



20 February 2025

The Department of Planning, Housing  
and Infrastructure  
Attention: Judith Elijah

Contact: Julia Ryl  
Our Ref: DA 52/2025/3/1  
Your Ref: SSD-49283708

Dear Ms Elijah,

**Request for Comment – State Significant Development**

**Description of Development – Residential Care Facility comprising ninety-six (96) beds**

I refer to notice received by Cessnock City Council in respect to the above State Significant Development, requesting Council's comments for a Residential Care Facility comprising ninety-six (96) beds.

It is understood from the submitted documentation that the development proposes the following elements:

- Construction of part one and part two storey residential care facility containing ninety-six (96) beds.
- The ground floor is proposed to contain the ninety-six (96) bedrooms, main reception including administration and small café with outdoor seating, common lounge, dining, sitting rooms for residents and guests, hair salon and allied health consulting room.
- The lower ground floor (basement) is proposed to contain car parking for forty-seven (47) vehicles, delivery/loading area, services and facilities for the residential care facility including kitchen and laundry, staff amenities, separate waste and store rooms, and space for plant and equipment.
- The residential care facility will have up to 41 staff (7am to 3pm) and 25-38 staff (between 3pm to 7am)
- Landscaping is proposed around the perimeter of the site and within two (2) internal courtyards.
- Stormwater infrastructure is proposed to be constructed to manage stormwater from the development site which will drain into the infrastructure constructed as part of the underlying subdivision approved my MP10\_0137.

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Cessnock City Council advises the following in relation to the proposed development of the Residential Care Facility at Kesterton Rise, North Rothbury.

1. The subject site is considered to be capable of being made suitable for the proposed use of a residential care facility and will complement the adjoining Seniors Housing Independent Living Community. The subject development proposal for a residential care facility is a permitted use in the MU1 zone. Although, whilst not specifically meeting the objectives of the MU1 land use zone, it is noted that the subject land in accordance with Schedule 1, Section 3 of *Cessnock Local Environmental Plan 2011 (CLEP 2011)* also permits dwellings, dual occupancies, and secondary dwellings (all being forms of residential accommodation). The subject development is therefore considered to be appropriate for the zone in the locality.
2. Cessnock City Council has adopted Section 5.22 Special Flood Considerations into its Local Environmental Plan (*CLEP2011*). The proposed development for the purpose of residential care facility is considered to be a sensitive land use. Consideration of the SSD under Section 5.22 of CLEP 2011 is to be made, most notably safe evacuation is a consideration in the probable maximum flood (PMF).

Notwithstanding, if civil works have been undertaken to alter ground levels and the PMF no longer impacts the site, details confirming this shall be supplied and considered by the Consent Authority.

3. It is unclear from the information provided for review as to the services to be provided by the proposed cafe and salon and the operation of these facilities within the residential care facility.

Should food be offered for sale this triggers a requirement to comply with the *Food Act 2003* and its associated regulation and standards. If food is to be offered for sale the fit-out requirements of the café are to demonstrate compliance with the relevant standards and legislation.

Furthermore, the provision of some salon services, defined by the *Public Health Act 2010*, as 'skin penetration procedures', would also result in additional fit-out standards to be complied with in accordance with the relevant standards and legislation. Confirmation should be sort from the Applicant as to the services proposed to be offered, some common examples of skin penetration procedures may include, cuticle cutting and waxing.

Further clarification should be sought regarding the intended services provided by these aspects of the development. Conditions have been provided for inclusion should the development propose skin penetration services and a restriction on the services provided by the café for residents and their guests only – with no sale of products proposed to the public.

4. In relation to stormwater management the proponent is to ensure that the offsite discharge does not exceed stormwater infrastructure capacity in the roadways, as required by the civil design for the underlying Huntlee subdivision works.
5. The proposed car parking and shift rotation is considered compliant with car parking requirements for the proposed residential care facility. Car parking areas are to be kept clear of waste and no storage is to occur within designated car parking spaces, which would alter the number of available car parks from those demonstrated in the information provided for review.

6. The proposed residential care facility is proposed to be constructed within Council's mapped noise buffer of the Hunter Expressway and therefore consideration of noise attenuation measures for the comfort of residents is recommended in consideration of the Building Code of Australia and "*Development near Rail Corridors and Busy Roads – Interim Guideline*" (2008). The development is considered to be capable of achieving satisfactory noise levels where all external windows and doors are shut.

A noise impact statement, prepared by EMM recommends including community relations and complaint handling, mitigation and management plan, construction management plans and validation procedures.

Where suitably conditioned such that the recommendations and mitigations addressed within the report are implemented appropriately, and steps are taken to validate and monitor the outcomes modelled, appropriate mitigation appears achievable.

7. Due to the nature of the sewerage provider (being a private provider). It is expected that Altogether Group will operate under an Environmental Protection Licence administered by the *NSW Environmental Protection Authority*, and the provider will confirm capacity and works required to be undertaken.
8. The western façade of the residential care facility development will interface with the intersection of future public roads MC02 and MC01, this will present a maximum 2.3m retaining wall with fencing provided atop. Although located setback within the lot boundary and planting proposed by the landscape plan. Council suggests consideration of low plantings for this portion of external wall be incorporated with a public art installation, such as a mural. This may assist with deterrence of graffiti on external walls, particularly in consideration of less visual surveillance from the main entry points to the proposed residential care facility along this façade.
9. Wayfinding is critical to ensure access to areas of the proposed development is controlled and public v private space is clearly defined.

Lighting and landscaping considerations around the proposed development are critical in ensuring areas for concealment are limited, the opportunity for graffiti is decreased, and the potential for trespass is addressed.

The proposed basement parking presents a unique challenge to the site. The following are some measures which may assist in ensuring the safety and security of this aspect of the proposed development:

- The ceiling and walls of the garage areas should be painted white and proper surveillance and security devices would be installed in accordance with CPTED requirements.
- Signage should be properly located in the parking area to assist with wayfinding and limit the amount of time spent in an isolated location. Additionally, a sign indicating the area is under CCTV surveillance is recommended.
- As much natural light and ventilation as possible should reach the lower level to enhance natural surveillance in the audible and/or visible sense.

- The inclusion of a limited entry point is supported with the ability to be appropriately secured for after-hours access to the basement car park by means of a secure roller door or the like with staff using key cards for security
- Access to/from the basement car park being directed via the main reception point is supported to allow for natural surveillance. After hours lift access to/from the basement car park should also be well lit and limited to a secure key/swipe model for after-hours staff safety.
- The implementation of a rapid removal program in response to instances of graffiti, should be adopted, within 48hrs of application.

The CPTED Report prepared by Studio 26 Urban Design dated August 2024 provides sound mitigation measures in response to the risk of crime. Security and access control measures and further recommendations referenced in the CPTED report, integrated with a sound plan of management, will enhance the effectiveness of the proposed measures.

10. Having regard for the consideration of potential contamination and *State Environmental Planning Policy (Resilience and Hazards) 2021*, with the application of recommendations within the construction finds including implementation of an unexpected finds protocol, and targeted disposal of a single soil stockpile to a licenced waste facility along with any foreign materials such as corrugated steel, roof sheeting, timber and concrete fragments which may be present the site is considered to be suitable without the need for further investigation in relation to contamination. A proposed conditions addressing an unexpected finds protocol is provided below.
11. Council's s.7.11 plan applies to the development, with Branxton-Greta being the relevant district contribution catchment, but at a discounted rate of 50% per unit/dwelling and one credit for the existing allotment. A proposed condition addressing the requirement is provided below. Please contact Cessnock City Council Development Contribution Planner's for an updated fee calculation prior to determination.

Should the Department be inclined to determine the application by granting of consent; Cessnock City Council provides the following conditions for consideration of imposition having regard for the proposed development for a residential care facility.

Council recommends a number of the specialist supporting documents and the recommendations contained within be adopted as enforceable conditions to be complied with as part of any consent document. These include:

- CPTED Report prepared by Studio 26 Urban Design dated August 2024.
- Noise Impact Statement, prepared by EMM, dated 16 August 2024.
- Operational Waste Management Plan, prepared by onemilegrid, dated 27 August 2024. (A minor amendment is recommended to include waste collection to be scheduled outside of noise sensitive times to limit impacts on surrounding development).

### **Restriction on persons occupying**

The development may only be used for the accommodation of the following –

- Seniors or people who have a disability,
- People who live within the same household with seniors or people who have a disability,
- Staff employed to assist in the administration of and provision of services to the seniors housing within the development.

A restriction as to user is to be registered against the title of the property to which this consent relates prior to the first resident occupying the development, in accordance with Section 88E of the *Conveyancing Act 1919*, limiting use of any accommodation to the kinds of people referred to above. The restriction as to user is to include the definition of seniors and people with a disability contained within *SEPP (Housing) 2021*.

The following condition may require amendment should the use of the salon and café be clarified.

### **Operational Plan of Management**

The Operational Plan of Management is to remain current and enforced whilst the site is operated as a residential care facility development:

- Community Transport (bus) is to be provided in perpetuity;
- The café and salon are to be strictly for the use of residents and their guests;
- The operational plan of management is to set out the day-to-day procedures for the management of the residential care facility development.

Should the salon be providing skin penetration procedures the following condition is recommended:

### **Skin Penetration Premises**

The skin penetration premises shall be fitted out in accordance with the applicable requirements of Schedule 2 of the *Local Government (General) Regulation 2005* and the *Hunter Regional Health Education Committee guidelines for The construction and operation of hairdressing, beauty, and skin penetration premises*

At least two (2) suitable receptacles with close fitting lids must be provided and maintained in a clean and serviceable condition for the storage of soiled towels and trade wastes. A sharps container shall be provided for the storage of applicable wastes.

All appliances in general use are recommended to be cleaned and disinfected in accordance with the *Guidelines Skin Penetration – 2001* and *Skin Penetration Code of Best Practice*.

### **Water Utility – Notice of Requirements**

The development is within an area that is serviced by a water and sewer authority licenced under the *Water Industry Competition Act 2006*. Prior to the issue of a CC, evidence shall be submitted to the certifier confirming the Notice of Requirements of the water utility have been satisfied.

### **Connection to Reticulated Water and Sewer System**

The subject development will be serviced by an independent water and sewer utility operator. Prior to issue of an OC and use of the residential care facility the PC is to be provided with evidence from the independent water and sewer utility operator that the development has been connected to and has approval for use of the reticulated water and sewer system.

### **Compliance with Accessibility Report**

Documents and plans for the development which demonstrate compliance with *State Environmental Planning Policy (Housing) 2021*, Chapter 3 Part 5 as referenced in the submitted Accessibility Report prepared by DDEG, is to be detailed in the construction level architectural drawings, and certified by a suitably qualified access consultant, prior to issue of a CC.

### **Security for Cost of Damage and Completion of Public Work**

Prior to issue of a CC authorising the carrying out of any work in accordance with this development consent, the applicant must provide security to Cessnock City Council for the payment of the cost of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,
- c) remedying any defects in any such public work that arise within six (6) months after the work is completed.

The security is to be for an amount that is the greater of \$5000 or 5% of the estimated cost of carrying out the development and may be provided by way of:

- a) cash deposit with the Council, or
- b) an unconditional bank guarantee in favour of the Council.

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

### **S138 Roads Act Approvals**

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

### **Mechanical Ventilation System**

Appropriate mechanical ventilation system is to be installed in each residential room to provide adequate ventilation and cooling of habitable areas in accordance with the requirements of the Building Code of Australia and "*Development near Rail Corridors and Busy Roads – Interim Guideline*" (2008) such that all external doors and windows can be closed to attenuate external noise.

### **Completion and Maintenance of Landscape and Fencing Works**

All landscape and fencing works, including the removal of all noxious weed species, are to be undertaken in accordance with the approved landscape plan and conditions of Development Consent as amended, prior to the issue of an OC.

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

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed within 3 months of being identified as requiring replacement.

### **Submission of Annual Fire Safety Statement**

An annual Fire Safety Statement must be given to Council and the New South Wales Fire Brigade commencing within twelve (12) months after the date on which the initial Interim / Final Fire Safety Certificate is issued.

### **Waste Storage Area**

The waste storage area is to be constructed to the following:

- Floors must be graded and drained to a sewer with an approved drainage fitting;
- Any floors and walls must be finished to a smooth and impervious surface that enables easy cleaning;
- A supply of hot and cold water mixed through a centralised mixing valve must be available to the bin storage area;
- Must be constructed in a manner to prevent the entry of vermin; and
- Be provided with adequate light and ventilation.

Such details must be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

## Ongoing Waste Management

The following ongoing waste management practices are to be incorporated into the ongoing operation of the residential care facility:

- Commercial waste collection must be carried out at sufficient intervals to ensure that the facility is kept in a safe and healthy condition.
- Commercial waste and recycling associated with the operation of the residential care facility, is to be stored wholly within the dedicated bin storage area.
- All waste and recycling containers are to be clearly and correctly labelled to identify which materials are to be placed in collection container (bin). All Mobile Garbage Bins used on site are to be designed and colour-coded in accordance with the *Australian Standard 4123: Mobile Garbage Containers*

## Screening of Rooftop Plant

Any proposed plant to installed on the rooftop of the residential care facility is to be appropriately screened from view from adjoining properties and public spaces.

## New Information/Unexpected Finds Protocol

In the event that construction works cause the generation of odours or uncovering of previously unidentified contaminants, works must immediately cease and Council must be notified in writing within 48 hours. An appropriately qualified environmental consultant is to be appointed to undertake an assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm.

If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the *Contaminated Land Management Act 1997* is triggered, Council must be notified within 2 working days of the notification to the NSW Environment Protection Authority.

## Cessnock City Wide Development Contributions Plan

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC:

Branxton-Greta District Catchment		
Contribution Type	Per Room	Amount Payable
Open Space and Recreation Facilities	\$2,259.47	\$214,649.28
Community Facilities	\$937.00	\$89,015.45
Cycleway Facilities	\$3,812.66	\$362,202.56
Roads and Traffic	\$733.49	\$69,681.40
Plan Administration	\$119.96	\$11,396.09
<b>Total</b>	<b>\$7,862.58</b>	<b>\$746,944.78</b>



A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at [www.cessnock.nsw.gov.au](http://www.cessnock.nsw.gov.au).

The amount of contribution payable under this condition has been calculated as at 20 February 2025. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

Council thanks you for the opportunity to provide comments in relation to the proposed residential care facility comprising ninety-six (96) beds. Council reserves the right to make further comments in relation to the proposed development.

If you require any further information, please do not hesitate to contact me on 02 4993 4218 or via email [Julia.ryl@cessnock.nsw.gov.au](mailto:Julia.ryl@cessnock.nsw.gov.au).

Yours faithfully

A handwritten signature in blue ink, reading 'Julia Ryl', with a stylized flourish at the end.

Julia Ryl  
Senior Planning Assessment Officer