be used to conserve and offset some habitat loss.
			Groundwater leakage is minimised.
			There is still significant uncertainty as to whether the salinity management proposed is appropriate. An independent expert review and the findings of the Principal Salinity Officer (NSW DEP) dispute the applicants consultants views.
			Landscaping and open spaces are provided generally in accordance with Map 24: St Aubins Landscape Strategy. However, the nature of the landscaping and open space areas requires further refinement.
			The Design Guidelines require:
			Appropriate riparian areas can be used for passive open space uses and activities.
			The biodiversity values of the drainage reserve mean that its open space/recreational function s
			are limited. More "formalised"
			open space on the periphery of the drainage reserve is intended to provide for paasive/informal recreational functions
			Promote and maintain perennial vegetation to minimise groundwater leakage.
			There is still significant uncertainty as to whether the salinity



Outcomes to be achieved	Satisfies outcomes to be achieved (Yes/No/NA)	Complies with design guidelines (Yes/No/NA)	Comments
			management proposed is appropriate. An independent expert review and the findings of the Principal Salinity Officer (NSW DEP) dispute the applicants Establish native tree and shrub corridor(s) in the streetscape to act as salinity intercept planting.
			Further native plantings are encouraged for the identified riparian corridor and buffer zone as shown in Map 24: St Aubins Landscape Strategy
			It is proposed to incorporate tree corridors within the streetscape as shown on the Landscape Design Plan. It is unlikely that these plantings will be sufficient to act as salinity intercept plantings.
			A wider salinity management strategy is necessary and this is subject to expert consultants views
F. Flooding and water manage-	No	No	The Outcomes to be achieved require the development considers the provisions of:
ment			Section 11e Soil and water management.
			The applicant has not provided an Erosion and Sediment Control Plan that is consistent with the requirements of Part 11f(C) UHDCP. Appendix M provides general information about erosion and sediment control measures; however, site specific information has not been provided. Given the area of land to be disturbed and the proximity of the site to a natural watercourse such a plan is considered important as part of the development application.
			The applicant has provided a Stormwater Management Plan



(Appendix N) as well as a Flood Assessment (Appendix P). these
documents are currently subject to
peer reviews, with a report expected late April 2022.
Section 10a Flood risk.
The applicant has provided a Fload Pick Apparent (Terrent
Flood Risk Assessment (Torrent Consulting)
The Flood Risk Assessment
led to a number of changes to the subdivision plan, including the
relocation of bioretention basins
In summary, the Flood Risk
Assessment concluded that
subject to its recommended changes there was a satisfactory
level of flood risk should the
development proceed.
The Flood Risk Assessment
is being peer reviewed by Northrop. The outcome of the peer
review will be tabled.
UHSC Draft Engineering
Guidelines for Subdivisions and Developments, as amended.
Refer to engineering comments provided on Page 22.



G Geotech- nical hazard and salinity	No	No	The development application considers the provisions of section 10c Geotechnical hazard. In relation to salinity this requires that development applications in relation to land subject to soil salinity, land adjacent to other land known to be subject to soil salinity and land within a sub-catchment identified in the Hydrogeological Landscape Report. As discussed the applicant has not adequately addressed the salinity issue.
H. Aboriginal and European heritage	Yes	Yes	The Outcomes to be achieved are: <i>The development considers the</i> <i>provisions of section 9a Heritage</i> <i>conservation.</i> The development satisfies the Outcomes to be achieved in relation Aboriginal Cultural Heritage. <i>Any significant sites or items detected</i> <i>on the site are appropriately protected.</i> The applicant submitted and Aboriginal Cultural Heritage Archaeological Due Diligence Assessment (Insite Heritage, November 2017). This identified a possible modified tree in the north-east part of the site. It is proposed that this tree will be protected by incorporation into public space (Proposed Lot 220).
H. Bushfire management	Yes		
J. Significant development sites – seniors living	NA	NA	



K. Residential subdivision			The Outcomes to be achieved include:
			The subdivision layout:
			 utilises residential development areas efficiently and respond to the natural attributes of the site.
			- establishes a consistent residential character and sense of place
			 ensures that residential lots are afforded a high level of amenity in terms of solar access, views, outlook or proximity to open spaces.
			- delivers a legible and permeable street network
			 responds to the natural site topography
			- takes into account the location of existing significant trees
			- is consistent with solar design principles.
			Street blocks are an appropriate length and width to facilitate pedestrian connectivity, and achieve stormwater management and traffic safety objectives
L. Residential building	NA	NA	No residential building is proposed.

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