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1 EXECUTIVE SUMMARY

- 1.1 The subject land is located No. 290 and 302 Minmi Road, Fletcher in the Newcastle LGA. It is currently in the ownership of Patricia Dan who has contracted to sell the site to the applicant, Northwest Residential Pty Ltd (the Proponent).
- 1.2 The proponent is seeking concept approval for subdivision and construction of 400 residential dwellings over approximately 45 hectares of the site and associated services and infrastructure, incorporating an environmental protection buffer to the adjoining Hexham wetlands.
- 1.3 The proponent is also seeking project approval for a 337 lot community title residential subdivision, with associated services and infrastructure.
- 1.4 Although the project is currently permissible under Newcastle LEP 2003, the proponent is also concurrently seeking to rezone and list the subject site as a State Significant Site in Schedule 3 of State Environmental Planning Policy (Major Projects 2005) to facilitate future development. This is being undertaken as a separate process.
- 1.5 On 26 January 2006, the Minister for Planning formed the opinion pursuant to Clause 6 of State Environmental Planning Policy (Major Projects) 2005 that the proposal is a Major Project and subject to Part 3A of the *Environmental Planning and Assessment Act*, having satisfied himself that the proposal met the criteria of a kind described in *Schedule 1 – Group 5 Construction projects* of that Policy.
- 1.6 On 13 March 2006, Planning Workshop Australia submitted the concept plan and project application for the Dan Land residential development project in response to the Director General's Environmental Assessment Requirements.
- 1.7 The proposal was exhibited for 30 days between 27 March 2006 and 28 April 2006.
- 1.8 A total of 29 submissions were received from the general public, with 27 submissions objecting to the proposal and 2 submissions offering support. Submissions were also received from 6 public authorities.
- 1.9 Key issues raised related to the potential impacts on the adjoining SEPP 14 Hexham Wetlands; water quality and stormwater management, development density; traffic generation; traffic and pedestrian linkages to adjoining development; bushfire requirements; Section 94 contributions; vegetation management; and the location of the environmental protection zone/rural zone boundary.
- 1.10 The proponent has submitted a Preferred Project Report and a revised Statement of Commitments to address the issues raised during the exhibition period.
- 1.11 In balancing the State significant planning outcomes with the issues raised above, the Department is of the view that the proponent has satisfactorily mitigated the environmental impacts arising from the redevelopment of the Dan Land site. In assessing the proposal, the Department has resolved any outstanding environmental issues through recommended conditions of approval. In this regard, the concept plan is required to be modified and project application for subdivision conditioned to remove the 32 "Courtyard Housing" lots located on the Hexham Wetlands side of the northern perimeter road in order to protect the integrity of the wetland buffer zone.
- 1.12 Recommended conditions of approval are provided at **Appendix A**. The reasons for the imposition of conditions are to adequately mitigate the environmental impact of the development.

2 BACKGROUND

2.1 Introduction

The subject land is located No. 290 and 302 Minmi Road, Fletcher and comprises approximately 53.68 hectares. The site is located in the Blue Gum Hills district in the western area of Newcastle Local Government area (see **Figure 1**). It is currently in the ownership of Patricia Dan who has contracted to sell the site to Northwest Residential Pty Ltd (the Proponent). The site is commonly referred to as the 'Dan Land'.



Figure 1. Location map of the site

The proponent is seeking to develop the site with a 400 lot residential subdivision, associated services and infrastructure, water sensitive urban design, an environmental protection zone, an asset protection zone and urban parkland.

The majority of the site is currently zoned 7(c) Environmental Investigation under Newcastle Local Environmental Plan 2003 (35 hectares) whilst the remainder of the site is zoned 2(a) Residential (0.7 hectares), 2(b) Urban Core (2.9 hectares) and 7(b) Environmental Protection (15.08 hectares) (see **Figure 2**).

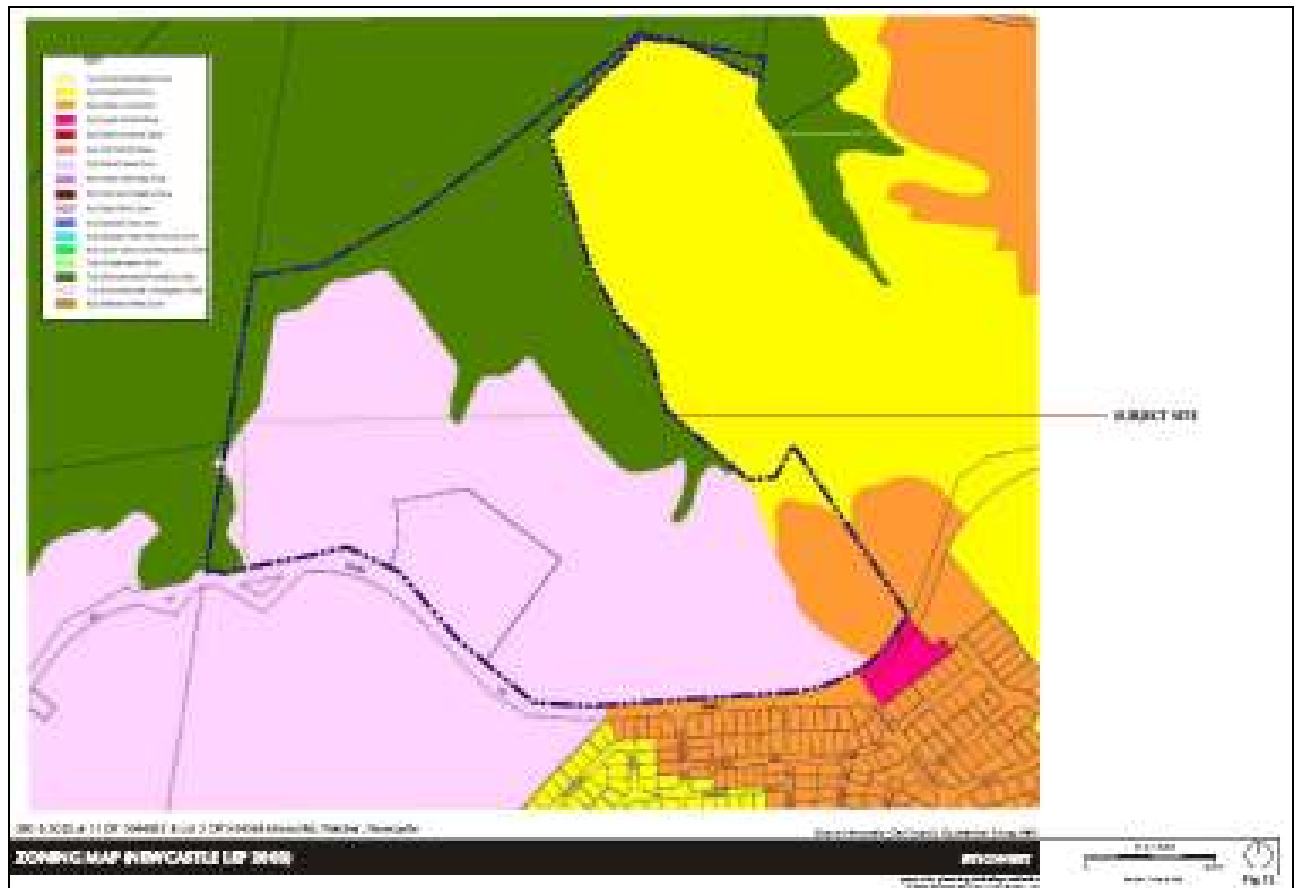


Figure 2. Current zoning under Newcastle LEP 2003

The Dan Land has been identified by Council as being suitable for residential development since 1994 subject to appropriate sequencing of land releases in the Maryland/ Minmi Corridor, which the site forms a part. The Department's *Thornton-Killingworth Strategy* (2003) also identifies the site as having residential potential.

Council deferred consideration of a rezoning proposal for the subject site on a number of occasions pending publication of the *Lower Hunter Regional Strategy* despite the Department advising Council in September 2004 that it should not delay rezoning the Dan land given its potential for redevelopment.

Council resolved to commence the rezoning of the subject land on 20 September 2005. However, this decision was rescinded by Council on 4 October 2005, with concern being expressed with regards to the delay in production of the Lower Hunter Regional Strategy.

Due to these delays with Council, the proponent approached the Department on 2 November 2005 in the hope that its development proposal would constitute State significant development under State Environmental Planning Policy (Major Projects) 2005 (MP SEPP). That submission outlines the reasons for the proposed listing of the site in Schedule 3. It notes that the proposed development on the site would meet the criteria of a construction project under Schedule 1, Group 5 of the Major Project SEPP as it has a capital investment value of \$100 million, which exceeds the \$50 million criteria and that the site and its proposed redevelopment meet various State and regional objectives.

On 9 November 2005, the Minister for Planning, the Hon. Frank Sartor MP, agreed that the site be considered for inclusion within Schedule 3 of the MP SEPP as a potential State significant site and directed that a study be undertaken pursuant to Clause 8 of the MP SEPP for the purposes of determining whether any development on the site should be declared to be State significant and to establish the appropriate development controls for the site (including rezoning).

The Minister subsequently formed the opinion on 26 January 2006 that under clause 6 of the Major Projects SEPP the proposal is a development of a kind described in *Schedule 1 – Group 5 Construction projects* of the SEPP, to which Part 3A of the EP&A Act applies, and authorised the submission of a Concept Plan for the Dan Land site under section 75M of the Environmental Planning and Assessment Act 1979. The plans and documentation submitted by the proponent are intended to both be the study to assess whether the site should

be added to Schedule 3 of the MP SEPP pursuant to Clause 8 of the MP SEPP and the environmental assessment for the concept plan pursuant to Section 75N of the Act.

The Department considers that the level of detail provided by way of the Environmental Assessment Report, the Concept Plan and the Statement of Commitments may be construed to meet the requirements of a Project Application under 75E of the Act. **On this basis the Department has agreed to consider the project application for the subdivision layout in concurrence with the concept plan.**

The purpose of this submission is for the Director General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant approval of the concept plan pursuant to Section 75O(2)(a) of the Act and project approval under 75J. Section 75N of the Act provides that the scope of the Director General's environmental assessment report for a concept plan is the same as with respect to approvals to carry out a project as set out in Section 75I(2) of the Act. This report recommends the Minister should grant concept approval subject to modifications set out in the instrument of approval set out at **Appendix A**.

The Department also recommends that the MP SEPP be amended by adding the Dan Land site to Schedule 3 as it is deemed to be a matter of significance for the environmental planning of the State. This is subject to a separate process which is currently being undertaken. This does not preclude the Minister granting concept plan and project application approval as the proposal is not wholly prohibited given the sites current zoning under Newcastle LEP 2003. This is provided by Section 75O(3) of the Act.

2.2 The site and surrounding area

The subject site is located approximately 5 kilometres west of Wallsend and approximately 2 kilometres east of Minmi (see Location Plan at **Figure 1**). The site is located on the northern side of Minmi Road, Fletcher and is currently in the ownership of Patricia Dan who has contracted to sell the site to the applicant, Northwest Residential Pty Ltd. The site is known as No. 290 and 302 Minmi Road and is commonly referred to as the 'Dan Land'. It contains a total area of 54 hectares comprising Lot 11 in DP 1044935 and Lot 2 in DP 534168 with a total frontage to Minmi Road of 1.238km.

The Dan Land was formerly used as a dairy farm, resulting in the clearing of most of the site's native vegetation. A dwelling house and outbuildings, comprising part of the former dairy farm, are erected on the site within Lot 2. Large areas of the site are cleared open pasture, containing scattered mature Eucalypts, with smaller areas of remnant native vegetation confined predominantly to the three loosely connected gullies dissecting the site. The aerial photo at **Figure 3** shows the existing features on the site.

Topographically, the site is situated over 4 main ridge lines trending to the north. The ridge lines comprise gentle to moderate slopes typically less than 10° and increase to moderate to steep slopes typically 15° to 20° within the vicinity of the site's three watercourses. The watercourses separate the 4 ridges and drain towards the low lying alluvial flats (Hexham Wetlands) to the north and north-west of the site. The Hexham Wetlands are identified as SEPP 14 wetlands, however the western edge of the mapped SEPP 14 wetland is some 900m away from the northern boundary of the Dan Land subdivision (see **Attachment A**).



The site is adjoined to the east by Landcom's Blue Gum Hills residential development (see **red Tag D** for approved layout – **note: perimeter road**). Consent was granted for residential subdivision from Newcastle City Council in August 1998 (DA 97/0555). A section 96(2) application was recently lodged with Newcastle City Council to modify DA 97/0555. The proposed modifications are sought by the proponent to ensure the approved development meets the requirements of relevant legislations that have been introduced since the original DA was consented to. The only amendment of relevance to this proposal is the proposed modification of the subdivision layout, which removes the overlap of lots on the eastern edge of the Dan Land boundary (as seen in the Concept Plan, **Figure 6**). An important feature of this subdivision is the use of perimeter roads to define the northern boundary of the development, where the site adjoins the Hexham Wetlands complex.

There is a current development application with Newcastle City Council for further residential development of a 4.669 parcel of land on the southern side of Minmi Road off St Andrews Way at Lot 33 DP 1062020, known as the Kingston Land. The proposal is for the subdivision of land in to 21 lots plus 4 community title lots and 1.36 ha of public reserve.

The site is adjoined to the north and north-west by the SEPP 14 Hexham Wetlands. It is worth noting that the Minister for Natural Resources is proposing to undertake a rehabilitation project on the adjoining Hexham Wetlands (Hexham Swamp Rehabilitation Project) and the Minister for Planning is the consent authority. The project aims to restore some of the previous estuarine habitats and their associated values by opening the existing floodgates in stages at the mouth of Ironbark Creek. This will reinstate tidal flows to the swamp, resulting in saline inundation of some existing freshwater reed and pasture habitats. Lot 11 DP 1044935 of the Dan Land falls within the project area and is identified as requiring an easement for inundation (see **Figure 5**).

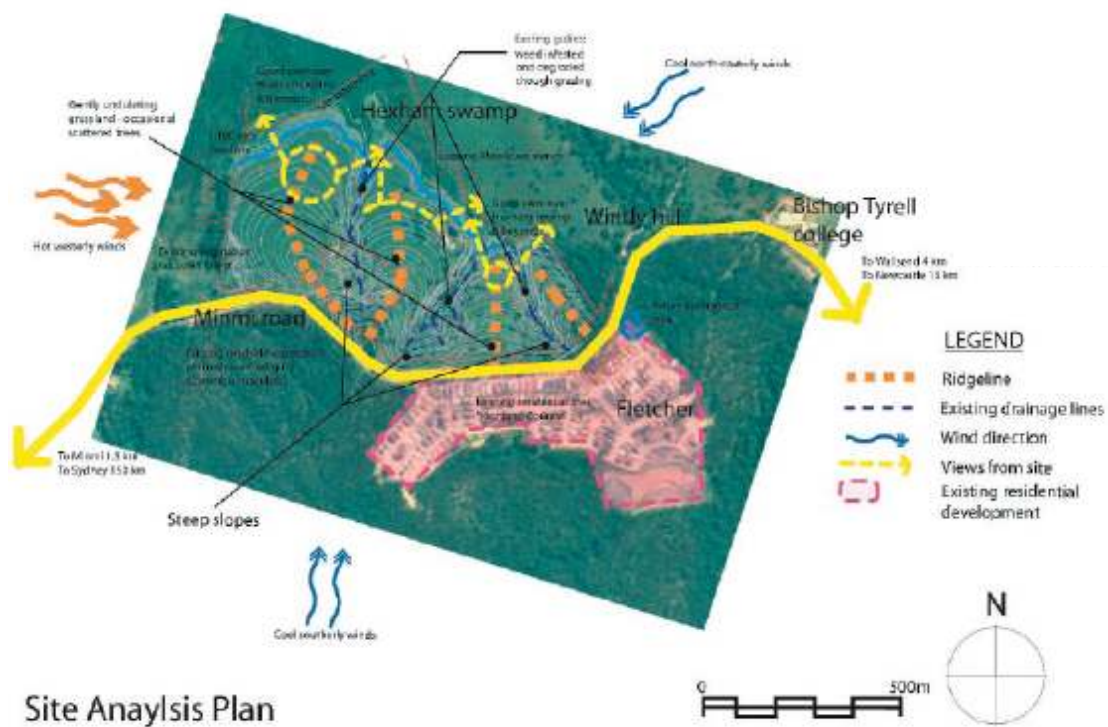


Figure 4. Site Analysis Plan - showing the residential development on the southern side of Minmi Road (prepared by Moir Landscape Architects, March 2006).



Figure 5. Site Constraints

3 PROPOSED DEVELOPMENT

3.1 Approval Originally Sought

3.1.1 Concept Plan

On 7 March 2006 the proponent submitted a study titled "*Part 3A Major Project Report – Report on the Director General's Environmental Assessment Requirements for the Dan Land, Minmi Road, Fletcher, March 2006*", (the Study) prepared by Planning Workshop Australia. The study served three purposes:

1. To justify nomination of the site as a State significant site within Schedule 3 of the MP SEPP 2005;
2. To address the project specific issues outlined in the Department of Planning's Director General Environmental Assessment Requirements (DGEARs); and
3. To present a concept plan for the site, having regard to the Department's DGEARs.

The proponent originally sought concept approval to develop the site for residential and open space purposes with an estimated capital investment cost in the order of \$100 million (including individual housing costs). The original concept plan proposal is shown in **Figure 6** (with the proposed lot layout at **Figure 7**) and includes:

- up to 400 dwellings consisting of a diverse urban structure providing housing choice, affordability and social diversity;
- community association managed open space;
- allocation of environmental protection zone for the conservation of the wetland area that lies within the property;
- energy conservation measures in subdivision layout;
- a street network with high permeability for residents, visitors, domestic and emergency services.
- associated services and infrastructure including water sensitive urban design;
- establishment of an asset protection zone; and
- provision of urban parkland.

The concept plan indicates the range of lot sizes proposed. The variety proposed will be conducive to a good social mix and varying household size and structure. The range includes large lots (600-1000m²), detached housing (450-600m²), small lots (semi-detached or courtyard homes 300-360m²) and town houses in the proposed 2(b) zone at an average density of 1/250m² site area.

3.1.2 Project Application

Following the exhibition period, the proponent subsequently sought project approval for the residential subdivision component of the development, including associated infrastructure works (roads, drainage etc). The capital investment value of the subdivision is estimated to be \$51million (excluding future housing costs), and a total of 337 lots will be created, including 8 super-lots which will contain medium density housing.

The Department considers that the level of detail that was placed on public on exhibition (the Environmental Assessment Report, the Concept Plan and the Statement of Commitments) may be construed to meet the requirements of a project application under 75E of the Act. On this basis the Department has agreed to consider the project application for the subdivision layout in concurrence with the concept plan.

See **red Tag B** for the proposed subdivision overlayed on the existing Newcastle LEP 2003 zoning map.



Figure 6. Original Concept Plan (March 2006)

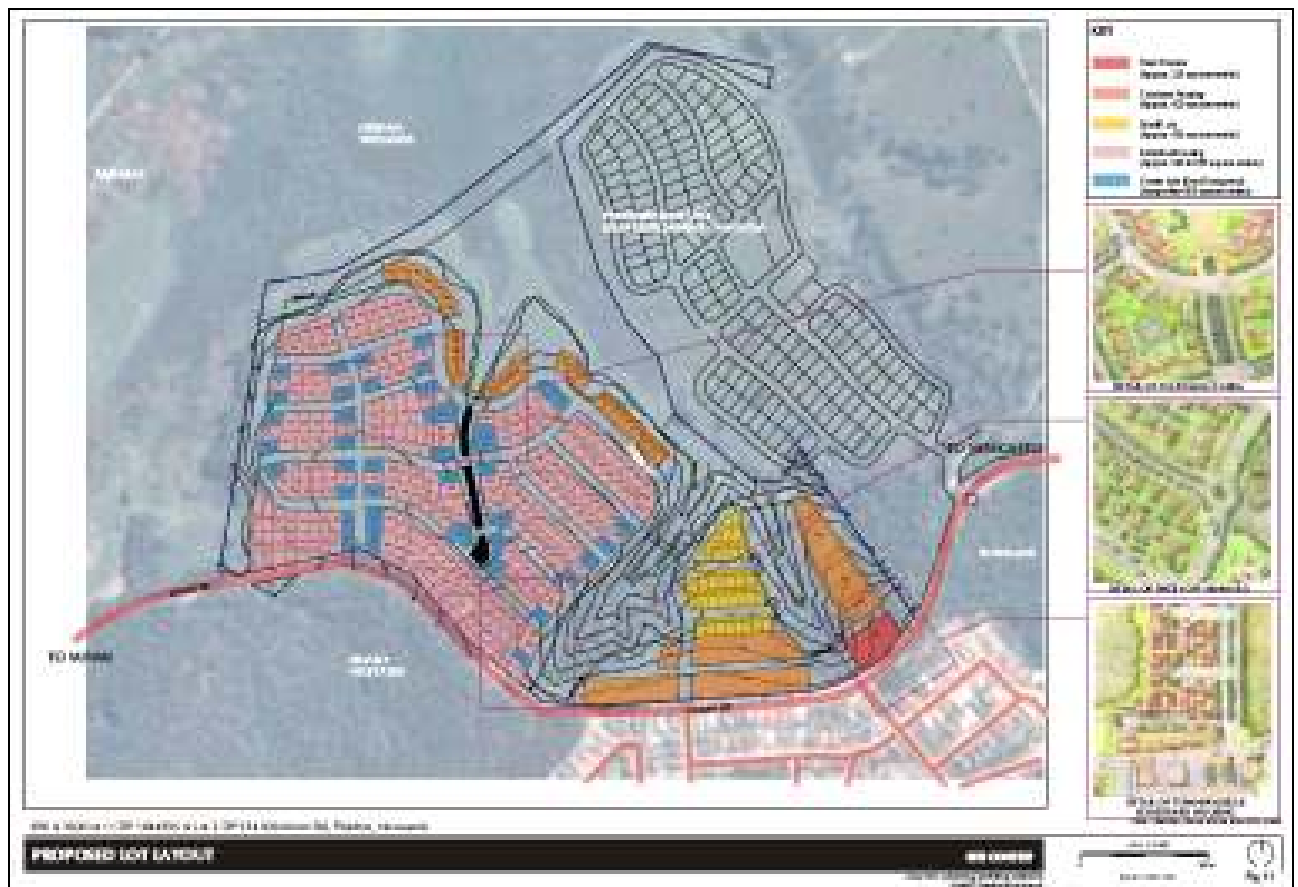


Figure 7. Original lot layout (March 2006).

3.2 Amendments to the Proposal

A detailed report responding to the issues raised in submissions was prepared jointly by Planning Workshop Australia and Monteath and Powys Pty Ltd and submitted to the Department on 25 May 2006 (included in **Appendix D**). The proponent subsequently lodged a '**Preferred Project Report**' on 9 August 2006 (included in **Appendix C**) to address the issues raised during the consultation period.

The exhibited concept plan has been amended in a number of respects in response to issues raised in submissions received during the exhibition period and following review by the Department. These changes are shown in the amended concept plan and the proposed subdivision plan, included as part of the preferred project report. Principally, the changes are in response to Council's comments on the proposed road layout, including the proposed carriageway widths. In this regard, the proposed road intersection with Minmi Road at Highland Way has been eliminated; the subdivision layout has been amended on the western side to include more lots which face north-south; the road has been pulled back on the western boundary to assist in retaining existing vegetation; the lot layout has been amended to remove the central boulevard as recommended by Council; and provision for a vehicular link with the adjoining Landcom site has been made. A revised concept plan illustrating the proposed amendments is shown on **Figures 8 and 9**.

The Landscape Masterplan has been amended to reflect the changes to the concept plan. In addition, a Vegetation Management Plan has been prepared in accordance with the requirements of the Department of Environment and Conservation, the Department of Natural Resources and the NSW Rural Fire Service. This plan also incorporates the recommendations of the *Bushfire Protection Assessment* report prepared for the site. A series of documents have been prepared to give effect to the Community Title subdivision proposed for the Dan Land site. These are included with the preferred project report and comprise the following:

- Community Management Statement
- Community Development Contract
- Community Plan
- Precinct Plans



Figure 8 Amended Concept Plan (August 2006) – refer **Appendix C**

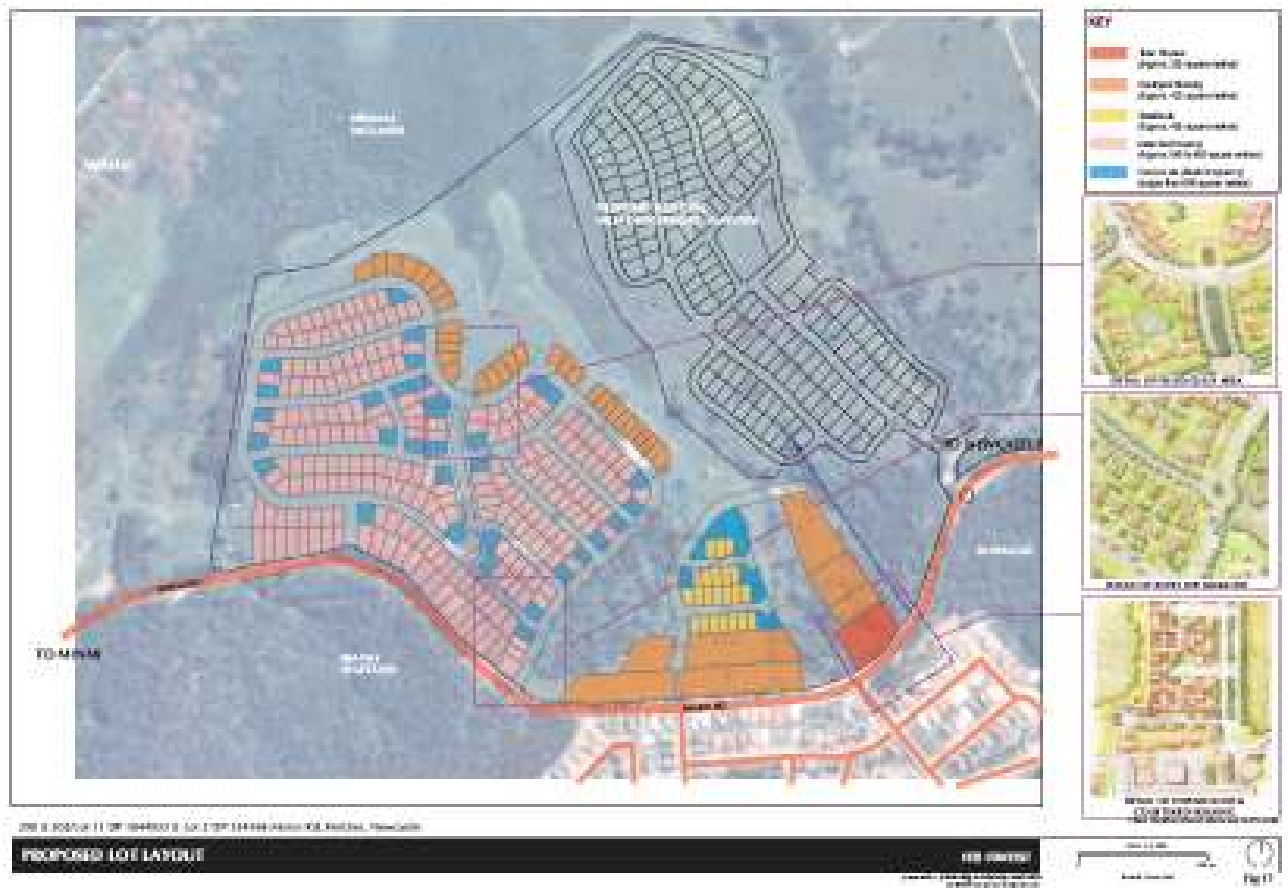


Figure 9. Amended lot layout plan (August 2006) – refer **Appendix C**

4 STATUTORY FRAMEWORK

4.1 Part 3A of the Environmental Planning and Assessment Act 1979

Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) commenced operation on 1 August 2005. Part 3A consolidates the assessment and approval regime of all major projects previously considered under Part 4 (Development Assessment) or Part 5 (Environmental Assessment) of the EP&A Act.

Under the provisions of Section 75B of the EP&A Act development may be declared to be a Major Project by virtue of a State Environmental Planning Policy or by order of the Minister published in the Government Gazette.

4.2 State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 outlines the types of development declared a major project for the purposes of Part 3A of the EP&A Act. For the purposes of the SEPP certain forms of development may be considered a Major Project if the Minister (or his delegate) forms the opinion that the development meets criteria within the SEPP.

On 26 January 2006, the Minister formed the opinion that the Dan Land residential proposal is a development described in Schedule 1 – Group 5 Construction Projects (as it was at the time) namely:

“Development for the purpose of residential, commercial or retail projects with a capital investment value of more than \$50 million that the Minister determines are important in achieving State or regional planning objectives”.

As the capital investment value of the project exceeds the \$50 million threshold the development is considered to be a Major Project and therefore subject to Part 3A of the EP & A Act.

4.3 Permissibility

The majority of the site is zoned 7(c) Environmental Investigation under Newcastle Local Environmental Plan 2003 (35 hectares) whilst the remainder of the site is zoned 2(a) Residential (0.7 hectares), 2(b) Urban Core (2.9 hectares) and 7(b) Environmental Protection (15.08 hectares) (See **Figure 2**). Subdivision, clearing, recreation areas, roads, dwellings and dwelling-houses are all permissible with consent in the current zones, including the 7(b) Environmental Protection and 7(c) Environmental Investigation zones. However, a new planning regime is sought to reflect the intended future use for the site.

Section 75O(3) under Part 3A of the Act provides that the Minister cannot grant approval for the concept plan for a project that would be wholly prohibited under an environmental planning instrument. Section 75O(3) does not apply in this instance as the concept plan proposal is not wholly prohibited on this site due to its zoning under Newcastle LEP 2003. Consequently, the concept plan proposal can be approved by the Minister under Part 3A of the Act without needing to rezone part of the site for residential purposes beforehand.

The proponent is concurrently seeking to add the site to Schedule 3 of the Major Projects SEPP, the process for which has been independently initiated by the Department. Adding the site to Schedule 3 will elevate it to State significant site status and enable new planning provisions to be endorsed which will in effect rezone the site from 7(c) Environmental Investigation zone, 2(b) Urban Core and 7(b) Environmental Protection to a 2(a) Residential Zone, 2(b) Urban Core Zone and 7(b) Environmental Protection Zone. This will provide the necessary economic certainty for the proponent to approach a future residential developer(s), and for future owners.

4.4 Director General's Environmental Assessment Requirements

On 30 January 2006, the Director General issued environmental assessment requirements (DGEARs) pursuant to Section 75F of the EP & A Act. The key issues to be addressed in the DGEARs issued related to: Land Use; Biodiversity and Cultural Heritage; Bushfire Risk Assessment; Hydrology, Water Management and Topography; Utilities and infrastructure provision; Transport and Access; Section 94 Developer Contributions/Section 93 Planning Agreements; Social and Community; and Urban Design and Built Form.

4.5 Other relevant legislation and environmental planning instruments

Section 6 and **Appendix F** both set out the approval process, relevant consideration of legislation, environmental planning instruments and planning strategies as required under Part 3A of the EP & A Act.

5 CONSULTATION AND ISSUES RAISED

As the Department agreed that assessment of a concept plan and the rezoning process could be jointly undertaken the proponent lodged an Environmental Assessment Report that incorporated a State significant site study and concept plan.

The Environmental Assessment Report (EA) was publicly exhibited and notified in accordance with the EP & A Act. Section 75H(3) of the EP & A Act requires that after the Environmental Assessment has been accepted by the Director General, the Director General must, in accordance with any guidelines published in the Gazette, make the environmental assessment publicly available for at least 30 days. The Director General has not published any specific guidelines in relation to the public exhibition of the Project Application.

A "Test of Adequacy" was undertaken by the Department which determined that the matters contained in the DGRs were adequately addressed in the Environmental Assessment prior to public exhibition.

In accordance with Section 75H of the Act, the environmental assessment was publicly exhibited for a period of thirty days from 27 March 2006 and 28 April 2006 at the following locations:

- Department of Planning (Head Office) - Information Centre, 22 – 33 Bridge Street, Sydney
- Department of Planning (Hunter Office) - Level 2, 26 Honeysuckle Drive, Newcastle
- Newcastle City Council - 282 King Street, Newcastle
- Wallsend Library - Cowper Street (Murnin Street).

The EA was placed on the Department's website during the course of the exhibition period.

The approach to exhibition was based upon Council's notification policy. In excess of 2400 local residents and local stakeholders within a 2km radius of the site were informed of the concept plan proposal in writing and invited to make a written submission. Details of the concept plan proposal were placed in the public notices section of the local newspaper. The advertisement provided details of the proposal, exhibition locations and dates and how interested parties could make a submission. Government agencies, Newcastle City Council and other public authorities were also consulted.

A fact sheet to local residents in the area setting out the proposal and inviting members of the public to make submissions to the Department was circulated.

In response to the exhibition period, the Department received a total of 6 submissions from State agencies, one submission from Newcastle City Council, and 29 submissions from members of the public (27 objections and 2 letters of support). Some submissions were received after the expiration of the exhibition period but these did not raise any new issues. A summary of submissions received is included at **Appendix D**.

A detailed report responding to these submissions, prepared jointly by Planning Workshop Australia and Monteath and Powys Pty Ltd, was submitted to the Department on 25 May 2006 (included at **Appendix D**). A Preferred Project Report was subsequently lodged with the Department on 9 August 2006.

Upon expiration of the exhibition period, several meetings between the Department and the proponent took place to discuss the issues raised. Significant issues raised during the exhibition period are summarised below and assessed in detail under **Section 6.2.1 to 6.2.9**:

- Impacts on the adjoining SEPP 14 wetland (Hexham Swamp);
- Protection and management of remnant vegetation;
- Protection and management of riparian zones;
- Amenity, Urban Design and lot layout;
- Traffic (vehicle and pedestrian);
- Development density;
- Bushfire requirements; and
- Developer contributions.

To fulfil the requirements of Section 75I Clause 2(b) this report includes advice provided by public authorities regarding the issues to be addressed by the proponent in the EA. These issues formed part of the key issues raised in the DGEARs. The Department has reviewed the EA, submissions to the preparation of the EA by public authorities, the submissions received from public authorities during the EA exhibition period and additional information provided by the proponent. Unless noted to the contrary below, the Department is satisfied that the responses provided by the proponent in their EA and the additional response to issues raised in submissions are reasonable.

6 ASSESSMENT

The Department has reviewed the EA and the preferred project report and considered advice from public authorities as well as issues raised in general submissions in accordance with Section 75I(2) of the Act. Consideration of each of the issues as they relate to the concept plan and project application proposal is provided in **Section 6.2**.

The following section assesses each of the issues associated with the concept plan proposal. Each relevant issue has been identified and duly considered followed by an explanation of how the proponent has sought to address the issue. Each subsection concludes with an explanation of how the Department has resolved the issue through the imposition of various modifications/ conditions of approval.

6.1 Director General's Report

The purpose of this submission is for the Director General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant approval of the concept plan pursuant to Section 75O(2)(a) of the Act and project approval under Section 75J. Section 75N of the Act provides that the scope of the Director General's environmental assessment report for a concept plan is the same as with respect to approvals to carry out a project pursuant to Section 75I(2) under Part 3A of the Act.

Section 75I(2) sets out the scope of the Director General's report to the Minister. Each of the criteria set out therein have been addressed below, as follows:

- (a) a copy of the proponent's environmental assessment and any preferred project report; and

The proponent's EA is included at **Appendix E** while the preferred project report is set out for the Minister's consideration at **Appendix C** along with the Statement of Commitments at **Appendix B**.

- (b) any advice provided by public authorities on the project; and

All advice provided by public authorities on the project for the Minister's consideration is set out at **Appendix D**.

- (c) a copy of any report of a panel constituted under Section 75G in respect of the project; and

No independent hearing and assessment panel was undertaken in respect of this project.

- (d) a copy of or reference to the provisions of any State Environmental Planning Policy (SEPP) that substantially govern the carrying out of the project; and

A copy and brief assessment of each State Environmental Planning Policies that substantially govern the carrying out of the project is set out in **Appendix F**.

- (e) except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division; and

An assessment of the development relative to the relevant environmental planning instruments is provided in **Appendix F**.

- (f) any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.

The environmental assessment of the project is this report in its entirety.

6.2 Key Issues

The following section assesses each of the key issues associated with the proposal. Each relevant issue has been identified, followed by an explanation of how the proponent has sought to address the issue. Each subsection concludes with an explanation of how the issue has been resolved through the Departments recommended modifications/ conditions of approval or through the proponent's Statement of Commitments.

It is worth noting that the Statement of Commitments has been substantially modified since the documentation was on public exhibition and that a number of issues raised during the exhibition period have been addressed by way of the revised Statement of Commitments. The Statement of Commitments has been largely based on Council's standard conditions of development consent for greenfill subdivisions, incorporating bushfire management and environmental conservation practices.

6.2.1 Impacts on the adjoining SEPP 14 Wetland (Hexham Swamp) & boundary between Urban and Non-Urban Land

Raised by

Council and a number of public submissions have raised concern over the potential impact of urban runoff on the adjacent Hexham Swamp complex (i.e. erosion and sedimentation), in particular the adequacy of the width (and treatment) of the buffer between the wetland and the residential subdivision. These concerns also relate to the alteration of the existing 7(b) Environmental Protection zone in order to accommodate 32 lots containing "Courtyard Housing" on the northern side of the perimeter road. The current 7(b)/7(c) boundary will need to be moved north approximately to the 1:100 year flood level (3.5m AHD contour) to accommodate the proposed courtyard housing lots, where currently in NLEP 2003 it generally runs between the 5 and 10m AHD contour (see **red Tag E** for contour plan).

The DPI originally expressed similar concerns, but following discussions with consultants acting on behalf of the proponent and officers of the Department of Planning, the DPI subsequently amended their comments in an e-mail to the Department dated 7 September 2006. The DPI now *"has no objections to the current (subdivision) design"*.

Council has advised that the location of the interface between the current 7(b) Environmental Protection and 7(c) Environmental Investigation zones on the Dan Land was thought to approximately align with the 1:100 year flood level (RL 3.5m AHD) **as determined by Council when Newcastle LEP 2003 was being prepared**. However, where Council does not hold detailed site contours they rely on contours developed from aerial surveys which are not always entirely accurate. The contours Council relied on for NLEP 2003 dated from before the year 2000. In this instance, based on the site survey work done by Planning Workshop for the purposes of this project, the contours followed by Council in 2003 were actually **not** the 1:100 year flood level (3.5m AHD) but more accurately the 5-10m AHD contour.

Council does not view the 7(b)/7(c) interface as an indication of the extent of a possible development footprint for the Dan Land. The purpose of the 7(c) zone was to allow investigations and negotiations to occur to determine the desired setback from the 1:100 year flood level. The Federal and State governments have committed significant funds to the Hexham Swamp Wetland Rehabilitation project and as a consequence Council has modified its approach to managing development on the margins of the Wetland:

- Commencing with Landcom's Blue Gum Vista subdivision (adjoining the Dan Land to the east – see **red Tag D**), which was approved on 14 October 1998, Council has required all subdivisions adjacent to Hexham Swamp Wetland to be designed with perimeter roads so that no lots back/front directly on to riparian areas associated with the Wetland; and
- Council adopted specific development controls for Riparian zones with the adoption of **Newcastle DCP 2005** on 11 October 2005. The riparian zone is defined *"as an area of land associated with a creek, stream, river or gully that supports riparian ecosystems"*. Specifically buildings, development, drainage works, and landscaping incorporating exotic species are discouraged within the riparian zone. The DCP defines the riparian zone as 40m from the top of bank of waterways. In relation to Hexham Swamp, where the top of bank is often difficult to define, the riparian zone would generally be considered by Council to be 40m from the 1:100 year flood level, although **"wetlands"** are not specifically mentioned in the relevant clause of the DCP.

Council has suggested that the buffer land below the 1:100 year flood level and the proposed perimeter road reserve (where 32 courtyard housing lots are currently proposed) should be retained by the Community Association as open space within which the APZ's and cultural heritage areas could be established and actively maintained.

The DPI also raised concern about the adequacy and timing of the implementation of the sediment and erosion control measures, while Council raised a further issue about the future tenure and management of the land adjoining the Hexham Wetlands that will fall in the future Environmental Protection zone.

Consideration

Council correspondence makes reference to “*riparian areas associated with the wetland*”. However, Section 4.3.6 ‘Riparian zone’ of the Newcastle DCP defines the riparian zone as “*an area of land associated with a creek, stream, river or gully that supports riparian ecosystems*”, and makes no mention of wetlands as being associated with a riparian zone. There is no justification provided by Council for the inclusion of a wetland buffer, rather, the definition of ‘riparian zone’ has been extrapolated to include the wetland. It is noted that the defined SEPP 14 wetland boundary is located approximately 900m from the Dan Land boundary and the area between the wetland and the Dan Land is defined as ‘**sedgeland**’, comprised of a range of semi aquatic native and exotic plants (refer to report from *Bio-Analysis Pty Ltd*). This sedgeland, which may also be defined as a ‘wetland fringe’ or ‘flood plain’, does not necessarily have the same management issues as a river zone. The *Acting Manager Access and Compliance* from the Department of Natural Resources (DNR), states in an e-mail to Planning Workshop dated 8 September 2006 (copy provided to DoP):

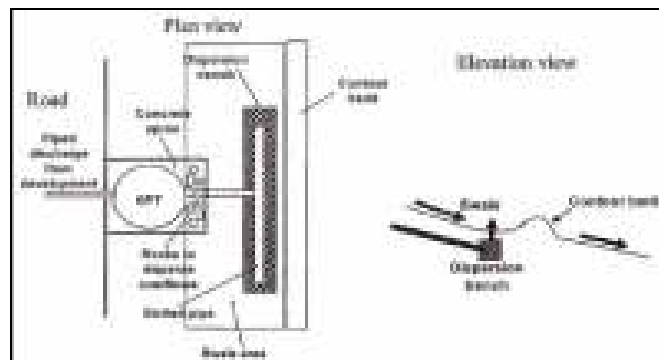
“From a practitioners perspective, the term riparian is ‘normally’ associated with the defined bed and banks of a river and the vegetation that is found on river edges (this can vary considerably depending on the geographical area). The Hexham Swamp Wetland (while technically part of a river) is not necessarily managed in the same way as a river and experiences quite different geomorphological and hydrological processes.”

DNR notes that the preservation of a buffer zone adjacent to rivers is linked with increased biodiversity, decreased river pollution levels, lowered stream erosion as well as economic benefits in rural areas, “*however, management of a wetland fringe does not automatically equate with the same issues as a river zone (i.e. management of a flood plain is not the same as management of a river)*”. Dr Danny Roberts of *Bio-Analysis Pty Ltd* (consultant for the proponent) suggests in his attachment that the sedgeland itself already functions as a significant buffer zone for the wetland. He notes that, as the development site is approximately 900m from the SEPP 14 wetland, there is no significant fish habitat adjacent to the Dan Land site or in the near vicinity and that the sedgeland already acts as a significant buffer zone for the wetland. Dr Roberts therefore advises that, following discussions with Scott Carter of DPI Fisheries, it has been agreed that the 10m AHD contour buffer zone is not required.

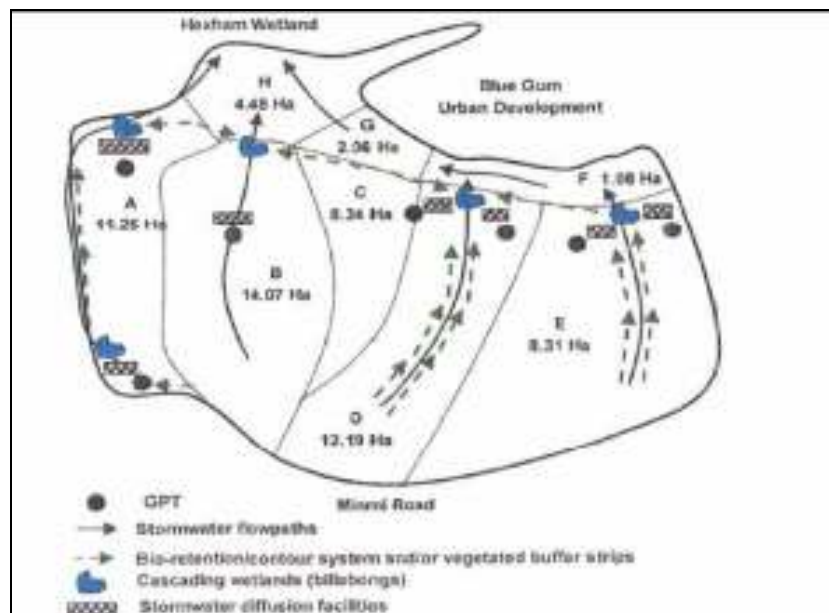
It is noted that a comprehensive water management system has been designed for the Dan Land site by Associate Professor Peter Coombes (for the proponent in support of the proposal), based on the Water Sensitive Urban Design approach. It is claimed that this approach will “*have the effect of mitigating the impacts of the urban development on stormwater quality and flow regimes on the Hexham Wetland*” (refer p.2 of Appendix 4, Dan Land Part 3A Major Project Report). In this context, the proponent illustrates that requirement for an additional buffer zone from the sedgelands can be considered even less necessary.

Finally, the Newcastle DCP defines the riparian zone as including the stream bed and extends beyond the top of bank to a point not less than 40m from the top of bank. It is noted from the DNR e-mail that, as with the Rivers and Foreshores Improvement Act 1948, the nominated distance of 40m is entirely arbitrary and has no scientific basis. Rather, the nomination of a distance is for administrative purposes in administering the Act. The nomination of the 1:100 year flood level as the start of the riparian zone for the Dan Land site is also arbitrary and is not supported by scientific evidence.

As mentioned previously, the proposed stormwater management system for the Dan Land site has been prepared by Associate Professor Peter Coombes of *Urban Water Cycle Solutions*. A significant component of this system is the use of a swale/contour system which will “*reduce stormwater discharge velocities allowing stormwater to percolate to the ground surface and flow overland along the swales, ultimately discharging as sheet flow to reserve areas*” (refer p. 4 of Appendix 4, Dan Land Part 3A Major Project Report). The swale/contour bank system is to be used in conjunction with Gross Pollutant Traps and diffuser trenches, as shown below.



In his report Professor Coombes states that the swale/contour bank systems will be placed at the interface between the urban development and the ephemeral stream corridors. In the upper reaches of the stormwater sub-catchments A, D and E (shown in the figure below), the swale/contour system will be placed along contour lines adjacent to the edge of the road pavements. In the lower reaches of the stormwater sub-catchments A,B,C, D and E (where the sub-catchments interface with sub-catchments F, G and H) the swale/contour system will be placed further from the edge of road pavement to allow greater detention storage.



As the functioning of the swale/contour system requires positioning along contour lines, it is important that all of these systems be located on the sloping topography of the Dan Land, as shown in the previous figure. This positioning requires the systems be located above the proposed cycleway, which will be located at the perimeter of the developable area of the site on the flat ground at the base of the slope and adjacent to a required perimeter road (see Section 6.2.2 below). The result of this will be that the cycleway, in conjunction with a perimeter road, will provide a defined physical edge to the Dan Land development. This physical edge will define the boundary between the Dan Land housing development and the extensive sedgeland to the north of the site.

The DPI also requested in their submission details of vegetation proposed for the wetland buffer area and details of its long term management. In addition, a weed management plan that addresses the management of aquatic weeds in the wetland area should be provided.

The Hunter-Central Rivers Catchment Management Authority (HRCMA), DPI, Department of Environmental and Conservation (DEC) and a number of public submissions raised concerns about stormwater management and the impact of increased run-off and nutrients into the adjoining wetland. The HRCMA claimed that stormwater runoff should be designed to replicate current flow patterns in accordance with Council's DCP and in line with best practice WSUD principles. The Department is satisfied that stormwater management has been adequately addressed by Commitment No. 3.3.

The DPI advised that in order to protect the wetland from sedimentation, erosion and stormwater controls must be in place before and during construction to minimise impacts on the wetlands. This is particularly important due to the steepness of the site.

The Department is satisfied that the DPIs concerns in relation to sediment and erosion control measures have been addressed. To ensure adequate sediment and measures are adopted, the Statement of Commitments requires that full details of the proposed erosion and sediment control measures to be implemented prior to, during and after construction in accordance with *Landcom's – Managing Urban Stormwater: Soils and Construction* will be submitted for approval (see Commitment A.3.3). In addition, the Environmental Management Plan (as agreed to under Commitment A.3.5) will detail all erosion and sediment control measures and will be provided to the Certifying Authority prior to the issue of the construction certificate.

In terms of ongoing management of the SEPP 14 wetlands, Council suggested that the wetland buffer area on the Dan Land site be dedicated to the HRCMA as they currently own 650ha of the adjoining Hexham Wetlands. In response, the HRCMA advised in their submission that it does not wish to take on this land. The proponent has addressed this issue by ensuring that the land will be managed in perpetuity by the Community Association as part of the Community Title created for the project.

Resolution

The Department is satisfied that an appropriate buffer has been provided to the Hexham Wetlands, with the 1:100 year flood level (3.5m AHD contour) forming the appropriate boundary between urban and non-urban land. In this instance it is considered that an additional 40m riparian zone is unnecessary for the following reasons:

- No scientific basis exists to suggest that wetlands should be managed with a riparian buffer zone of the nature proposed by Newcastle City Council;
- Both the 40m riparian zone definition, and the 1:100 year flood level starting point, are considered arbitrary and are not supported by scientific evidence;
- The water management systems proposed for the site are considered sufficient to mitigate impacts of development on the Hexham wetlands; and
- The existing sedgeland, in conjunction with the 900m separation of the SEPP 14 wetland from the subject site and the absence of any significant fish habitats in the vicinity, provides a significant and sufficient buffer for the wetlands.
- The proponent has provided evidence that the area of land zoned for environmental protection purposes as a consequence of the proposed residential subdivision will be 15.9ha, where currently under Newcastle LEP the area of land zoned 7(b) is only 15.1ha (see **red Tag C**). So while there is a decrease in width of the buffer area to the north (approx. to the 1:100 year flood level) in the proposal, there are two large vegetated gullies on the eastern portion of the site proposed to be rehabilitated with native flora and rezoned from 7(c) Environmental Investigation to 7(b) Environmental Protection – i.e. **a net gain in environmental protection land of 0.8ha.**
- A buffer above the 1:100 year flood level is not considered necessary by the DPI, DNR, HRCMA or RFS.

The Department is also requiring a perimeter road be provided around the northern boundary of the subdivision (see section 6.2.2 below), which will effectively increase the size of the buffer area to a line around the rear boundary of the proposed courtyard lots (which will be deleted and replaced by a road).

The DPIs requested details on vegetation management in the wetland and buffer area has been addressed. The treatment of the Environmental Protection zone is addressed in the Vegetation Management Plan (VMP). The VMP identifies the Ephemeral Wetland Area and outlines the specific management actions for this area to be the retention of native vegetation, the removal of all weeds, removal of livestock and the revegetation of the swamp forest.

The on-going management of the Environmental Protection zone area has been addressed by way of the Community Management Plan (CMP) which specifies that *"the Community Association is responsible for the implementation of the Vegetation Management Plan"*.

6.2.2 Urban Design and Lot Layout

Raised by

Council raised a number of different concerns about the proposed lot layout, particularly the courtyard housing lots located on the northern side of the perimeter road, the lots in the south-west corner that appear to be on land with significant slopes of up to 5 to 6 metres and the solar access for some lots.

Consideration

Council and members of the local community are concerned about the proposed lots on the northern side of the perimeter road as they would potentially obstruct views of the wetlands, restrict surveillance, decrease recreation values, decrease opportunities to manage bushfire threats and reduce the potential to create buffer areas between the wetland and the built environment. In addition, the proposed subdivision design is considered to be contrary to urban design principles applied around adjoining areas in Fletcher, including the adjacent Blue Gum Hills Vista development (Landcom) and the development on the southern side of Minimi Road, which adopt perimeter roads to define the boundary between urban and non-urban areas and manage bushfire threats.

On 23 August 2006 Planning Workshop Australia (PWA) provided a subsequent submission specifically addressing the issue of courtyard housing. PWA outline that *"the placement of courtyard housing on the outer side of the perimeter road has been a considered design strategy for the Dan Land"*. The stated influences in arriving at this strategy are listed as follows:

- *"The courtyard housing provides an intensified designed edge to the development. The placement of high quality built form in these locations will allow a well considered edge condition to be created to the adjoining community land. The housing will be specifically designed to fit the context and provide spatial conditions the road edge cannot."*
- *The placement of courtyard housing on the outer side of the perimeter road will see the provision of a variety of conditions associated with the road, viz:*
 - *The road will be double loaded, with all the associated informal surveillance and community benefits this provides, as well as more efficiently utilising the urban infrastructure provided in the subdivision.*
 - *It breaks down the single cross section profile along the perimeter road, providing a series of changing conditions, such as containment, vistas, and open panorama.*
 - *It provides a softening of the edge condition when viewed from the north by reducing the visual impact of two storey buildings on the southern side of the road that would otherwise effectively provide the built edge to the community land.*
 - *It provides protection from the road for the walkway/cycle path and the opportunity for secluded picnic spots in the community land.*
- *The type of amenity provided by the courtyard housing, with small footprints and courtyards, will potentially be attractive to people who are retired and who will be providing a high level of surveillance over the adjoining community land. This is not so likely to be provided by large family houses on the other side of the road. The significance of the level of surveillance is critical given the location, which is remote from the main road and which is on land falling away from the road. The immediate relationship of the courtyard houses with the community land will enable a sense of propriety over the surrounds."*

PWA also argue that unlike the adjoining Landcom development, a perimeter road is not an essential bushfire management option for the Dan Lands development as fire trails are being provided as part of the Community Title subdivision, which is acceptable to the RFS. They also argue that the loss of 32 lots will present major economic difficulties to the client and the lot yield will be substantially less than 15 lots per hectare.

The Department does not consider the subsequent case put forward by PWA provides adequate planning justification to retain the 32 lots in this location. Council's position in relation to the provision of a perimeter road is supported and it is recommended that the 32 lots on the northern side of the perimeter road be deleted. The Department has consistently applied the *Coastal Design Guidelines for NSW* in terms of providing perimeter roads for residential subdivisions that abut environmentally sensitive land. A perimeter road defining the northern boundary will:

- allow for the capture a treatment of stormwater from the site before discharge to the wetland, preferably in defined locations allowing impacts to be monitored and managed;
- define the urban development from the wetland buffer area;
- limit dispersal of weeds in the wetland from dumped grass clippings and garden prunings (a common occurrence where domestic yards interface with conservation reserves);
- provide equitable access to the visual and recreational resource provided by the wetland buffer area; and
- provide a better public safety outcome as there are fewer hiding spots for people intent on mischief or anti-social behaviour.

Council has advised the Department that they have actively involved the local community in land use planning in the Blue Gum Hills corridor, including workshops to develop masterplans and/or development control plans for Landcom's Blue Gum Vista site, the Highlands County estate and the Hardes Avenue subdivision. It has been made clear to Council that there is strong community support/demand for perimeter roads adjacent to the Hexham Swamp Wetland and bushland reserves. The Department is conscious of not starting a precedent on the Dan Land site in this regard.

The preferred project report identifies the cycleway on the wetland side of the lots on the northern side of the perimeter road. The removal of these lots would allow for the relocation of the cycleway so that it abuts the perimeter road, which in turn would address Council's comment that the location of cycle ways adjacent to the perimeter road is a transport infrastructure design approach applied consistently in the Newcastle LGA.

In terms of the lot yield, the most recent planning strategy for the area, the *draft Lower Hunter Strategy*, identifies a trend of 8-10 lots per hectare in this area. Due to the topographical and environmental constraints, the Department is satisfied that the final lot yield (including the removal of these 32 lots) is adequate.

In terms of the solar access issue raised by Council, many of the lots referred to are located in the central portion of the site where it is difficult to orientate lots north-south due to the topography which has dictated the perimeter road and the orientation of a large number of lots in this area. However, the lot layout has been amended on the western side to include more lots which face north-south. This modification will assist in the provision of lots with good solar access.

Council also recommends that a number of lots proposed in the southwest corner be deleted as they appear to be on land with significant slopes of 5 to 6 metres.

Resolution

The Department has modified the concept plan and conditioned the project to remove the lots on the northern side of the perimeter road. The proponent has been invited to move the perimeter road further north to the rear boundary of the proposed courtyard lots to form the northern boundary of the development, allowing relocation of the majority of the deleted 32 lots within the main subdivision.

The Department is satisfied that Council's concerns in relation to solar access and lots in areas where the land is too steep have been addressed. The preferred project report includes an amendment to the lot layout on the western side to include more lots which face north-south which will assist in the provision of solar access and the deletion of two lots in the south-west corner.

6.2.3 Dwelling Density

Raised by

The most common issue raised in public submissions was regarding the number of proposed lots in the subdivision and the capacity of the area to cope with this density. The submissions also questioned the consistency of the development with the *Thornton-Killingworth Sub-Regional Strategy* and the *Draft Lower Hunter Regional Strategy 2005*.

Consideration

The *Thornton-Killingworth Sub-Regional Conservation and Development Strategy* (prepared by DIPNR, July 2003 in draft) identified the Dan Land site as possessing "some residential potential" and the Department of Planning's *Draft Lower Hunter Regional Strategy 2005* has affirmed the suitability of the site for urban housing development.

Many of the public submissions argue that the current concept plan proposal for 400 dwellings should be reduced to comply with the suggestions of the *Thornton-Killingworth Sub-regional Strategy*. In general, these submissions sought the reduction of the lot yield to 200 at a density of about 16 lots per hectare, with the northern side of property (wetland edge) left undeveloped and zoned for conservation.

The figure of 200 lots identified for the Dan Land in the *Thornton-Killingworth Sub-regional Strategy* was based on an approximation by Council and the intention of the strategy was to indicate potential areas for residential development. No detailed investigations of the Dan Land site had taken place on which to base assertions of residential capacity of the land. The *Strategy* recognises the Dan Land as one of the only substantial holdings in the Fletcher/Blue Gum Hills area of the City of Newcastle considered suitable for residential development that is not currently zoned for urban purposes. Further, the *Strategy* concludes that as remaining release areas are such a scarce resource in the area, residential development should be aiming to achieve densities of at least 12 dwellings per hectare.

The proposed development would be a logical expansion of the Blue Gum Hills West area with a significant additional population supporting local commercial centres and demand for housing on the urban fringes of Newcastle. Such a conclusion recognises the value of optimising the residential density of this and other land in the strategy.

The EA for the Dan Land proposal indicates that the site is able to accommodate up to 400 dwellings with a net residential density of approximately 14 dwellings per hectare, which in turn would provide a significant contribution to housing supply in the Lower Hunter Strategy area.

Resolution

The Department is satisfied that the site has a capacity to carry a higher lot yield than identified in the *Thornton-Killingworth Sub-Regional Conservation and Development Strategy* based on the findings reported in the EA. In addition, the removal of 32 lots on the northern side of the perimeter road will reduce the initially proposed lot yield.

6.2.4 Amenity

Raised by

The project's impact on the amenity of the area was raised with respect to an appropriate development density, views, and aesthetic quality. The question of the site's capacity to support an appropriate level of development is discussed further at 6.2.6. The aesthetic quality of Minmi Road was the subject of some public submissions with concerns raised about housing backing on to Minmi Road, and the suggestion of a landscaped mound to protect against increased traffic noise. The impact on views primarily relates to the views from Minmi Road across the Hexham Wetlands.

Consideration

The preferred project report confirms that the concept plan and the subdivision layout design dictates that houses will address Minmi Road. This also extends to the town houses proposed for the super-lots along Minmi Road, although they will be accessed from the rear and not have direct vehicular access to Minmi Road. The aesthetic benefit of this is coupled with the passive surveillance offered to pedestrians on Minmi Road, which would not occur if houses did not front Minmi Road.

It is also worth noting that the topography of the site enables views to the wetlands throughout the development.

Resolution

The Department is satisfied that this issue has been addressed.

6.2.5 Remnant Vegetation

Raised by

DEC, the HRCMA, Council and public submissions raised a number of issues in relation to the protection of remnant native vegetation on the site.

Consideration

Three endangered ecological communities have been identified on site. These include the "*Lower Hunter Spotted Gum-Ironbark Forest*", "*Swamp Oak Floodplain Forest*" and the "*Freshwater Wetlands on Coastal Floodplains*". DEC notes that all three remnants are degraded and occur in locations (except perhaps for part of the Swamp Oak Floodplain Forest) where no development is proposed.

The Lower Hunter Spotted Gum-Ironbark Forest is located in the two eastern gullies. The Swamp Oak Floodplain Forest and the Freshwater Wetlands on Coastal Floodplains are positioned on the northern edge of the subject site which forms part of the Hexham Swamp.

DEC's submission confirms that the proposed development is "*not expected to result in any significant adverse impact on any threatened species or ecological community on the site or on the site's remaining biodiversity values if the proposals to retain the gully vegetation and not develop the wetland areas are implemented*".

In general, DEC, the HRCMA, Council and a number of public submissions recommend that the paperbark swamp community and other vegetation communities on the site (particularly in the drainage lines) be enhanced.

The VMP prepared by Moir and Associates proposes to remove all weeds, retain existing native vegetation and enhance through revegetation the swamp forest community, the two gullies and the ephemeral wetland area. The

VMP has adopted the list of native species provided by the HRCMA, which are endemic to the site and are suitable for use in the gullies. The Department is satisfied that the VMP adequately addresses the management of these vegetation communities.

Resolution

The Department is satisfied that the majority of the area affected by the remnant endangered ecological communities is not within the development footprint and will be adequately managed by way of the VMP and CMP.

The road layout has been amended by pulling the perimeter road back from the western boundary of the site to assist in retaining trees. The environmental protection zone has been expanded to include the area to the west of the perimeter road on the western edge of the development.

6.2.6 Riparian Zones to Gullies

Raised by

The Department of Natural Resources (DNR) provided support for the proposed riparian zone outcome. Council and DEC are of a different opinion to DNR about the preservation of vegetation in the gully areas and recommend a wider riparian zone outcome.

The HRCMA, DEC and Council all encourage the enhancement of native vegetation in the drainage lines through the planting of appropriate species.

Consideration

Council raised concern about the EA not addressing section 4.3.6 of Council's DCP 2005 which states that *"undeveloped riparian zones generally should not be developed"* and *"where in decline, or absent its restoration is encouraged"*. The DCP defines the riparian zone as *"including the stream bed and extending beyond the top of bank to a point not less than 40m from the top of bank"*.

DEC also recommend that a minimum 40m wide zone of native vegetation that is not subject to bushfire hazard reduction (APZ) measures be maintained in both the vegetated gullies depicted on the concept plan.

However, the DNR has raised no concerns with the proposal and agreed to the riparian outcome as presented in the Landscape Masterplan Report (prepared by Moir Landscape Architects, dated 6 March 2006). The Landscape Management Report includes filling the western gully and retaining a 20 metre wide riparian zone on the two eastern gullies.

The gullies are currently heavily weed infested. The VMP explains that ongoing weed eradication and weed management will be undertaken in the riparian zone as part of a revegetation program to establish species endemic to the site. This will enhance the ecological value of the vegetation corridors. Ongoing maintenance in the gullies in accordance with the VMP will be overseen by the Community Association. The proponent has committed to implementing the VMP through their statement of commitments.

Beyond the 20 metre riparian zone the sides of the gullies would be maintained through careful vegetation management which would allow weeds such as lantana to be removed and native vegetation to be planted where required.

Beyond the 20 metre riparian zone will be a fuel managed zone which will involve the removal of weeds and where possible the retention of existing native trees. The understorey will be mown on gentle slopes and low native grasses will be retained or planted on steeper banks.

Resolution

The Department is satisfied that the riparian zones in the two eastern gullies will be adequately managed by way of the VMP and CMP.

6.2.7 Traffic

Raised by

Issues relating to traffic were raised by the RTA, Council and by a number of members of the community. As Minmi Road is not a classified road, the Council is the consent authority for connections to that road and all other public roads in the area. Council has provided comments that relate to transport and access, impacts on Minmi Road and the internal road configuration and linkage opportunities to adjoining neighbourhoods.

The RTA has provided advice in relation to the road network, traffic and broader traffic issues, particularly in relation to the efficiency and safety of the classified road system, the security of property assets and the integration of land use and transport.

There were a number of elements raised by members of the public in relation to traffic. These include the adverse impacts of increased traffic, public transport, and the local road network. In relation to increased traffic some respondents were concerned about increased noise and emissions levels, the additional traffic leading to a longer journey to Newcastle at peak times, and safety concerns with traffic speed and intersection design. Public transport was seen as being inadequate in the area while other respondents felt that the new development would stimulate further public transport services. A number of suggestions were offered in relation to traffic on the local road network such as reduced speed on Minmi Road, adequate road width within the subdivision and the connectivity between the development and adjoining housing estates.

Consideration

Council raised a number of issues in relation to the four proposed road intersections with Minmi Road. The RTA recommended that the number of local road intersections with Minmi Road be minimised.

Council recommended that *Intersection No. 1* be moved further to the east to align with the possible future extension of St Andrews Way on the southern side of Minmi Road to allow for a common intersection point with Minmi Road. They further recommend that a roundabout be constructed in this location to help reduce vehicle speeds on Minmi Road across the frontage of the proposed local centre.

In their *Response to Submissions Report* (June 2006), Planning Workshop Australia explain that a number of issues need to be tested prior to considering a realignment of *Intersection No. 1*. The land affected by the proposed road realignment is in separate ownership and close to a vegetated gully. Therefore, consent from the adjoining land owner would be required, the environmental impacts would need to be examined and the engineering feasibility would need to be tested as the topography in this location is steeper due to the gully. The flexibility of where St Andrews Way would enter Minmi Road also needs consideration as the construction of this road currently lies approximately 80 metres from Minmi Road.

Planning Workshop Australia has argued that it would be unreasonable to delay the approval of the entire development based on a single intersection at the eastern end of the site.

In terms of *Intersection No. 2*, Council's submission questions the need for the fourth leg of the existing intersection. To meet Council's concerns this intersection has been removed and replaced by cul-de-sac. In addition, a clear pedestrian link that could also double as emergency access has been provided at the end of the road for pedestrian linkage through to Minmi Road.

Council note that should the *Kingston Land* on the opposite side of Minmi Road be rezoned and approved, *Intersection No. 3* would be a desirable point for public transport and residents to access and cross Minmi Road. Council offers its support for this intersection subject to the provision of a single-land roundabout being constructed capable of sustaining a 4th leg to the land south of Minmi Road.

Council considers the provision of vehicular and pedestrian links to the neighbouring Landcom estate is essential to reduce the isolation of the development. The RTA support the notion of a vehicular link as it would help reduce the number of intersections required with Minmi Road and the accessibility for public transport.

The RTA indicates that all intersections should be controlled appropriately. Any four way intersections should be formed with a roundabout of possibly traffic control signals and take into account the need for any pedestrian crossings. In terms of *Intersection No. 1* Council would like to see the construction of a roundabout at this intersection. This comment is based on the reconfiguration to align with Highlands Way. As the Department does not support this realignment it agrees with GHD's recommendation that this intersection be a give way controlled T-intersection.

Intersection No. 2 has been deleted and therefore the intersection requirements need no further consideration.

Council does not have any objection to *Intersection No. 4* being constructed as a T-intersection so long as the access road is aligned at 90 degrees to the centreline of Minmi Road.

A number of public submissions were concerned that this area is inadequately serviced by public transport. Planning Workshop Australia note in their preferred project report that the current bus service exceeds the minimum service required by the *Passenger Transport Act 1990*. It is also likely that the increase in population

generated by the proposed subdivision will stimulate new and better public transport due to the cost efficiency of a denser population and the likely youth profile which will utilise public transport.

A number of members of the public are concerned that the development will substantially increase traffic in the area, which in turn will increase travel time during peak periods. The *Traffic Study* carried out by GHD concludes that the rezoning of this site would have minimum impact on the traffic flows along Minmi Road under worst case AM peak hour 2016 traffic conditions. In addition, the RTAs advice is that the traffic generated from this site is unlikely to have a significant impact on the classified road network (the Newcastle Link Road and the Sydney Newcastle Freeway). The Department is satisfied that this issue has been addressed.

Council does not support the recommendation made in the *Traffic Study* prepared by GHD for an access lane running parallel to Minmi Road to service several lots in the vicinity of the existing widened road reserve. The preferred project report confirms that the lots adjoining Minmi Road identified in the concept plan and the subdivision layout design will have direct access to Minmi Road.

Council has recommended that if the final subdivision includes lots facing Minmi Road, that appropriate kerb side parking, cycle and footway provision should be provided by the applicant across the full length of the development. The Department is satisfied that this issue is addressed by Commitment A.3.2 which agrees to provide a parking lane, kerb and guttering and a 4.5 metre path for shared use by pedestrians and cyclists for the full Minmi Road frontage.

The issue raised by Council in relation to the proximity of the western loop road to the existing stand of trees has been rectified through the amendment of the road layout to pulling the perimeter road back from the western boundary of the site.

Council raises concern about the proximity of the perimeter roads to the edge of the existing gully embankments and recommend that they be positioned such that construction can occur without undue use of steep embankments or retaining walls. The *Response to Submissions Report* claims that due to the road reserve of the loop road being wider than Council requires, some flexibility is available for the location of the carriageway which will reduce the need to construct retaining walls and steep embankments.

Resolution

The Department believes that it would be unreasonable for the proponent of the Dan Lands development to reconfigure *Intersection No. 1* to align with an unformed section of St Andrews Way on the southern side of Minmi Road due to the likely environmental impacts (on an existing vegetated gully separating the Dan Land from the Landcom site) and the requirement to obtain land owners consent to carry out these works (as the road would cross over onto the Landcom site), particularly as the construction of Highlands Way on the opposite side of Minmi Road has not yet been determined. Further, there is some flexibility as to where St Andrews Way will enter Minmi Road, assuming this occurs, as St Andrews Way currently lies approx. 80m from Minmi Road. The proposed use or lot layout for this land needs to be considered to ensure an efficient use of land on the southern side of Minmi Road.

The proposed road intersection with Minmi Road – *Intersection No.2* at Highland Way has been eliminated as suggested by Council. This addresses the RTAs concerns by reducing the number of intersections with Minmi Road.

In terms of *Intersection No. 3*, the Department considers that it would be unreasonable to expect the proponent to construct a round-a-bout in this location as the Dan Land proposal does not require the use of a roundabout. The Department is satisfied that the provision will be made for road reserve widening to accommodate a future round-a-bout in this location.

Provision for a vehicular link with the adjoining Landcom development has been made in the Concept Plan.

6.2.8 Bushfire requirements

Raised By

According to Council, the Asset Protection Zone (APZs) should not involve the removal of native vegetation from any riparian zone and should be established clear of any riparian zones or wetland and areas. Council also highlights that the APZs are located on land that may have a slope in excess of 18 degrees which is contrary to the document *Planning for Bushfire Protection 2001*.

The NSW Rural Fire Service raised a number of issues that would need to be addressed in the subdivision design in accordance with the *Planning for Bushfire Protection 2001*. These relate to the provision of setbacks,

controlling fuel levels, ability for adequate egress and access, construction standards of buildings, the provision of adequate future water supplies for bushfire suppression operations, establishment of a future management regime, and revegetation on the site must consider bushfire risks, the development of a plan of management.

Consideration

Council state that the establishment APZs should not involve the removal of vegetation from any riparian zone and be established well clear of the wetland, riparian zone and landscape buffers to Minmi Road.

Council also highlights that according to the *Planning for Bushfire Protection Guidelines*, APZs should not be located on land steeper than 18 degrees. This is because management practices on these slopes are difficult and the environmental consequences of ground clearing through erosion may not be acceptable. The canopy fuels are also more readily available to fire, thus cancelling out the advantage of having an outer protection area.

The VMP (*Drawing No. VMP01 Rev D prepared by Moir Landscape Architecture 28/7/06*) identifies the APZs as recommended by *Australian Bushfire Protection Planners Pty Ltd*. In their submission, the Rural Fire Service claimed that the Asset Protection Zones as shown on the "*ABPP Drawing No. F1 Amendment B, dated 09/03/06, entitled Residential Rezoning Proposal for Future Residential Subdivision 290 & 302 Minmi Rd, Fletcher NSW*" are of concern as they may require setbacks that are greater than Council would normally allow for proposed lots fronting Minmi Road.

The Department referred the *Report on Submissions Received during the Public Exhibition Period of the Part 3A Major Project for the Dan Land, Minmi Road, Fletcher* (prepared by Planning Workshop Australia, May 2006); and the *Preferred Project Report for the Dan Land, Minmi Road, Fletcher* (prepared by Planning Workshop Australia, August 2006) to the Rural Fire Service seeking further comment on the suitability of the proposed subdivision layout in terms of the proposed APZs and general compliance with the *Planning for Bushfire Protection Guidelines*.

Resolution

The VMP prepared by Moir Landscape Architects (dated 28/07/06) identifies the specific management actions for the Asset Protection Zone and the two fuel managed zones (Zone B and Zone E). Council's recommendation that the APZ's be established clear of the wetland and riparian zones has been incorporated into the proposal.

As requested by the Rural Fire Service, the proponent has committed to preparing a Bushfire Management Plan for each stage in accordance the Planning for Bushfire Protection Guidelines (see Statement of Commitment A3.6). The establishment of the APZs in accordance with the Bushfire Management Plan will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of each stage (see Statement of Commitment A3.13).

The CMP specifies that "*the Community Association is responsible for the maintenance of the community land with regard to bushfire protection for the site*" in accordance with the Vegetation Management Plan and the report prepared by Australian Bushfire Protection Planners.

The ability of the site to provide for future water supplies for bushfire suppression was considered within the initial submission made to the Department of Planning, and it was considered that the future subdivision will be connected to the Hunter Water Corporation reticulated water supply, with a flow rate of 10 litres per second, which would be adequate for Australian Standard AS2419.2. This satisfies the requirements of water supplies for bushfires.

With regards to the setbacks along Minmi Road the dwellings will be set back from the road which will assist in reducing noise impacts and allow the retention of some trees along the Minmi Road frontage while still meeting the requirements of the asset protection zone. This larger than required setback imposed by the asset protection zone still allows for a suitable building area and private open space for each of the lots affected.

6.2.9 Developer Contributions and Regional Benefits

Raised by

Council has raised concerns regarding Section 94 contributions, the location of the two public parks and the cycleway proposed in the concept plan.

Consideration

Council's submission outlines that the location of the two parklands in the concept plan is not in accordance with Council's *Development Contributions Plan No. 1 (2005)* standard for the provision of local open space. The Plan

stipulates that Parklands (including playgrounds) must have a minimum area of 3,000sq.m (5,000m² is preferred) minimum dimension in any direction of 50m, a maximum 5% fall and constructed play items for children 0-9 years. The Playgrounds should also be within 500m of residences, above the flood line and preferably not located near a main road and busy intersection.

Neither of the parks identified in the concept plan meet Council's standard as they are proposed on moderate to steeply sloping land at the head of existing gullies and adjacent to Minmi Road. As a consequence, Council have indicated that they are not prepared to accept the provision of these public parks in lieu of a cash contribution as required by Council's *Development Contributions Plan No. 1 (2005)*.

Development Contributions Plan No. 4 - Transport Facilities in Blue Gum Hills has recently undergone review and was adopted by Council on 8 August 2006. The new Plan and rates became effective on Monday 14 August 2006 and are therefore required to be applied to the Dan Lands development. While DCP 4 does not include contributions towards cycleways, Council's submission requested that the proposed cycleway be repositioned so that it lies adjacent to the perimeter road. This cycleway has been provided voluntarily by the proponent.

Resolution

In order to address the parkland issue, the proponent has agreed to pay the full s94 contribution amount for open space and recreation. In addition, the proponent has agreed to provide a third playground adjacent to the cycleway on the northern side of the perimeter road. The location of the additional parkland will enjoy passive surveillance from the cycleway users and adjoining houses and scenic views across to the wetlands. This agreement is reflected in the contributions scheme outlined in Commitment A.2.1. The proponent has also agreed to pay the full s94 contributions towards "*community facilities, foreshore promenade, Section 94 management and Blue Gum Hills place management*" in accordance with Council's Contributions Plan No.1.

The proponent has agreed to provide a cycleway around the perimeter of the development and pay the full contributions applicable under *Development Contributions Plan No. 4 – Transport Facilities*. The Department considers the cycleway and public parks as a regional contribution as they are to be provided in addition to the full Section 94 contributions. Further regional benefits include the provision of two large publicly accessible open space areas (vegetated gullies with play areas and equipment) which will connect with the wetland buffer reserve to the north of the site.

The revised contributions scheme outlined and adopted by Council on 8 August 2006 have been applied by way of conditions B2 and B3 in Schedule 4 (project application), Appendix A.

7 CONCLUSION

- 7.1. The Department has reviewed the environmental assessment and the preferred project report and duly considered advice from public authorities as well as issues raised in general submissions in accordance with Section 75(2) of the Act. All the relevant environmental issues associated with the proposal have been extensively assessed.
- 7.2. In balancing the State significant planning outcomes with the issues raised in the body of this report, the Department is of the view that the proponent has satisfactorily mitigated the environmental impacts arising from the redevelopment of the Dan Land site. In assessing the proposal, the Department has resolved any outstanding environmental issues through recommended conditions of approval. In this regard, the concept plan is required to be modified and project application for subdivision conditioned to remove the 32 "Courtyard Housing" lots located on the Hexham Wetlands side of the northern perimeter road in order to protect the integrity of the wetland buffer zone.
- 7.3. Whilst there are related landscaping issues, and construction and operational issues, arising from the proposal, the impacts can be readily mitigated through the preparation and adoption of environmental management plans.
- 7.4. The proponent has committed (through Statements of Commitment) to a number of measures to ensure the redevelopment proceeds smoothly and does not adversely impact on local amenity and landscapes adjacent on the site. The Department is recommending further modifications/conditions of approval to augment commitments made by the proponent.
- 7.5. Recommended modifications/conditions of approval are provided at **Appendix A**. The reasons for the imposition of conditions are to encourage good urban design, maintain the amenity of the local area and adequately mitigate the environmental impact of the development, particularly on the adjoining Hexham Wetlands.

8 RECOMMENDATION

It is recommended that the Minister for Planning:

- a) **consider** the findings and recommendations of this report.
- b) **grant** approval for the concept plan pursuant to s.75O(1) by signing the Instrument of Approval at **Appendix A**.
- c) **grant** project approval for a stage of the project (i.e. the subdivision and subdivision works) pursuant to ss. 75P(1)(c) and 75J(1) by signing the Instrument of Approval at **Appendix A**.
- d) **Determine**, pursuant to s.75P(1)(b), that approval to carry out the remainder of the project (i.e. construction of dwellings) is subject to Part 4 of the EP&A Act.

(Note: The effect of (d) would be that:

- *Future development is no longer a Part 3A project*
- *Pursuant to s.75P(2)(a), the determination of any DA in respect of such development must be generally consistent with the concept plan.)*

- e) **Authorise** the Department to carry out post-determination notification.
- f) **Note** that the proposed listing of the site within Schedule 3 of the Major Projects SEPP will be pursued separately, however this does not preclude the Minister from approving the concept plan and project application for subdivision prior to the SEPP amendment.

Endorsed by:

Felicity Greenway
Team Leader, Strategic Assessment

Gordon Kirkby
Director, Strategic Assessment

Jason Perica
Executive Director

APPENDIX A. MODIFICATIONS / CONDITIONS OF APPROVAL

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DAN LAND CONCEPT PLAN AND PROJECT APPROVAL

**Major Project No. 06_0031
(File No. 9040816)**

I, the Minister for Planning, under the *Environmental Planning and Assessment Act 1979* ("the EP&A Act") determine:

- (a) To approve, under section 75O(1) of the EP&A Act, the concept plan for the project as described in Schedule 1, subject to the modifications set out in Schedule 2.
- (b) To approve, under section 75P(1)(c) of the EP&A Act, the carrying out of the stage of the project being subdivision and subdivision works described in Schedule 3, subject to the conditions set out in Schedule 4.
- (c) That approval to carry out the remainder of the project is to be subject to Part 4 of the EP&A Act, under section 75P(1)(b) of the EP&A Act.

Frank Sartor MP
Minister for Planning

Sydney,

2006

SCHEDULE 1

PART A — TABLE

Application made by:	Planning Workshop Australia 11 Bond Street Newcastle NSW 2300
Application made to:	Minister for Planning
Major Project Number:	06_0031
On land comprising:	Nos 290 & 302 Minmi Road, Fletcher Lot 11 in DP 1044935 and Lot 2 in DP 534168
Local Government Area	Newcastle City Council
For the carrying out of:	A 400 lot residential subdivision and associated services and infrastructure as described in Modification A1, Part A, Schedule 2
Capital Investment Value	\$100 million
Type of development:	Concept approval under Part 3A of the Act
Determination made on:	29 September 2006
Determination:	Concept approval is granted subject to the modifications in the attached Schedule 2.
Date of commencement of approval:	This approval commences on the date of the Minister's approval.
Date approval is liable to lapse	5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the EP&A Act.

PART B — DEFINITIONS

In this approval the following definitions apply:

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Council means Newcastle City Council.

Department means the Department of Planning or its successors.

Director General means the Director General of the Department of Planning.

Minister means the Minister for Planning.

Project means development that is declared under Section 75B of the Act to be a project to which Part 3A of the Act applies.

Proponent means the person proposing the carry out of development comprising all or any part of the project, and includes persons certified by the Minister to be the proponent.

Regulations means the Environmental Planning and Assessment Regulations, 2000 (as amended).

RTA means the Roads and Traffic Authority.

Subject Site has the same meaning as the land identified in Part A of this schedule.

Dan Land site has the same meaning as the land identified in Part A of this schedule.

Dan Land Concept Plan means the project described in Schedule 2, Part A, Modification A1 and the accompanying plans and documentation described in Schedule 2, Part A, Modification A2.

SCHEDULE 2

MODIFICATIONS TO THE DAN LAND CONCEPT PLAN CONCEPT PLAN NO. 06_0031

PART A – ADMINISTRATIVE MODIFICATIONS

A1. Development Description

Concept approval is granted only to the carrying out of the development solely within the concept plan area as described in the document titled "Concept Plan" prepared by Planning Workshop Australia (dated 7 June 2006) including:

1. A 400 lot residential subdivision;
2. Associated services and infrastructure; and
3. Landscaped public open space.

A2. Development in Accordance with Plans and Documentation

The development shall also be generally consistent with the following plans and documentation:

- a) Dan Land **Part 3A Major Project Report (and Appendices)** dated March 2005; except as amended by **Preferred Project Report** dated August 2006, incorporating **Statement of Commitments** prepared by Planning Workshop Australia.
- b) Dan Land Preferred Project Report Appendix 2 - **Concept Plan** dated 7 June 2006 prepared by Planning Workshop Australia.
- c) Dan Land Preferred Project Report Appendix 2 - **Proposed Lot Layout** dated 7 June 2006 prepared by Planning Workshop Australia.
- d) Dan Land Preferred Project Report Appendix 3 - **Landscape Master Plan** dated 28 July 2006 prepared by Moir Landscape Architecture (project no. 0276, dwg no. LMP01/REV6).
- e) Dan Land Preferred Project Report Appendix 4 - **Vegetation Management Plan Report** dated 20 July 2006 prepared by Moir Landscape Architect (project No. 0276 – Rev 1), incorporating **Vegetation Management Plan** (dated 28 July 2006, project no. 0276, dwg no. VMP01).

Except for otherwise provided by the Department's modifications of approval as set out in Schedule 2, Part B and the proponent's statement of commitments.

A3. Inconsistency Between Documentation

In the event of any inconsistency between the modifications of this concept approval and the plans and documentation described in Modification A2, Part A, Schedule 2 referred to above, the modifications of this concept approval prevail.

A4. Lapsing of Approval

Approval of the Dan Land Concept Plan shall lapse 5 years after the determination date in Part A of Schedule 1 unless an application is submitted to carry out a project or development for which concept approval has been given.

A5. Determination of Future Applications

The determination of future applications for development is to be generally consistent with the terms of approval of Concept Plan No. 05_0031 as described in Part A of Schedule 1 and subject to the modifications of approval set out in Parts A and B of Schedule 2.

PART B – DEPARTMENT OF PLANNING'S MODIFICATIONS

B1. *Perimeter Road and Courtyard Housing Lots*

The 32 “*Courtyard Housing*” lots located on the Hexham Wetlands side of the northern perimeter road (identified as Lots 103 to 120 in Precinct Plan 1; Lots 25 to 29 in Precinct Plan 2; and Lots 141 to 149 in Precinct Plan 3 in Appendix 6 of the Preferred Project Report) **are not approved** and are to be deleted from the subdivision plan. The perimeter road may be moved further to the north, but no further than the rear boundary of the original courtyard housing lots, and additional lots added to the residential blocks inside the perimeter road in order to offset the loss of 32 lots outside the road. Amendments to the lot layouts shall not result in a net increase in lots.

The proponent will submit amended plans (*Concept Plan, Proposed Lot Layout, Structure Plan – Roads and Landscape Master Plan*) and documentation reflecting the above prior to the issue of any Construction Certificate for works on the site, or as otherwise determined by the Director General, to the satisfaction of the Director General.

SCHEDULE 3

PART A — TABLE

Application made by:	Planning Workshop Australia 11 Bond Street Newcastle NSW 2300
Application made to:	Minister for Planning
Major Project Number:	06_0031
On land comprising:	Nos 290 & 302 Minmi Road, Fletcher Lot 11 in DP 1044935 and Lot 2 in DP 534168
Local Government Area	Newcastle City Council
For the carrying out of:	Subdivision and subdivision works as described in Condition A1, Part A, Schedule 4
Capital Investment Value	\$51 million
Type of development:	Project approval under Part 3A of the EP&A Act
Determination made on:	29 September 2006
Determination:	Project approval is granted subject to the conditions in the attached Schedule 4.
Date of commencement of approval:	This approval commences on the date of the Minister's approval.
Date approval is liable to lapse	5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the EP&A Act.

PART B — DEFINITIONS

In this approval the following definitions apply:

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Council means Newcastle City Council.

Department means the Department of Planning or its successors.

Director General means the Director General of the Department of Planning

Minister means the Minister for Planning.

Project means development that is declared under Section 75B of the EP & A Act to be a project to which Part 3A of the Act applies.

Proponent means the person proposing the carry out of development comprising all or any part of the project, and includes persons certified by the Minister to be the proponent.

Regulations means the Environmental Planning and Assessment Regulations, 2000 (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

Dan Land site has the same meaning as the land identified in Part A of this schedule.

Major Project No. 06_0031 means the project described in Condition A1, Part A, Schedule 4 and the accompanying plans and documentation described in Condition A2, Part A, Schedule 4.

SCHEDULE 4

CONDITIONS OF APPROVAL - PROJECT APPROVAL - MAJOR PROJECT NO. 06_0031

PART A – ADMINISTRATIVE CONDITIONS

A1. Development Description

Project approval is granted only to carrying out the development described in detail below:

1. A 337 lot community title subdivision and construction of associated works including streets, stormwater management works, utility services, and bulk earthworks;
2. Public domain improvements, including new parks as part of a network of landscaped public open spaces, and street trees; and
3. The use of the land for housing and related purposes and environmental conservation.

A2. Development in Accordance with Plans and Documentation

The development shall be in accordance with the following plans and documentation:

- a) Dan Land **Preferred Project Report** dated August 2006 and **Statement of Commitments** prepared by Planning Workshop Australia.
- b) Dan Land Preferred Project Report Appendix 1 - **Plan of Proposed Lots** dated 27 July 2006 prepared by Monteath and Powys (ref no. 03/020).
- c) Dan Land Preferred Project Report Appendix 2 - **Proposed Staging of Lots** dated 27 July 2006 prepared by Monteath and Powys.
- d) Dan Land Preferred Project Report Appendix 3 - **Landscape Master Plan** dated 28 July 2006 prepared by Moir Landscape Architecture (project no. 0276, dwg no. LMP01/REV6).
- e) Dan Land Preferred Project Report Appendix 4 - **Vegetation Management Plan Report** dated 20 July 2006 prepared by Moir Landscape Architecture (Project No. 0276 – Rev 1), incorporating **Vegetation Management Plan** (dated 28 July 2006, project no. 0276, dwg no. VMP01).
- f) Dan Land Preferred Project Report Appendix 6 - **Community Management Statement**.

Except for otherwise provided by the Department's conditions of approval as set out in Schedule 4, Part B and the proponent's Statement of Commitments.

A3. Inconsistency Between Plans and Documentation

In the event of any inconsistency between conditions of this project approval and the plans and documentation described in Condition A2, Part A, Schedule 4 referred to above, the conditions of this project approval prevail.

A4. Lapsing of Approval

Approval of Major Project No. 06_0031 shall lapse 5 years after the determination date in Part A of Schedule 1 unless specified action has been taken in accordance with Section 75Y of the EP&A.

A5. Prescribed Conditions

The Applicant shall comply with the prescribed conditions of project approval under Clause 75J (4) of the Act.

A6. Determination of Future Applications

The determination of future applications for development is to be generally consistent with the terms of approval of Major Project No. 06_0031 as described in Part A of Schedule 1 and subject to the conditions of approval set out in Parts A and B of Schedule 2.

PART B – DEPARTMENT OF PLANNING'S CONDITIONS OF APPROVAL

B1. Perimeter Road and Courtyard Housing Lots

The 32 "Courtyard Housing" lots located on the Hexham Wetlands side of the northern perimeter road (identified as Lots 103 to 120 in Precinct Plan 1; Lots 25 to 29 in Precinct Plan 2; and Lots 141 to 149 in Precinct Plan 3 in Appendix 6 of the Preferred Project Report) **are not approved** and are to be deleted from the subdivision plan. The perimeter road may be moved further to the north, but no further than the rear boundary of the original courtyard housing lots, and additional lots added to the residential blocks inside the perimeter road in order to offset the loss of 32 lots outside the road. Amendments to the lot layouts shall not result in a net increase in lots.

A Subdivision Certificate for any stage is not to be issued unless the lots have been deleted from the Subdivision Plan and an amended *Plan of Proposed Lots, Landscape Master Plan and Vegetation Management Plan* reflecting the required amendments has been submitted to the satisfaction of the Director General.

B2. S94 Contributions – Public Amenities and Services

A monetary contribution is to be paid to Newcastle City Council, pursuant to Section 94 of the Environmental Planning and Assessment Act, towards the provision of the following public amenities and public services within the locality, such contribution to be paid prior to the issue of a Subdivision Certificate in respect of each stage of the proposed development:

Category	Contribution per lot
Community Facilities	\$2,363.34
Open Space and Recreation	\$8,416.45
Foreshore Promenade	\$116.71
s94 Management	\$333.29
BGH Place Management	\$233.42

Note:

- i) This contribution is to be made in accordance with the provisions of the Newcastle City Council Contributions Plan No. 1, 2005 operational from January 2005.
- ii) The monetary amount of contribution payable under this commitment is to be indexed at the time of actual payment in accordance with the 'Consumer Price Index' weighted average of eight capital cities published by the Australia Bureau of Statistics each quarter.

B3. S94 Contributions – Transport Facilities

A monetary contribution of **\$1,794.81 per additional lot** is to be paid to Newcastle City Council, pursuant to Section 94 of the Environmental Planning and Assessment Act, towards the provision of transport facilities within the locality, such contribution to be paid prior to the issue of a Subdivision Certificate in respect of each stage of the proposed development.

Note:

- i) This contribution is to be made in accordance with the provisions of the Newcastle Section 94 Contributions Plan No. 4 operational from 14 August 2006.
- ii) The monetary amount of contribution payable under this commitment is to be indexed at the time of actual payment in accordance with the 'Consumer Price Index' weighted average of eight capital cities published by the Australia Bureau of Statistics each quarter.

B4. Road, Drainage and Pavement Works

Prior to the commencement of works the Council is to issue a Construction Certificate for the approval of engineering plans including, but not limited to road, drainage and pavement design required in this consent. A copy of the approved plans is to be provided to Council for its records.

B5. Erosion and Sediment Control

All erosion and sediment control measures are to be effectively maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

B6. Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during construction shall not be pumped to any street stormwater system unless separate prior approval is given in writing by Council.

B7. Dedication of Roads

Prior to issue of the Subdivision Certificate the applicant is to approach Council with regards to the dedication of the roadways. If at that time Council will accept the roads, they shall be dedicated in accordance with any Council requirements.

B8. Access

Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access, and created pursuant to Section 88B of the *Conveyancing Act 1919*. This includes all land identified as being *Association Property* in the subdivision plans/Community Management Statement.

B9. Services

Documentary easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

Pursuant to Section 88BA of the *Conveyancing Act* the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis. Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

APPENDIX B. STATEMENT OF COMMITMENTS

STATEMENT OF COMMITMENTS

The Commitments set out below are made by the Proponent, Northwest Residential Pty Ltd, in respect of the proposed subdivision of the Dan Land site.

A. GENERAL COMMITMENTS (ALL STAGES)

A.1 Commitments restricting the terms of approval

- A.1.1 The proposed development will be carried out strictly in accordance with the details set out on the approved subdivision plans (including the community and precinct plans) prepared by Monteath and Powys, dated 2 March 2006, ref. 03/020, except as otherwise provided by this Statement of Commitments.
- A.1.2 The proposed development will be carried out strictly in accordance with the recommendations set out in the Flora and Fauna Report prepared by Environfacts, dated November 2003, except as otherwise provided by this Statement of Commitments.
- A.1.3 Prior to the issue of a Construction Certificate for a particular stage, all general commitments, and all specific commitments relating to the Construction Certificate for the particular stage will be complied with.
- A.1.4 Prior to the endorsement of a Subdivision Certificate for a particular stage, all general commitments, and all specific commitments relating to the Subdivision Certificate for the particular stage will be complied with.

A.2 Commitments comprising payment of a monetary contribution, dedication of land/carrying out of off site works

- A.2.1 A total monetary contribution of \$3,801,626.10 will be paid to the Council, pursuant to Section 94 of the Environmental Planning and Assessment Act, towards the provision of the following public amenities and public services within the locality, such contribution to be paid prior to the issue of a Construction Certificate in respect of each stage of the proposed development:

a) Community facilities	\$783,771.01 (\$2,325.73 per additional lot)
b) Open space and recreation	\$2,791,209.20 (\$8,282.52 per additional lot)
c) Foreshore promenade	\$38,704.45 (\$114.85 per additional lot)
d) Section 94 management	\$110,532.63 (\$327.99 per additional lot)
e) Blue Gum Hills place management	\$77,408.90 (\$229.70 per additional lot)

(Note: i) This commitment complies with the provisions of the Newcastle City Council Contributions Plan No. 1, 2005 operational from January 2005 (Indexed as at 1 May 2006).

ii) The monetary amount of contribution payable under this commitment is to be indexed at the time of actual payment in accordance with the 'Consumer Price Index' weighted average of eight capital cities published by the Australia Bureau of Statistics each quarter.)

- A.2.2 A total monetary contribution of \$513,008.36 (\$1,522.28 per additional lot) will be paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act, towards the provision of transport facilities within the locality, such contribution to be paid prior to the issue of a Construction Certificate in respect of each stage of the proposed development.

(Note: i) This commitment is made in accordance with the provisions of the Newcastle Section 94 Contributions Plan No. 4 operational from 2 April 1997 (indexed at 29 June 2005).

- ii) The monetary amount of contribution payable under this commitment is to be indexed at the time of actual payment in accordance with the 'Consumer Price Index' weighted average of eight capital cities published by the Australia Bureau of Statistics each quarter.)

A.3 Commitments comprising details in documentation for a Construction Certificate Application / matters to be resolved prior to Certification of Survey Plans

- A.3.1 Road infrastructure including pavement, footpaths, kerb and gutter, drainage, services, street trees, street lighting, signage and markings will be provided to each stage of the subdivision, in accordance with the Council's requirements, except as otherwise provided by the Statement of Commitments. In this regard the following minimum road widths are to be provided:

Road Hierarchy	Footway	C'way	Median	C'way	Footway	TOTAL
Local Street	4.5m	7.5m ¹	-	-	3.5m	15.5m
Central Avenue	4.5m	5.5m	3.0m	5.5m	3.5m	22.0m
Central Boulevard	4.5m	5.5m	3.0m	5.5m	3.5m	22.0m
Loop Road (1 sided)	4.5m	7.5m	-	-	Variable ⁴	Variable
Loop Road (2 sided)	4.5m	7.5m ¹	-	-	3.5m	15.5m
Link Road	4.5m ²	6.0m	-	-	1.5m ³	12.0m ²

1 Carriageway width to increase to 9.5m if a bus route.

2 Footway width to accommodate any cycleways and fences including vehicle safety barriers.

3 Width to accommodate fences including vehicle safety barriers.

4 Variable width to contain stormwater outlet structures etc.

- A.3.2 In respect of the full Minmi Road frontage of the subject land, the following road works will be undertaken:
- A parking lane will be provided in compliance with Section 4.4.2 of Austroads Part 14 (Guide to Traffic Engineering – Bicycles) the Roads and Traffic Authority's NSW Bicycle Guidelines. This parking lane will be established outside the existing east bound travel lane of Minmi Road.
 - Upright kerb and gutter will be provided along the full frontage.
 - A 4.5 metre wide footway will be provided along the full frontage and, within this footway, a reinforced concrete shared use pathway will be provided in compliance with the Guidelines referred to in a) above. The front edge of this pathway will be offset 1.8 metres behind the face of the kerb and gutter.

- A.3.2 Concrete footway paving including kerb ramps and holding rails where shown in the typical cross sections will be constructed in accordance with the Council's design standards.

- A.3.3 Comprehensive engineering design plans and specifications will be submitted for approval with the required Construction Certificate application in respect of each stage, such to be accompanied by the following documentation and additional details:

Land Management Plan

The Plan will nominate existing and proposed surface levels and provide full details of proposed erosion and sediment control measures to be implemented prior to, during and after construction. The Plan will be designed in accordance with the *Landcom's – Managing Urban Stormwater: Soils and Construction*. Any sediment retention basins will be designed for Type D soils, unless laboratory analysis of site soils establishes that the site comprises a different type of soil.

Details of Earthworks

Plans will indicate the full extent of any earthworks proposed (cut and fill). All topsoil and unsuitable material will be nominated to be removed prior to placement of fill. All topsoil removed will be stockpiled for reuse on the development site.

Maximum nominated thickness of fill layer	- 150mm in road reserve areas - 300 mm in other areas
Maximum nominated compaction of fill	- 98% standard in road reserve areas - 95% standard in other areas

Compaction of earthworks associated with gully crossings will be carried out under Level 1 supervision as per AS3798-1996 '*Guidelines on earthworks for commercial and residential developments*' and a report submitted to the Principal Certifying Authority with documentation accompanying the respective Subdivision Certificate application.

Road Design Plans

Plans, longitudinal sections and cross sections for the proposed subdivisional roads will comply with the following requirements and will be annotated accordingly:

- a) Standard design vehicle for all roads will be a large rigid truck (Austroad) or equivalent;
- b) Plans will be accompanied by a pavement design report prepared and certified by a practising geotechnical engineer.
- c) The minimum acceptable subgrade CBR will be 5%.
- d) Roads will be designed generally with a desirable maximum grade of 12% and an absolute maximum grade of 16%;
- e) Roads will be designed generally with a desirable minimum grade of 1.0%;
- f) Side road intersections with a through road will have at least 10 metre vertical curves;
- g) Staged longitudinal sections to extend suitable distances at endpoints to permit connection to future stage works and provide for temporary turning bays;
- h) Kerb returns will have a minimum radius of 8 metres and on bus routes a 3-centred curve with radii 7.0m-10.0m-7.0m to be used;
- i) Kerb and gutter shapes within the public road will be constructed in accordance with Council's Standard Drawing No. NCC A17 as amended on 23 January 1995;
- j) Drainage inlet structures within the public road will be constructed in accordance with Council's Standard Drawing Nos. A199, dated March 1995 and A313, as amended on 6 September 1994;
- k) Footways will be generally high level and at 2% grade toward the kerb;
- l) Constructed footpaths will be 1.2m wide, 80mm nominal depth integral concrete or 2.0m wide, 100mm nominal depth reinforced integral concrete, in accordance with Council's Standard Drawing No. NCC A304, unless required for vehicular access, with the edge closest to the kerb located 1.8 metres behind the kerb face;
- m) All roads will be Benkleman Beam tested prior to prime sealing with a maximum permissible deflection of 1.2mm being allowed for all internal roads, with the exception of the identified bus routes which are to have a maximum permissible deflection of 1.0mm;
- n) All roads will be primer sealed prior to asphaltting;
- o) The minimum wearing surface of all internal roads will be a 30mm compacted thickness layer of asphaltic concrete (AC 10), with the exception of the identified bus routes which will have a 40mm compacted thickness layer of asphaltic concrete (AC 14);
- p) Reflectorised guide posts will be provided to all lengths of road where a raised kerb is not provided;
- q) Road safety barriers will be provided, where necessary, in accordance with the RTA Design Guide.
- r) Road name plates will be provided at all intersections; and
- s) Where applicable, a separate linemarking and signposting plan (for approval by the Newcastle City Traffic Committee) will be included with the design plans.

Stormwater Drainage Plan

The stormwater drainage design will incorporate a 1 in 10 year recurrence interval piped stormwater drainage system, with overland flow up to a 1 in 100 year recurrence interval event contained within road reserves and/or drainage reserves, and will comply with the following requirements, with the plans annotated accordingly:

- a) Stormwater from the site will be treated and discharged in accordance with the Stormwater Management Report for the site prepared by Urban Water Cycle Solutions, dated 21 Feb 2006.
- b) Drainage pipes will generally be located under kerb and gutter;
- c) Sub-soil drainage will be located generally on the high side of all roads and on both sides of roads in cut and also at other locations at the discretion of the PCA. Where a subsoil drain is required, it will be installed under kerb and gutter and extend at least 500mm below the bottom of pavement;
- d) Pits will be located upstream of kerb ramps and kerb returns;
- e) All stormwater pipes will be rubber ring jointed reinforced concrete;
- f) The determination, extent, depth and velocity of 100 year overland flow paths will be shown;
- g) Pedestrian and vehicular stability and safety will be maintained for the critical storm events up to the 100 year ARI in accordance with the velocity depth product requirements set out in 'Stability of Cars and Children in Flooded Streets' Keller and Mitsch 1994;
- h) All lots and roads will be above adjacent 100 year ARI flood levels;
- i) Interallotment drainage lines will be provided to service all lots not falling to public drainage systems;
- j) Lots serviced by interallotment drainage will have a grated surface inlet pit constructed at the lowest corner of the yard, with catch drains provided along the lower boundaries. The catch drains will be discharged into the pits in each property and interallotment drainage lines will be designed to cater for all water off the lot in the 1 in 10 year event, including water off pervious yard areas;
- k) The stormwater drainage facilities for each particular stage will be designed to ensure that all proposed drainage lines and outlets (both temporary and permanent) are covered by suitable easements;
- l) The proposed road gully crossings will be designed to meet the Council's requirements. The design will incorporate the use of placed rock batters, where steeper than 1 in 3, and vegetated batters for slopes more gentle than 1 in 3 (batters to be vegetated for low maintenance). Extended concrete aprons and wing walls will also be used in this design.
- m) The proposed development will not increase upstream or downstream flooding for floods over a range of storms from 1:1 to 1:100 year events.

Utilities Layout Plan

A Utilities Layout Plan will be prepared indicating the location of mains, associated installations and services conduits including all proposed road crossings.

A.3.4 All subdivision and associated works will be designed in accordance with the following publications (as amended or updated) as applicable:

- Institution of Engineers, *Australian Rainfall and Runoff* 1987;
- AUSTROADS, *Guide to Traffic Engineering Practice*;
- Department of Housing, *Road Manual* 1987;
- Roads and Traffic Authority, *Road Design Guide*;
- Roads and Traffic Authority, *Interim Guide to Signs and Markings*;
- Environment Protection Authority, *Managing Urban Stormwater – Treatment Techniques*;
- Landcom, *Managing Urban Stormwater: Soils and Construction Vol 1, 4th Edition, March 2004*;
- *Pavement Design – A Guide to the Structural Design of Road Pavements*, Austroads – 1992;
- *A Guide to the Design of New Pavements for Light Traffic* – APRG Report No. 21;
- The Institute of Municipal Engineering Australia, Queensland Division, *Design Guidelines for Subdivisional Streetworks* 1993 ('Queensland Streets');
- Joint Venture for More Affordable Housing, *Australian Model Code for Residential Development* 1989 ('AMCORD');
- NSW Department of Housing, *Construction Specification*, 1989 Edition, as varied by Newcastle City Council's Schedule A;

- A.3.5 Prior to any works commencing, the Developer will prepare an Environmental Management Plan (EMP) such to be designed and implemented to manage all environmental aspects associated with the construction, including off site impacts such as transport to and from the site. Two copies of the EMP will be provided to the Certifying Authority prior to issue of the Construction Certificate for Stage 1. The EMP will be maintained on site during all site works and be made available to Authorised Officers upon request.

The EMP will include but not be limited to:

- a) A site management program, identifying and addressing issues such as environmental health and safety, site security, and traffic management;
- b) A water management program detailing all erosion and sediment control, management of soil stockpiles, control and management of surface water and controls for the reworking of the existing water course;
- c) A dust management program, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions (This program is to be cross-referenced with the water management program);
- d) A noise vibration management program, detailing measures to minimise the impact of the construction phase on residential amenity, with noise and vibration monitoring during the construction phase incorporated into the program as necessary.

- A.3.6 A Bushfire Management Plan will be prepared for each stage and certified by a suitably qualified consultant or the NSW Rural Fire Service as complying with the requirements of the document *Planning for Bushfire Protection* and the requirements of the NSW Rural Fire Service in its letter to the Department of Planning dated 8 May 2006. The required Plan will include, but not be limited to, the following and will be submitted with documentation accompanying the Construction Certificate application in respect of each stage:

- a) Location of permanent Asset Protection Zones (APZ) and fire trails;
- b) Location of temporary APZs and fire trails such that adequate protection is provided to the subdivision at all times during development;
- c) APZ establishment methods;
- d) Location of habitat trees to be retained;
- e) Areas of vegetation to be retained, removed or reinstated;
- f) Existing topography, adjacent to development and open space;
- g) Access to services;
- h) Extent of cut and fill, access points and 'links' to public areas;
- i) Existing and proposed plant species; and
- j) Archaeological heritage.

- A.3.7 Prior to any site works commencing, Landscape Plans will be prepared for the relevant stage by a qualified Landscape Architect and submitted to the certifying authority for approval. These plans will be consistent with the landscape masterplan prepared by Moir Landscape Architects. Each landscape plan will indicate existing vegetation to be retained and removed, existing topography, adjacent development and open space, existing services, revegetation methods, public amenities, extent of cut and fill, access points and 'links' to open space, plant species, locations and landscape design principles, location of trees to be retained and removed and the criteria for habitat tree removal prior to works commencing. The Plan will also comply with the following:

- a) Existing trees on the site, which are to be retained, will have no cut or fill under their canopy areas and the location of these trees will be clearly identified on the Landscape Management Plan and Engineering Plans;
- b) A flora and fauna management/regeneration program, addressing areas of bush to be preserved/buffer areas, habitat trees, vegetation links, introduction of weed propagules, measures

to be implemented to manage the identification, management and protection of flora and in particular, fauna, which is located both during initial site clearing and ongoing construction works.

- c) Areas of restricted access and fence detail to be erected during construction and areas proposed for storage/stockpile of plant and materials will be identified;
- d) Will specify
 - Establishment methods for all new plantings;
 - Maintenance scheduling for all new plants;
 - Weed eradication program;
 - Reporting methods.
- e) Street trees will be provided with a nominated minimum 100 litre pot size, or as otherwise approved by Council, to be installed prior to the certification of the subdivision plan;
- f) All street trees will be selected and certified by the supplier to comply with the current NATSPEC guide with respect to root development, height, trunk diameter and branch structure and balance (Refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003); and
- g) Street trees will be protected with suitable tree guards.

A.3.8 Prior to the commencement of any works, tree protection fencing, erosion and sediment control measures nominated as being required during construction in the approved Environmental Management Plan, will be installed on site and inspected by the Principal Certifying Authority.

A.3.9 Prior to the commencement of any works, the developer will provide written notification to the adjoining landowners of the intention to start works, providing details of the scheduling of works and nominating a contact person. A legible prominent sign stating the name of the developer and contractor and a 24 hour contact telephone number will be displayed onsite during the construction period.

A.3.10 The Developer will make good any damage caused to a public road or associated structures, including drains and kerb and gutter, as well as to private property, and revegetating any disturbed areas of proposed open space resulting from the subdivision works prior to certification of the Subdivision Plan.

A.3.11 A Subdivision Certificate application will be submitted in respect of each stage of the development, accompanied by the appropriate fee. Each application will be supported by the following documentation, together with any other documentation required under the Statement of Commitments:

- a) A survey plan of subdivision prepared by a Registered Surveyor;
- b) Instruments prepared under s88B of the Conveyancing Acts as appropriate;
- c) A copy of the Community and/or Precinct Management Statement (where required) or amendment;
- d) A Section 50 Certificate from the Hunter Water Corporation Limited;
- e) A digital copy of the proposed subdivision boundaries to ISG or MGA and in .dxf, .dgn, .dwg format;
- f) Copies of NATSPEC certification in respect of street tree planting;
- g) A geotechnical assessment (2 copies) prepared by a suitably qualified geotechnical engineer which:
 - Nominates the site classification and soil type of each allotment in accordance with Australian Standard AS 2870 *Residential Slabs and Footings*;
 - Indicates any areas of potential slip or subsidence which may influence future road and building design requirements;
 - Indicates the location, extent and suitability of any fill placed on the site;
 - Provides testing results for each phase of construction in relation to earthworks and road works and demonstrates that the works comply with the requirements of the NSW Department of Housing *Construction Specification*, 1989 Edition, as varied by Newcastle City Council's Schedule A;
 - Indicates and provides testing results for any areas of remedial works undertaken in respect of the existing mine workings on the site; and
- h) A statement from a registered surveyor verifying that:
 - No survey control marks were interfered with during site work; or

- That the requirements of the Department of Lands had been obtained in respect of any marks which were destroyed and that such requirements have been complied with.
- A.3.12 The appropriate notation will be placed on the plan of subdivision and an instrument under Section 88B of the Conveyancing Act will be submitted to Council setting out the terms of easements and/or rights of carriageway and/or restrictions as to user required for the subdivision, in respect of the following where applicable:
- a) Interallotment drainage lines in favour of upstream properties utilising the lines;
 - b) Easements for Asset Protection Zones;
 - c) Easements for Fire Trails;
 - d) Easements for pathways and cycleways;
 - e) Restrictions on the Use of Land over temporary Asset Protection Zones;
 - f) Restrictions on the Use of Land over temporary fire trails;
 - g) Rights of carriageway in favour of the property serviced;
 - h) Easements for services in favour of the property serviced and/or the appropriate utility provider; and
 - i) Stormwater mains in favour of Council.
- A.3.13 Written certification from a suitably qualified consultant or the NSW Rural Fire Service that Asset Protection Zones, including temporary APZs, have been established in accordance with the Bushfire Management Plan – (Development Phase) for each stage, will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of that stage.
- A.3.14 Written evidence of arrangements being made with the Hunter Water Corporation Limited, or other approved supplier, for the provision of individual water supply and sewerage services to all lots within each stage, will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of that stage.
- A.3.15 Written evidence of arrangements being made with EnergyAustralia, or other approved supplier, for the provision of underground electricity supply to all lots and street lighting within each stage, will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of that stage.
- A.3.16 Written evidence of arrangements being made with Telstra, or other approved supplier, for the provision of underground telephone services to all lots within each stage, will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of that stage.
- A.3.17 Submission of a Community or Precinct Management Statement detailing all By-laws applicable to the community title subdivision accompanying the application for a Subdivision Certificate in respect of Stage 1. The Statement is to address the ongoing protection of the ecology of the locality by way of inclusion, as a minimum, By-laws in regard to the Vegetation Management Plan.
- A.3.18 Certified works-as-executed (WAE) plans and documentation will be lodged with the Principal Certifying Authority on completion of works for each stage. The required WAE plans will be provided on a full copy stamped Construction Certificate drawings and will include:
- a) Details of any alterations made to the approved plans;
 - b) The location and type of service conduits;
 - c) The location and extent of any temporary Asset Protection Zones and Fire Trails;
 - d) Details of all kerbs and gutters, pits and pipelines and drainage swales; and
 - e) Certification by a Registered Surveyor that all pipes, services and access driveways within proposed lots are totally within their respective easements.

Where the WAE plans indicate variations between the works as installed and the approved plans, the Principal Certifying Authority is to determine whether the works are acceptable or require reconstruction.

- A.3.19 A six month defect liability period will apply in respect of each Construction Certificate issued, prior to Council accepting maintenance responsibility for subdivision infrastructure, with the exception of the proposed landscaping. Each defect liability period will commence at the date of registration of the respective plan of subdivision.

In this regard, a cash bond or bank guarantee in an amount equivalent to 2.5% of the construction value of the subdivision works, or an alternative lesser amount as may be agreed to by Council, together with an endorsed Defects Liability Agreement form, will be submitted to Council prior to certification of the Subdivision Plan in respect of each stage of the development.

- A.3.20 A twelve month maintenance period will apply in respect of each applicable stage of the development prior to Council accepting maintenance responsibility for the proposed site landscaping. Each maintenance period will commence at the date of registration of the respective plan of subdivision.

In this regard a cash bond or bank guarantee in an amount equivalent to 25% of the contract value of landscaping and associated maintenance, or an alternative lesser amount as may be agreed to by Council, together with the required Landscape Establishment report, will be submitted to Council prior to certification of the Subdivision Plan in respect of each stage of the development.

A.4 Commitments comprising the submission of future applications to Council or the approval of other authorities

- A.4.1 Should any Aboriginal relics or artefacts be discovered during the course of any works onsite, work will cease immediately and the Principal Certifying Authority informed, unless written consent has been obtained from the Department of Environment and Conservation. Copies of any such consents are to be provided to the Principal Certifying Authority prior to the resumption of work.
- A.4.2 Proposed street names will be submitted to Council (the Road Authority) for approval prior to the lodgement of any Construction Certificate applications involving new roads. Evidence of approval will be submitted with the corresponding Construction Certificate application.
- A.4.3 The developer will be responsible for all adjustments to and/or relocation of public utilities. Any necessary alterations will be at the Developer's expense and to the requirements of the appropriate Authorities.
- A.4.4 No work will be undertaken in any public road until a Road Opening Permit has been obtained from Council (the Road Authority).
- A.4.5 Plans of any proposed traffic management devices, linemarking and signposting works on existing or proposed public roads will be submitted to Council and approved by the Newcastle City Traffic Committee prior to the issue of a Construction Certificate for such work.
- A.4.6 The routes for import of any fill material or export of any spoil will be submitted to and agreed by Council prior to the commencement of haulage. Any deterioration or failures within public roads that can reasonably be attributable to such operations will be restored to the requirements of, and at no cost to, Council.

A.5 General Commitments

- A.5.1 A copy of the Minister's approval of the subdivision under Section 75J(1) of the EP & A Act 1979, a copy of the Statement of Commitments, and relevant Construction Certificates, including associated approved plans, will be kept onsite at all times during construction works.
- A.5.2 The project manager will nominate a community contact person and advise adjoining owners and Council of the name of the nominated contact person, along with a contact telephone number. The

contact person will be available during nominated working hours for the duration of the subdivision construction work.

A.5.3 Residents and local authorities will be notified of the intended construction timetable and kept up to date as work progresses.

A.5.4 A sign will be erected in a prominent position on the work site detailing:

- a) That unauthorised entry to the work site is prohibited; and
- b) Indicating the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign will be removed when the proposed subdivision works have been completed.

A.5.5 A Landscape Establishment Report will be submitted to Council following completion of a twelve month maintenance period commencing from the date of registration of the relevant Subdivision Certificate in respect of each stage, verifying that satisfactory maintenance of the landscape works including street trees, revegetation and weeding, has been undertaken in accordance with the Landscape Management Plan and any necessary rectification measures have been carried out to a high professional standard.

A.5.6 All wetland and natural vegetated areas outside the boundaries of the proposed subdivision will be kept free from disturbance of machinery, parked vehicles and waste material.

A.5.7 The subdivision works will be inspected during construction by the Principal Certifying Authority, or other suitably qualified person(s) at the discretion of the Principal Certifying Authority, and documentary evidence of compliance with the terms of this consent and relevant Construction Certificate(s) will be obtained prior to proceeding to the subsequent stages of construction, such inspections and documentation will be arranged at not less than the following key stages:

- | | |
|------------------------|--|
| a) Sediment control | <ul style="list-style-type: none">- Upon initial erection of sediment control devices and prior to all other works;- Upon erection of subsequent stage sediment controls nominated in the Land Management Plan;- Upon completion of stormwater drainage; and- Final inspection. |
| b) Earthworks | <ul style="list-style-type: none">- Subgrade prior to laying of fill; and- Final inspection. |
| c) Road Construction | <ul style="list-style-type: none">- Subgrade prior to laying of sub-base;- Sub-base prior to laying kerb and/or gutter;- Kerb and/or gutter prior to laying base course;- Base course prior to Benkleman Beam testing;- Base course immediately prior to prime sealing;- Prime seal prior to laying AC wearing surface;- Footpaths prior to turfing; and- Final inspection. |
| d) Footpaths/cycleways | <ul style="list-style-type: none">- Subgrade prior to laying of base course;- Base course prior to laying of formwork;- Formwork/reinforcement before placing concrete;- After installation of curing methods; and- Final inspection. |
| e) Stormwater Drainage | <ul style="list-style-type: none">- Trench and bedding prior to laying of pipes;- Pipes prior to backfill;- Pits prior to backfill;- Backfill prior to capping; and- Final inspection. |
| f) Access handles | <ul style="list-style-type: none">- Subgrade prior to laying base course; |

	<ul style="list-style-type: none"> - Base course prior to laying of formwork; - Formwork/reinforcement before placing concrete; - After installation of curing methods; and - Final inspection.
g) Landscaping	<ul style="list-style-type: none"> - Prior to initial site works for each stage; - Prior to any works within Public Reserves; - Prior to removal of any trees outside the construction zone; - Prior to commencement of landscape works; - Final inspection; - 6 months post final inspection; and - At the completion of the maintenance period.
h) Asset Protection Zones	<ul style="list-style-type: none"> - Prior to the removal of any vegetation; and - Final inspection.

A.5.8 Toilet facilities will be provided at or in the vicinity of the site on which work is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided will be:

- a) A standard flushing toilet; and
- b) Connected:
 - To a public sewer; or
 - If connection to a public sewer is not practicable, to some other sewage management facility approved by the Council.

The required toilet facilities will be in place and operational prior to any other work being undertaken on the site.

A.5.9 All work will be carried out in accordance with the plans and details identified in the Construction Certificate, the New South Wales Department of Housing 'Construction Specification', 1989 Edition, as varied by Newcastle City Council's Schedule A and any other requirements/directions given by the Principal Certifying Authority/Certifying Authority during the course of works.

A.5.10 The Contractor will make provision for safe, continuous movement of traffic and pedestrians in public roads and erecting traffic warning signs conforming to the Roads and Traffic Authority's General Specifications (RTA Spec. Part G10 'Control of Traffic' and RTA Spec. 3355). Traffic control will only be carried out by flagmen with certification that they have been trained in accordance with Australian Standard 1742.3 – 1996.

A.5.11 Newcastle City Council will be indemnified in respect of any claims for damage to persons or property at all times while the work is in progress up until the work is completed and the Subdivision Plan registered. The developer is required to submit evidence of a suitable Comprehensive Insurance Policy in this regard.

A.5.12 Construction/demolition work noise that is audible at other premises will be restricted to the following times:

- Monday to Friday 7 am to 6 pm
- Saturday 8 am to 1 pm
- No construction/demolition work noise is permitted on Sundays or Public Holidays

A.5.13 The operating noise level of machinery, plant and equipment during the course of any construction works will comply with Chapter 171 of the NSW EPA's *Noise Control Manual*. Construction operations will be confined to between the hours of 7 am to 6pm Monday to Friday and 8 am to 1 pm Saturday. No construction work will take place on Sundays or Public Holidays. Mechanical rock breaking or blasting will be confined to between 9 am to 3.30 pm Monday to Friday excluding any Public Holiday.

- A.5.14 The Applicant will be responsible for meeting all expenses incurred in undertaking the development including expenses incurred in complying with conditions imposed under the terms of consent.
- A.5.15 Any imported fill on to the site will be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Imported fill will be certified to verify that the material is not contaminated based upon analysis or the known history of the site from which the material was obtained.
- A.5.16 Soil erosion and sedimentation will be controlled and contained to the standards of the Department of Natural Resources.

Control measures will be maintained at maximum operational capacity until the land is effectively rehabilitated and stabilised after construction.
- A.5.17 The developer upon completion of Stage 1 of the subdivision works will erect at each entrance/exit road to the subdivision approved signage of adequate size outlining the owner/builder's obligation to implement soil erosion and sedimentation control measures to protect the environment and to comply with the requirements of the *Protection of the Environmental Operations Act 1997*.
- A.5.18 There will be no interference with the amenity of the neighbourhood by reason of the emission of any 'offensive noise', vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.
- A.5.19 All soil stockpiles, excavation areas and internal roads will be adequately managed at all times to ensure mitigation of potential dust problems.
- A.5.20 Noise reduction techniques, including but not limited to the use of barriers, enclosures and silencers, will be employed during the construction stage to ensure compliance with the relevant construction noise criteria at all receivers.

B. STAGE 1 COMMITMENTS

B.1 Commitments comprising dedication of land

- B.1.1 The proposed roads constructed under this stage will be dedicated to Council as public roads. Such dedication will be shown in the documentation accompanying the application for a Subdivision Certificate.

B.2 Commitments comprising details in documentation for a Construction Certificate Application/matters to be resolved prior to certification of subdivision plans

- B.2.1 Concrete footway paving, including kerb ramps and holding rails where necessary, will be constructed in accordance with the Council's requirements. Full details will be included in documentation for a Construction Certificate application.
- B.2.2 Flush concrete thresholds will be provided at the intersections of those local roads having a reserve width of 15.5 metres or less and the loop road will be designed to withstand the maximum ESAs adopted for the respective road pavement. The required thresholds will be constructed of full depth oxidised concrete, the colour of which will be determined in consultation with Council. Full details will be included in documentation for a Construction Certificate application.

C. STAGES 2 TO 11 COMMITMENTS

C.1 Commitments comprising dedication of land

C.1.1 The proposed roads constructed under these stages will be dedicated to Council as public roads. Such dedication will be shown in the documentation accompanying the application for a Subdivision Certificate in respect of each stage.

C.2 Commitments comprising details in documentation for a Construction Certificate application / matters to be resolved prior to certification of subdivision plans

C.2.1 Flush concrete thresholds will be provided at the intersections of those local roads having a reserve width of 15.5 metres or less and the loop road will be designed to withstand the maximum ESAs adopted for the respective road pavement. The required thresholds will be constructed of full depth oxidised concrete, the colour of which will be determined in consultation with Council. Full details will be included in documentation for a Construction Certificate application.

C.2.2 Where roads within the proposed subdivision form intersections with Minmi Road, these intersections will be provided in accordance with the Traffic Report prepared by GHD, dated February 2006.

APPENDIX C. PREFERRED PROJECT REPORT

APPENDIX D. SUMMARY OF SUBMISSIONS & RESPONSE

APPENDIX E. ENVIRONMENTAL ASSESSMENT

APPENDIX F. ENVIRONMENTAL PLANNING INSTRUMENTS & OTHER RELEVANT LEGISLATION

The proposal is subject to the following planning instruments and strategies:

State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 outlines the types of development declared to be a Major Project for the purposes of Part 3A of the Act.

For the purposes of the SEPP certain forms of development may be considered a Major Project if the Minister (or his delegate) forms the opinion that the development meets criteria within the SEPP.

On 26 January 2006, the Minister for Planning formed the opinion pursuant to Clause 6 of State Environmental Planning Policy (Major Projects) 2005 that the proposal is a Major Project and subject to Part 3A of the *Environmental Planning and Assessment Act*, having satisfied himself that the proposal met the criteria of a kind described in *Schedule 1 – Group 5 Construction projects* of that Policy.

State Environmental Planning Policy No.11 (Traffic Generating Developments)

SEPP 11 Traffic Generating Developments aims at ensuring that the Roads and Traffic Authority is aware of major traffic generating developments.

Developments of the types listed in Schedule 1 and 2 of the SEPP require referral to the Roads and Traffic Authority. As part of the agency consultation process, the proposal was referred to the RTA. The RTA's submission advised that the SEPP may apply and the proposal shall address any issues accordingly in the master plan and development stage. The comments provided by the RTA have been addressed by way of the traffic consultant and the acoustic consultants reports.

Draft SEPP 66 – Integration of Land Use and Transport

This Policy aims to ensure that urban structure, building forms, land use locations, development designs, subdivision and street layouts help achieve the following planning objectives:

- (a) improving accessibility to housing, employment and services by walking, cycling, and public transport,*
- (b) improving the choice of transport and reducing dependence solely on cars for travel purposes,*
- (c) moderating growth in the demand for travel and the distances travelled, especially by car,*
- (d) supporting the efficient and viable operation of public transport services,*
- (e) providing for the efficient movement of freight.*

It is considered that the proposal addresses the aims of this draft SEPP. The concept plan has been designed with an emphasis on movement networks for people rather than cars. This is expressed in the high connectivity of the street pattern and the provision of pedestrian links and cycleways. The street pattern provides direct access from housing to Minmi Road where public transport can be accessed. The proposed overall dwelling density will support cost effective public transport. In addition, the location of the proposed shopping centre will be supported by medium density residential development within a 400m walking distance of the centre.

State Environmental Planning Policy 14-Coastal Wetlands (SEPP 14)

The aim of this policy is to ensure that coastal wetlands are preserved and protected in the environmental and economic interests of the State.

Although the Dan Land is not subject to this SEPP, the land does drain into the Hexham Wetlands that are nominated SEPP 14 wetlands. This has been critical in determining sediment and erosion control measures, stormwater management and water sensitive urban design elements for the land.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The aim of this policy is to ensure homes are designed to use less potable water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets for house and units.

The subdivision layout for this site maximises orientation for solar access to land and buildings. BASIX certificates and associated lists of commitments will be provided with future development applications that seek consent for the design of dwelling houses.

Newcastle Local Environmental Plan 2003

The majority of the site (35 hectares) is zoned 7(c) Environmental Investigation under Newcastle Local Environmental Plan 2003 whilst the remainder of the site is zoned 2(a) Residential (0.7 hectares), 2(b) Urban Core (2.9 hectares) and 7(b) Environmental Protection (15.08 hectares). NLEP 2003 articulates the aims and objectives for the future development of the site.

The Zone objectives for the 7(c) Zone are as follows:

- (a) To provide for the development of land for purposes which will not, or will be unlikely to, prejudice its possible future development for urban purposes or its environmental conservation.*
- (b) To conserve the rural or bushland character, and the biodiversity values or other conservation values, of the land.*

The proponent is also concurrently seeking to rezone and list the subject site as a State significant site in Schedule 3 of the Major Projects SEPP to facilitate this development. This is being undertaken as a separate process.

The rezoning proposal involves extending the current 2(b) Urban Core Zone on the site to include all suitable land within a 400 metre walkable distance of the adjacent 3(a) Local Centre Zone in Minmi Road and including the predominantly flood-free remainder of the site in the 2(a) Residential Zone. The proposal also involves the reconfiguration of the 7(b) Environmental Protection Zone to include the two eastern gullies and the low-lying areas of the site.

The Zone objectives for the 2(a) Residential Zone are as follows:

- (a) To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment.*
- (b) To accommodate home-based business and community facilities that do not unreasonably or significantly detract from the amenity or character of the neighbourhood and the quality of the environment.*
- (c) To require the retention of existing housing stock where appropriate, having regard to ESD principles.*

The Zone objectives for the 2(b) Urban Core Zone are as follows:

- (a) To provide for a diversity of housing types that respect the amenity, heritage and character of surrounding development and the quality of the environment.*
- (b) To accommodate a mix of home-based employment-generating activities that are compatible in scale and character with a predominantly residential environment.*
- (c) To accommodate a limited range of non-residential development of a scale and intensity compatible with a predominantly residential environment which does not unreasonably detract from the amenity or character of the neighbourhood or the quality of the environment.*
- (d) To require the retention of existing housing stock where appropriate, having regard to ESD principles.*

The Zone objectives for the 7(b) Zone are as follows:

- (a) To provide for the conservation, enhancement and protection of environmentally sensitive land, particularly wetlands.*
- (b) To allow limited development where it is unlikely to have a significant detrimental effect on the growth of natural communities, the survival of native wildlife populations, the provision and quality of habitats for indigenous and migratory species and the surface and ground water characteristics of the site.*

(c) To provide for the management of the majority of the Hunter River flood plain by restricting the type and scale of development to that compatible with the anticipated risk to life and property.

Hunter Regional Environmental Plan 1989

The Hunter Regional Environmental Plan 1989 (REP) sets the regional statutory planning framework for urban development in the Hunter Region. The objective of the REP in relation to urban land is to provide for sufficient land supply to meet anticipated growth in an orderly and efficient manner (Clause 29). The REP sets down a range of matters when considering the suitability of land for urban purposes, including the constraints of the natural environment, availability of services, and access to employment and commercial/community facilities. It also sets as a planning principle a preference that new residential areas be located in proximity to existing or proposed transport, public utility services and community facilities (Clause 31).

Draft Lower Hunter Regional Strategy

The Draft Lower Hunter Regional Strategy was released for public comment by the Minister for Planning in December 2005. Its proposals are based on a population growth scenario which projects a resident population for the Lower Hunter of 630,000 by 2031. This equates to an additional 125,000 persons over the period 2006-2031. This projected growth is consistent with the growth experienced in the Lower Hunter in the period since 1962.

In respect of housing demand, the Draft Strategy forecasts demand for up to an additional 95,000 dwellings in the Lower Hunter by 2031, with approximately 45,000 of these new dwellings being located in existing urban areas. The objective in this regard is to promote urban containment in the Lower Hunter. New release areas have been identified in the Draft Strategy to accommodate the remaining 40,000 new dwellings included in the demand forecasts. These areas consist principally of seven major areas located at Medowie, North Raymond Terrace, Thornton North, Lochinvar, Bellbird, Cooranbong and Wyee (each to contain more than 2000 dwellings and all outside the boundaries of the Newcastle LGA), together with 20 smaller urban release areas, each of less than 2000 dwellings, intended to build on existing urban communities.

Within the Newcastle LGA only 2 areas have been identified in the Draft Strategy as urban release areas: land at Fletcher, comprising the **Dan Land**; and land west of Lake Road, Wallsend, known as the *Xstrata* site. Under the Draft Strategy, each of these areas is to contain up to 2000 new dwellings.

In respect of housing type, the Draft Strategy anticipates a reduction in the proportion of detached housing in the Lower Hunter from its current level of 85% to 80% by 2031, leading to the proportion of multi-unit dwellings increasing to 20% of total housing stock by this time. This will lead to a greater mix of housing types and lot sizes in each new release area *"to provide for changing demographics and to facilitate greater choice, affordability and social diversity"* (Draft Lower Hunter Regional Strategy, p.14).

Roads Act 1993

Section 75V of the *Environmental Planning & Assessment Act* provides that certain authorisations and approvals required under other legislation apply to approved projects. These approvals include consent of the RTA under s138 of the *Roads Act 1993* for the following works:

- (a) erect a structure or carry out a work in, on or over a public road, or
- (b) dig up or disturb the surface of a public road, or
- (c) remove or interfere with a structure, work or tree on a public road, or
- (d) pump water into a public road from any land adjoining the road, or
- (e) connect a road (whether public or private) to a classified road.

The proposal may include works identified in (a) and (b) above. The proponent will therefore be required to obtain an approval from the RTA prior to the works commencing. The Department is satisfied that this issue is addressed by way of the following commitment:

A.4.4 *No work will be undertaken in any public road until a Road Opening Permit has been obtained from Council (the Road Authority).*

Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1997

The Environmental Assessment identified that no National Environmental Significance matters or Commonwealth land are likely to be impacted by the proposal and therefore an approval from the Commonwealth Minister is not required.