

APPENDIX A – CONSIDERATION UNDER SECTION 79C

Section 79C requires that the consent authority, when determining a development application, takes into consideration the following matters.

<p><i>The provisions of:</i> <i>(i) any environmental planning instrument</i></p>	<p>The following EPIs apply to the ceramic tile manufacturing facility:</p> <ul style="list-style-type: none"> • <i>State Environmental Planning Policy No. 34 – Major Employment Generating Industrial Development;</i> • <i>State Environmental Planning Policy No. 11 – Traffic Generating Development;</i> • <i>State Environmental Planning Policy No. 33 – Hazardous and Offensive Development;</i> • <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> • <i>Hunter Regional Environmental Plan 1989;</i> • <i>Maitland Local Environmental Plan 1993.</i> <p>Consideration of the provisions of these instruments in the context of the proposed development is outlined in section 4.3 and in detail in Appendix B of this report.</p>
<p><i>(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority</i></p>	<p>There are no draft instruments that apply to the proposed development</p>
<p><i>(iii) any development control plan</i></p>	<p>The following DCPs apply to the ceramic tile manufacturing facility:</p> <ul style="list-style-type: none"> • Development Control Plan 1 – Industrial Land Use Code • Development Control Plan 21 – Outdoor Advertising • Development Control Plan 24 – Design Guidelines for Accessible Living • Development Control Plan 40 – Car Parking Requirements <p>Consideration of the provisions of these Control Plans in the context of the proposed development is outlined in section 4.4 and in detail in Appendix B of this report.</p>
<p><i>(iv) any matters prescribed by the regulations that apply to the land to which the development application relates</i></p>	<p>Clause 92 of the <i>Environmental Planning and Assessment Regulation 2000</i> requires the following matters to be taken into consideration by a consent authority in determining an application</p> <ul style="list-style-type: none"> • <i>The Government Coastal Policy (where relevant)</i> The Government Coastal Policy does not apply to development in the Maitland local government area • <i>In the case of a DA for the demolition of a building, the provisions of Australian Standard AS 2601-1991: The demolition of structures,</i>

	<p><i>as in force 1 July 1993</i> No buildings will be demolished for the proposed development.</p>
<p><i>the likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality</i></p>	<p>Section 6 considers the environmental impacts of the proposed development in detail. The Department is satisfied that all environmental impacts can be appropriately managed and mitigated through the conditions of the recommended instrument of consent.</p>
<p><i>the suitability of the site for the development</i></p>	<p>The site is zoned 4(a) General Industrial under the <i>Maitland Local Environmental Plan 1993</i>. The 4(a) General Industrial zone is designed to cater for a range of industrial development. The proposed ceramic tile facility constitutes development for the purposes of industry, and hence, is suitable for this site. The LEP makes the ceramic tile facility permissible with development consent.</p>
<p><i>any submissions made in accordance with this Act or the Regulations</i></p>	<p>A total of 6 submissions were made in response to the exhibition of the development application for the proposed ceramic tile manufacturing facility (see summary in Appendix C), with an additional 2 received after the close of the exhibition period. All matters raised in these submissions have been given due consideration as part of the assessment of the proposed development (see section 6 of the report).</p>
<p><i>the public interest</i></p>	<p>The recommended instrument of consent imposes a suite of controls, which the Department considers will mitigate for any environmental impacts of the proposal. It is therefore considered that the proposal will be in the public's interest.</p>

APPENDIX B – PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS

Following are consideration of the proposed ceramic tile manufacturing facility in the context of the objectives and provisions of relevant environmental planning instruments.

Hunter Regional Environmental Plan 1989	
<p>Aims of the Policy: <i>(a) promote the balanced development of the region, the improvement of its urban and rural environments and the orderly and economic development and optimum use of its land and other resources, consistent with conservation of natural and man made features and so as to meet the needs and aspirations of the community</i></p>	<p>The proposed development will be built within an industrial estate, thereby utilising existing infrastructure. The ceramic tile facility brings a new type of industry to the area, thereby broadening the skills base of the community. Through the assessment of the proposed development, the Department has established that the proposal would be consistent with the conservation of natural and man made features of the site and surrounds.</p>
<p><i>(b) coordinate activities related to development in the region so there is optimum social and economic benefits to the community</i></p>	<p>The proposed development will have significant positive impacts on employment and investment in the local area. It is considered that the proposal will generate flow-on jobs to the community including suppliers to the facility, such as raw material, transporters, product distributors, ancillary service providers and the construction and assembly team.</p>
<p><i>(c) continue a regional planning process that will serve as a framework for identifying priorities for further investigations to be carried out by the Department and other agencies.</i></p>	<p>Through its assessment of the proposal, the Department did not identify any priorities for further investigation by the Department and other agencies.</p>
<p><u>Provisions relating to industrial development:</u> <i>(a) ensure that sufficient zoned and serviced industrial land is provided in locations appropriate to the needs of industry, while ensuring protection of the environment</i></p>	<p>Not applicable</p>
<p><i>(b) promote the distribution of employment in secondary industry in a manner compatible with the availability of services and distribution in population</i></p>	<p>The proposed development will generate 69 full-time positions, the majority of which are expected to be sourced from the local area. Therefore the development will be compatible with the availability of services and people.</p>
<p><i>In relation to industrial development, the consent authority should:</i> <i>(a) ensure that an adequate supply of zoned and serviced industrial land is available in appropriate locations to meet needs, taking into account the extensive nature of modern industrial and quasi-industrial development</i></p>	<p>The proposed development is located within an Industrial Estate. There is adequate land available within this estate to provide for the needs of modern industrial and quasi-industrial development.</p>
<p><i>(b) ensure that waterfront industrial land is retained for industries requiring waterfront access</i></p>	<p>The proposed development is not located on waterfront industrial land and will therefore not affect the use of such land by those industries requiring waterfront access</p>

<p><i>(c) in consultation with the Environment Protection Authority, identify sites for hazardous or offensive industries in appropriate locations, taking into account State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</i></p>	<p>The proposed development is not considered to be potentially hazardous or potentially offensive. The Department, in consultation with the EPA, has determined that any risk and offence impacts of the proposal can be adequately mitigated and managed through the recommended instrument of consent and the Environment Protection Licence.</p>
<p><u><i>Provisions relating to Transport</i></u> <i>A consent authority should not grant consent to the carrying out of a development involving:</i></p> <p><i>(a) the storage or handling of goods or materials which are likely to be delivered by heavy transport vehicles, unless it has considered whether use could be made of a transport mode other than road which, in the opinion of the consent authority, is economically practicable</i></p>	<p>The use of alternative modes of transport has been investigated and was found to be unfeasible. See section 6.2 of this report for a detailed discussion.</p>
<p><i>(b) land having a frontage to a main or arterial road unless all vehicular access to the land is from a road other than a main or arterial road, where practicable, or the consent authority is satisfied that the applicant has demonstrated that there will not be any adverse effect on traffic movement in the area as a result of the development</i></p>	<p>The proposed development does not have frontage or site access from a main or arterial road. The proposed development is serviced by a collector road that is connected to the New England Highway. The Department has assessed the transport impacts of the proposal and is satisfied that there would not be any adverse effect on traffic movement in the area as a result of the development.</p>
<p><u><i>Objectives relating to Pollution Control</i></u> <i>A consent authority should not grant consent to the carrying out of a development listed in Schedule 3 of the Environmental Planning and Assessment Regulation 1980 (including development comprising the expansion of an existing facility) unless it is satisfied that:</i></p> <p><i>(a) topographic and meteorological conditions are such that air pollutants would have no significant adverse effect</i></p>	<p>Air pollution dispersion modelling undertaken by the Applicant included a consideration of the topographic and meteorological conditions in the area. The results of modelling concluded that there would not be a significant adverse effect from air pollutants emitted from the site.</p>
<p><i>(b) an appropriate buffer zone can be provided to ensure that noise, dust and vibration are maintained at acceptable levels</i></p>	<p>The Department is satisfied that the proposed development would not generate unacceptable noise, dust or vibration impacts. The site is situated in an industrial estate with the closest residents being approximately 1km from the site.</p>
<p><i>(c) the best practice technology for air, water and noise pollution control will be incorporated in the design and operation of equipment and facilities to be used for the purposes of the industry.</i></p>	<p>The Applicant states it will incorporate best practice technology into the design and operation of equipment and facilities to minimise impacts associated with the facility on air, noise and water quality (eg. using fabric filters, stormwater detention basins and equipment silencers).</p>
<p><i>(d) there will be no significant deterioration of air or water quality as a</i></p>	<p>The Department considers that the air and water impacts associated with the proposed</p>

<i>result of emissions from that equipment or those facilities</i>	development will be within accepted environmental criteria and will therefore not lead to a deterioration in air or water quality.
<i>(e) the site will not become contaminated within the meaning of Part 5 of the Environmentally Hazardous Chemicals Act 1985</i>	The site will not become contaminated as a result of the proposed development (see Section 6.5 of the assessment report).
<i>A consent authority should not grant consent to any development unless it is satisfied that:</i> <i>(a) there is adequate provision for setbacks between the development and existing watercourses</i>	There is an existing drainage line that runs adjacent to the western boundary of the site. The development would not affect this line. An unnamed tributary of Stony Creek is located approximately 750m east of the site.
<i>(b) an adequate vegetation cover is maintained or reinstated so as to minimise soil erosion</i>	Whilst 0.3ha of vegetation is to be removed, landscaping at the site will result in a net increase in vegetation cover at the site.
<i>(c) where necessary, adequate retardation basins, grassed floodways, sedimentation pits and trash collection facilities are established and maintained</i>	The Applicant will provide a series of wet detention basins and grass swales to control and filter surface water runoff that will be maintained throughout the life of the development.
<i>(d) adequate measures are provided to control soil erosion during construction of the development</i>	The Applicant is required to prepare and implement an Erosion and Sedimentation Control Management Plan to manage and minimise erosion and sediment and other pollutant discharge from the site
<u>Objectives Relating to Waste</u> <i>(a) provide for safe and effective disposal of domestic, commercial and industrial wastes, including toxic materials.</i>	The development is not expected to be a significant generator of waste, however, any waste being disposed of will be done so in accordance with the EPA's guidelines.
<i>(b) avoid the entry of harmful chemicals into the environment</i>	The Department considers the risk of chemical releases from the site (eg due to spills) is minimal, with appropriate requirements being incorporated into the recommended conditions of consent to address this.
<i>(c) encourage the most efficient use of resources by recycling or alternative use as appropriate</i>	see section 6.7 of the assessment report.
<u>Objectives relating to Tall Buildings</u> <i>The objectives relating to the erection of tall buildings over 14 metres in height are to ensure that the proposal is:</i> <i>(a) subject to the opportunity for public comment</i>	the proposed development was publicly exhibited from 20 December 2002 until 3 February 2003 and submissions were received from the public
<i>(b) assessed for the local impact and regional significance</i>	see section 6.9 of the assessment report
<u>Maitland Local Environmental Plan 1993</u>	
<i>The objectives of this plan are:</i> <i>(a) to ensure the natural environment remains safe from detrimental impacts of development</i>	see Section 6 of the assessment report
<i>(b) to minimise adverse environmental, social and economic impacts resulting</i>	see Section 6 of the assessment report

<i>from urban development and to encourage building designs which are aesthetic and energy efficient</i>	
<i>(c) to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production</i>	not applicable
<i>(d) to provide a diversity of housing available throughout the City</i>	not applicable
<i>(e) to ensure the retail hierarchy of regional, district and neighbourhood shopping centres is maintained</i>	not applicable
<i>(f) to encourage functional and economically viable industrial development, which does not adversely affect the environment or the amenity of nearby residents</i>	the proposed development is a new type of development in the area that is economically viable. The Department's assessment concludes that the proposal would not adversely affect the environment or the amenity of nearby residents
<i>(g) to provide a range of community facilities to serve the population</i>	not applicable
<i>(h) to conserve and enhance buildings, structures and sites of recognised significance which are part of the heritage of the City for future generations</i>	not applicable
<i>(i) to ensure an efficient and safe road network is maintained with minimum intrusion on business centres, open space and residential areas</i>	see section 6.2 of the assessment report
<i>(j) to provide open space and a range of recreational facilities to meet the needs of the population</i>	not applicable
<i>(k) to protect attractive landscapes and preserve places of natural beauty, including wetlands, waterways and the floodplain</i>	the proposed development will not affect any places of natural beauty
<i>(l) to ensure residents are not put at risk in the event of flooding</i>	see section 6.4 of the assessment report.
The proposed development is located on land zoned 4(a) General Industrial and is permissible with consent.	
<i>The objectives of Zone 4(a) are as follows:</i> <i>(a) to set aside certain land for the purpose of general industry within convenient distance of the urban centres of the City</i>	The proposed development is located within the Rutherford Industrial Estate which is close to the town centre.
<i>(b) to allow commercial and retail development for:</i> <i>(i) use ancillary to the main use of land within the zone,</i> <i>(ii) the display and sale of bulky goods, and</i> <i>(iii) the day-to-day needs of occupants and employees of the surrounding industrial area</i>	There is sufficient land available within the Industrial Estate to provide for commercial and retail development and proposed development would not hinder the establishment of such types of development in the area.

<p><i>(c) to ensure that industrial development creates areas which are pleasant to work in and safe and efficient in terms of transportation, land utilisation and service distribution</i></p>	<p>Extensive landscaping will be undertaken at the site to create a pleasant environment to work in. The site is close to both domestic and international product markets and in a central location relative to the supply of raw materials. The site has ready access to utilities and ancillary services, which generally support the mining and manufacturing industries within the Hunter Valley.</p>
<p><u>Clause 29 - Preservation of Trees</u> <i>(1) A person shall not carry out or cause to be carried out the ring-barking, cutting down, lopping, topping, removing, injuring, or wilful destruction of any tree with a height of 3 metres or more or having a branch spread of 3 metres or more in diameter, except with the written consent of the Council.</i></p>	<p>See section 6.6 of this assessment report</p>
<p><i>(2) The Council shall not grant consent for any action referred to in subclause (1) unless it has made an assessment of the importance of the tree or trees in relation to:</i> <i>(a) soil stability and prevention of land degradation,</i> <i>(b) scenic or environmental amenity, and</i> <i>(c) vegetation systems and natural wildlife habitats.</i></p>	<p>See section 6.6 of this assessment report</p>
<p><u>Clause 44 – Restrictions to filling of land</u> <i>Land shall not have its natural ground level altered by way of clearing or filling except with the consent of Council</i></p>	<p>The Applicant has sought consent for the clearing of land at the site.</p>

APPENDIX C – ISSUES RAISED IN SUBMISSIONS

No	Name/Organisation	Position	Summary
1	Private	Supports	<ul style="list-style-type: none"> Suggests that the physical conditions of Racecourse Road and Kyle Street be inspected and reported on
2	Private	Did not state	<ul style="list-style-type: none"> Suggests that the poor condition of roads in the vicinity of the proposed development be addressed prior to approval of the facility Suggests that Kyle Street be upgraded to provide for the additional vehicles associated with the transportation of material to and from the proposed development Suggests that if Kyle Street is not upgraded prior to approval of the manufacturing facility, that traffic movements from the development be found an alternate route until Kyle Street is upgraded
3	Private	Object	<ul style="list-style-type: none"> The noise impact from the increased number of truck movements on the New England Highway will be catastrophic for adjacent residential areas The effect of adverse weather conditions on air quality impacts should be considered, particularly in relation to asthma sufferers Noise travels great distances at night Slight increase in air pollution should be considered on a cumulative basis, due to the number of 'dirty' industries in the area emitting carcinogenic and other chemicals such as sulfur dioxide and lead
4	National Parks and Wildlife Service	Did not state	<ul style="list-style-type: none"> Concern that the ecological assessment in Technical Paper No. 3, Appendix 3 does not discuss potential impacts on the Hunter Lowland Redgum Forest EEC Suggests that further assessment is required to determine if vegetation on the subject site fits the description of the Hunter Lowland Redgum Forest EEC as described in the final determination of the Scientific Committee Suggests that further details regarding the archaeological assessment be provided, such as a map of survey transects, to indicate the extent to which the subject site was assessed Requests written confirmation from the Mindaribba Local Aboriginal Land Council that they do not have any issues with the proposal
5	Department of Land and Water Conservation	No objection	<ul style="list-style-type: none"> Department has no objection to the proposal.
6	Hunter Water Corporation	Did not State	<ul style="list-style-type: none"> Development should be encouraged to utilise recycled water from the Farley WWTP. Where feasible, this is the preferred to the use of potable water. Recommends condition be included to investigate the use of alternative water supply; Development should ensure there is no possibility of process water, chemicals or contaminated water entering the potable domestic water supply system; Development will require s. 50 certificate to connect to Hunter Water (water and wastewater systems).
7	Roads and Traffic Authority	No objection	<ul style="list-style-type: none"> Proposed driveway should be designed/constructed to ensure that B-Double vehicles can turn into the property without crossing on to the other side of the road or driveway on entry and exit to the site An appropriate median strip or similar should be provided to ensure that internal two-way traffic is separated
8	NSW Fire Brigades	No concerns	<ul style="list-style-type: none"> No major concerns with the proposal at this stage.