

PP ref: J002230

21 February 2022

The General Manager
Upper Hunter Shire Council

Attention: Paul Smith, Senior Environmental Planner
Via Email: PSmith@upperhunter.nsw.gov.au

Dear Paul,

Re: DA 163/2017 – Review of Determination (Section 8.2) – Request for Further Information Response
150 Gundy Rd, Scone, 2327 (LOT: 2 DP: 1169320)

This letter provides a detailed response to the Further Information Request (FIR) (**ATTACHMENT 1**) uploaded to the NSW Planning Portal on 16 December 2021, relating to the proposed development at 150 Gundy Road, Scone under DA 163/2017.

This response also considers the matters raised within the Hunter Regional Planning Panel (HRPP) briefing dated 9 December 2021, noted within the minutes provided in **ATTACHMENT 2** and the independent stormwater review FIR dated 19 January 2022 provided at **ATTACHMENT 3**.

This FIR response replaces the Statement of Environmental Effects to the extent of any inconsistency. Please see a response to each of the matters in **TABLE 1** below, supported by the following supporting attachments provided under separate cover:

- **Attachment 1** – Council FIR revised 16 December 2021
- **Attachment 2** – HRPP Briefing Minutes dated 9 December 2021
- **Attachment 3** – Stormwater FIR prepared by Northrop (ref: NL213311 and dated 19 January 2022)
- **Attachment 4** – Revised Plans prepared by MM Hyndes, Bailey and Co (ref: 217133, Rev O and dated 15.02.2022)
- **Attachment 5** – Gundy Rd RFI Response – Biodiversity prepared by Kleinfelder dated 22 February 2022
- **Attachment 6** – Salinity Report prepared by Martens Consulting Engineers (ref: P2108371JR02V01 and dated February 2022)

- **Attachment 7** – Peer Review Response to Engineering Matters and Revised Stormwater Management Plan prepared by Acor (ref: NSW202732_R01.02, Rev: 2 and dated 18 February 2022)
- **Attachment 8** – Flood Assessment Report (TBA)
- **Attachment 9** – Revised Landscape Plan prepared by Green Space Co (ref: 200221 issue: C and dated 17/02/2022)
- **Attachment 10** – Letter detailing Terms of Easements and Restrictions prepared by Morgan and English (ref: DGM:AH:210119 101126 and dated 21 February 2022)
- **Attachment 11** – Addendum CPTED Report prepared by Perception Planning (ref: J002230 and dated 21/02/2022)

In response to the matters raised by the Council and HRPP, the subdivision plans have been revised to include the following amendments:

1. Reduction in total proposed Lots from 392 to 385 (i.e., 7 Lots)
2. Removal of Lots fronting drainage reserve
3. Addition of pocket park
4. Riparian channel and buffer zone shown
5. Emergency access deleted to NE HWY and moved to Gundy Road
6. Turning heads added to roads intended for future expansion
7. Drainage area expanded southwest corner and bio basin added
8. Drainage easement for discharge of above onto adjoining land added
9. RFS access track added around external permitter of site
10. Full width of APZ moved outside vegetation buffer zone
11. Gundy Road restriction on use of land added for landscape and no access
12. Footpath plan updated to new layout and cycleways increased to 2.5m width
13. Rural interface section added to plan set
14. Sewer and water servicing plans updated for new layouts
15. All other plans in plan set updated to reflect changes above.

Table 1 - FIR and response summary

Council FIR Request		
Council request		Response
1	Gundy Road interface – further details are required in regard to the boundary treatment for the proposed residential lots that back onto Gundy Road in Stages 1-3. It is suggested an open post/rail wire fence similar to that of the adjacent aged care development or the large lot development on the northern side of Gundy Road.	Please refer to the revised development plans provided at ATTACHMENT 4 and revised landscape plans provided at ATTACHMENT 9 . A restriction on title is proposed to ensure maintenance of the landscaping and fencing proposed (post and rail, as shown on L04 of the landscape plan), and 'no access' via Gundy Road onto the adjoining Lots.
2	Rural/Urban Buffer – Need to consider the long term management arrangements for this buffer. It would seem appropriate that the long term arrangement should be secured via a Planning Agreement.	Please refer to response provided under item 22 below.
3	Lot layout – there are still a number of proposed lots that would have their rear boundaries to the drainage reserve (Lots 221-226). This also creates an undesirable narrow and obscure area of open space (Lot 220) between residential lots. Council request that these lots be deleted and as such please submit an amended plan(s) accordingly.	Lots adjoining the drainage reserve have been removed as part of the revised subdivision design.
4	Active transport – A footpath network is provided throughout the proposed subdivision. A shared footpath/cycleway is provided adjacent to the drainage reserve, across the drainage reserve to the Aboriginal tree park, and alongside the main entry road. The shared pathway extends along the Gundy Road frontage of the site. The shared pathway is shown as 2m wide. It is considered it should be 2.5 m wide to take account of the	The footpath and cycleway plan has been revised, incorporating an increase to cycleway width, now measuring 2.5m.

	likely volume of people walking and cycling to the nearby school, and the single access point to the development. Please submit an amended plan showing the provision of a 2.5m wide pedestrian/cycle way.	
5	Safer by Design/CPTED/Crime Prevention –The CPTED report provided by the applicant does not address a major crime risk- the construction phase. Works and buildings under construction are at high risk because they are often poorly secured, offer a supply of new materials, and are not inhabited. Given the long construction and development period for the proposed development (16 stages/ 20 years), it is considered a detailed crime prevention strategy should be developed to address construction phase risks to the works under construction and nearby residents. This could be provided to Council's satisfaction prior to the issue of any construction or subdivision works certificate. This should be noted – a revised CPTED report can either be provided now or a condition of consent can be recommended.	Please refer to a revised CPTED Report provided at ATTACHMENT 11 which incorporates details in relation to safety and crime prevention during construction. Should any further revision or amendments be required to this report, it is accepted that this could occur prior to CC / SWC as recommended by Council.
6	Biodiversity – It is noted in the Plan of Management (see below) that almost all trees within the drainage reserve already contain multiple hollows, nest boxes may need to be installed at an alternative site, in order to offset those hollows lost with the removal of hollow bearing trees in the “development area” of the subdivision. No alternative location for the nesting boxes is nominated or potential ways of housing nesting boxes with the drainage reserve. Please provide clarification on how this issue will be addressed.	Please refer to the biodiversity response letter provided at ATTACHMENT 5 . The letter identifies additional areas for the placement of nest boxes on vegetation immediately adjoining the site.

7	Plan of Management for biodiversity over the site – please provide costing details for the implementation and on-going work over the 20 year period.	The biodiversity response letter provides further details on the costings for implementation and maintenance of the drainage reserve. As noted within the letter, the Proponent will be responsible for bearing the costs of the drainage reserve maintenance until such time 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, which will be discussed with Council in further detail prior to determination. It is however noted that costs of maintaining the drainage reserve primarily relate to weed control, given its intended natural state, and are subject to change depending on the year and associated price indexing at that time.
8	Drainage Reserve Dedication – Please provide documentation that demonstrates a formal agreement has been entered into in relation to the dedication of the drainage reserve. If necessary and on request I can help facilitate a meeting between yourself and Council's Infrastructure Services Department to discuss this aspect of the development.	Discussions are in the process of being organised with Council to resolve this matter.
9	Salinity – Please provide details on the Restriction as to User on Lot 514.	Please refer to the letter provided by Morgan and English provided at ATTACHMENT 10 , detailing the proposed terms.
10	Emergency exit (to New England Highway) – based on the comments provided by RMS further negotiations maybe required. Notwithstanding a plan of management is required to demonstrate how the exit would maintain in perpetuity and how it would operate in the event of an emergency.	The plans have been revised to remove the 'emergency access' to the New England Highway. An alternative means of egress has been proposed via the adjoining eastern land (Lot 2 DP1237000) under the same ownership as the proponent. It is proposed that this emergency egress is imposed via a formal restriction on title, as detailed within the letter provided by Morgan and English provided at ATTACHMENT 10 .

11	The issues raised by the Planning Panel at the Kick-Off Briefing Meeting on 9 December 2021 should be addressed.	Please refer to the responses below.
12	Drainage and flooding matters within Northrop Letter.	Please refer to detailed stormwater and drainage response provided within ATTACHMENT 7 , and associated flood report provided within ATTACHMENT 8 .
JRPP Concerns		
13	Salinity – study to be provided, Council will have it peer reviewed.	Noted. Please refer to study provided at ATTACHMENT 6 .
14	Details regarding the Restriction as to User on Lot 518 to be provided (noted adjoining greenfield land held by same landowner)	Please refer to the letter provided by Morgan and English provided at ATTACHMENT 10 , detailing the proposed terms.
15	Biodiversity – alternative locations for nesting boxes to be identified by the applicant or alternate site to be identified as there are a number of hollow bearing trees proposed to be removed.	Refer to response under point 7 above.
16	Detention basin maintenance details to be provided.	Refer to response provided under point 7 and 8 above.
17	Long term project (~20 years) in which the drainage works will be undertaken progressively. PoM notes that the implementation and maintenance of the drainage reserve over the 20 years is the responsibility of the proponent. Key issue relates to surety that this occurs, and Council is not responsible for non-completed works.	
18	Long term financial implications past hand over period – costs to Council – proponent has not undertaken discussions with Council in regard to this.	

19	A Crime Risk Assessment for the construction stage is to be given consideration.	Refer to response provided under point 5 above.
20	Bushfire Management Strategy to consider design/perimeter road access to all lots, emergency access to New England Highway/ agencies requirements, buffer zone and maintenance of APZ over adjacent land.	The subdivision plan has been revised to include a perimeter road to the majority of Lots. Where a perimeter road is not provided, an APZ is shown as further detailed in the bushfire report submitted with the DA and confirmed to be compliant with Planning for Bushfire Protection (PBP) 2019. The subdivision plans have also been revised to incorporate an RFS access track to the full perimeter of the site. The full width of the APZ has also been moved outside of the vegetation buffer zone.
21	<u>Bushfire Provisions/Emergency Access</u> – precise details of how RFS vehicles can access the development site across the neighbouring land need to be confirmed such that practical access is demonstrated.	
22	<u>Planning Agreement</u> – it is preferable for the landscape buffer, APZ land and secondary access should be managed through a Planning Agreement as opposed to legal mechanisms.	The implementation of a Planning Agreement is respectfully declined. A restriction on title is proposed to manage the requirements of the landscape buffer, APZ land and secondary access as detailed within the Morgan and English letter provided at ATTACHMENT 10 .
23	<u>Secondary Access</u> – a permanent secondary access point may be preferable rather than emergency access.	A permanent secondary access point is not proposed given the alternative egress is temporary until such time the adjoining land is developed. The NSW RFS PBP 2019 (p46) expresses the preference for dedication of a road rather than a right of carriageway for bushfire emergency egress (and access). In PGH Environmental Planning v Wollongong City Council [2009] NSWLEC 1385 Moore SC found that a right of carriageway was a sufficient legal mechanism for fire egress purposes. PBP 2019 expresses the ideal situation, not the sufficient. The position expressed by the then Senior Commissioner is to be preferred. As such, a right of carriageway is proposed which allows the owner of the land burdened by that legal access to make a DA for future

		development which either incorporates that access way into a public road, or proposes a different alignment of the road linking from the current proposal. The council is proposed to be made the authority which can vary or release the right of carriageway. If the road is dedicated now that locks in the position and makes it more troublesome to change as part of future development.
24	<u>Drainage</u> – the drainage arrangement for Lot 1321 needs to be clarified.	Please refer to stormwater and drainage response provided at ATTACHMENT 7 . The drainage area has been expanded within the south-western corner and a bio basin added. A drainage easement for discharge of this water onto adjoining land has also been added.
25	<u>Pocket Parks</u> – the pocket parks in the drainage reserve and other pocket park are constrained in a practical sense.	An additional pocket park has been incorporated into the design. Examples of pocket park treatments have been added to the landscape plan to show how they can be used. It is noted that these pocket parks will be dedicated to the Council, thus ultimately the treatment of the pocket parks will be determined by Council's Parks and Assets team, which takes costs and associated responsibilities into consideration to ensure not overly burdensome or expensive to rate payers.
26	<u>Neighbouring Land</u> – as the neighbouring land is not developed vehicular turning points will be required at the relevant points.	The revised subdivision plans incorporate turning heads to the roads intended for future expansion.
27	<u>Public Notification</u> – The panel flagged the desirability for further public notification after the salinity report is finalized.	Noted.

Conclusion

The proposed development is compliant with the legislative controls applicable to the subject site.

It is maintained that the proposal will have no significant impacts on the surrounding properties through the incorporation of associated mitigation measures as recommended within each of the subconsultant reports prepared and submitted with this FIR response.

As detailed within the preceding information, the responses provided shall be read in conjunction with the additional documentation prepared within the attachments provided under separate cover. Should Council require any clarification on the points raised in the submissions following review of the additional documentation prepared, we would be happy to provide.

We look forward to Council's determination of this matter. If we can provide any further information or clarity, please don't hesitate to contact us.



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