

**MINUTES OF ORDINARY COUNCIL MEETING OF THE CESSNOCK CITY COUNCIL
HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 5 SEPTEMBER 2018, COMMENCING
AT 6.30PM**

PRESENT: His Worship the Mayor, Councillor R Pynsent (in the Chair) and Councillors Olsen, Doherty, Dunn, Fagg, Stapleford, Fitzgibbon, Gray, Dagg, Burke, Sander and Lyons.

IN ATTENDANCE: General Manager
Director Planning and Environment
Director Corporate and Community Services
Director Works and Infrastructure
Development Services Manager
Principal Development Engineer
Finance and Administration Manager
Acting Strategic Planning Manager (Senior Strategic Planner)
Management Accountant
Senior Media & Communication Officer
Media & Communication Officer
Corporate Governance Officer

APOLOGY:

MOTION **Moved:** Councillor Dagg
Seconded: Councillor Lyons

623

RESOLVED that the apology tendered on behalf of Councillor Suvaal, for unavoidable absence, be accepted and leave of absence granted.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

MINUTES:

MOTION

Moved: Councillor Burke
Seconded: Councillor Sander

624

RESOLVED that the Minutes of the Ordinary Meeting of Council held on 15 August 2018, as circulated, be taken as read and confirmed as a correct record.

FOR

AGAINST

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Fitzgibbon
Councillor Gray
Councillor Dagg
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent
Total (12)

Total (0)

CARRIED UNANIMOUSLY

DISCLOSURES OF INTEREST

DISCLOSURES OF INTEREST NO. DI15/2018

SUBJECT: DISCLOSURES OF INTEREST

That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

NI4/2018 - Notice of Intention to Deal With Matters in Confidential Session - PE50/2018 - Development Compliance Investigation regarding the alleged unauthorised use of a shed as a dwelling at 10 Glennie Street, Ellalong – Councillor Stapleford declared a Non Pecuniary Significant Interest for the reason that he is related to one of the parties involved in the matter. Councillor Stapleford advised that he would leave the Chamber and take no part in discussion and voting.

PE50/2018 - Development Compliance Investigation regarding the alleged unauthorised use of a shed as a dwelling at 10 Glennie Street, Ellalong – Councillor Stapleford declared a Non Pecuniary Significant Interest for the reason that he is related to one of the parties involved in the matter. Councillor Stapleford advised that he would leave the Chamber and take no part in discussion and voting.

WI70/2018 - Minutes of Local Traffic Committee held 20 August 2018 – Item TC39/2018 – Councillor Stapleford declared a Non pecuniary Interest – Significant Conflict for the reason that he is related to people in this report. Councillor Stapleford advised that he would leave the chamber and take no part in discussion and voting.

PE47/2018 - Development Application 8/2017/160/1 proposing construction of a multi-dwelling development - 288 - 290 Maitland Road, Cessnock – Councillor Fitzgibbon declared a Non Pecuniary Interest – Significant Conflict for the reason that the developer is a family friend – therefore it could not reasonably be regarded that her decision was not influenced by this. Councillor Fitzgibbon advised that she would leave the chamber and take no part in discussion and voting.

PETITIONS

NIL

Local Government NSW Awards - RH Dougherty Awards

The General Manager presented to the Mayor an award for the “Most Innovative Programme” for Seniors Week 2017. This is the second year running that Council has won the award.

The General Manager and Mayor also presented to the Senior Media and Communications Officer a Highly Commended Award for “Excellence in Communication” for the “Don’t Mess with Cessnock” Campaign.

ADDRESS BY INVITED SPEAKERS

Councillor Fitzgibbon declared a Non Pecuniary Interest – Significant Conflict for the reason that the developer is a family friend – therefore it could not reasonably be regarded that her decision was not influenced by this. Councillor Fitzgibbon left the Chamber and took no part in discussion and voting.

Councillor Fitzgibbon left the meeting, the time being 6.35pm

The following people addressed the meeting of Council:

Speakers	For / Against	Report	Page No.	Duration
Mr Wayne Wilkinson	For Recommendation	PE47/2018 - Development Application 8/2017/160/1 proposing construction of a multi-dwelling development 288 - 290 Maitland Road, Cessnock	46	3 mins

Mr Geoff Boyd	Against Recommendation	PE47/2018 - Development Application 8/2017/160/1 proposing construction of a multi-dwelling development 288 - 290 Maitland Road, Cessnock	56	3 mins
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PLANNING AND ENVIRONMENT NO. PE47/2018

**SUBJECT: DEVELOPMENT APPLICATION 8/2017/160/1 PROPOSING
CONSTRUCTION OF A MULTI-DWELLING DEVELOPMENT**

288 - 290 MAITLAND ROAD, CESSNOCK

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Lyons
625
RESOLVED

1. That:

- (i) Development Application No. 8/2017/160/1 proposing the construction of a multi-dwelling development at 288 – 290 Maitland Road Cessnock, be refused pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the reasons for refusal contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
- The proposal fails to satisfy the overall objectives of Clause 7.3(1) and the provisions contained in Clause 7.3(3) of the Cessnock Local Environmental Plan (CLEP) 2011 in that the development is likely to increase the risk to life and property due to the flooding hazard of the land.
 - The proposal fails to satisfy the provisions contained in Chapters C.6, C.9 and D.2 of the Cessnock Development Control Plan (DCP) 2010.
 - The proposal is likely to result in adverse impacts on the natural and built environment through alteration of floodwater behaviour.
 - The site is considered unsuitable for the development as it will intensify residential development within the floodplain, and the bulk and scale of the proposal is not consistent nor compatible with the locality.
 - The proposed development is not in the public interest.
- (iii) In considering community views, the following is relevant:
- The flood affectation of the site and the impact of the development on flood patterns in the locality.
 - Amenity impacts of the development on adjoining land.
 - Non-compliance of the development with the Cessnock Council DCP 2010 with regard to urban design.
- (iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASONS FOR REFUSAL

1. The proposal fails to satisfy the overall objectives of Clause 7.3(1) of the Cessnock Local Environmental Plan (CLEP) 2011 in that the development is likely to increase the risk to life and property due to the flooding hazard of the land (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. The proposal fails to satisfy the provisions contained in Clause 7.3(3) of the Cessnock Local Environmental Plan (CLEP) 2011 in that the development is not compatible with the flood hazard of the land, will adversely affect flood behaviour and impact on development and properties within the locality (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
3. The proposal fails to satisfy the provisions contained in the following chapters of the Cessnock Development Control Plan (DCP) 2010:
 - (i) Chapter D.2 – Urban Housing – Section 2.4.3 (building scale).
 - (ii) Chapter C.6 - Access and Mobility – Section 6.3(2) – the development has not been designed to satisfy the provisions of Australian Standard 4299.
 - (iii) Chapter C.9 – Development on Flood Prone Land – the applicant has not demonstrated that the proposed development (including filling of the land) will not adversely impact on flood behaviour, people's safety, surrounding properties, structures and the natural environment.

(Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).
4. The proposal is likely to result in adverse impacts on the natural and built environment through alteration of floodwater behaviour (Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979).
5. The site is considered unsuitable for the development as it will intensify residential development within the floodplain. Furthermore, the site is not considered suitable for a multi-dwelling development of this scale due to the adverse impacts resulting from the design of the development proposed, most notably the finished floor levels and overall bulk and scale (Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979).
6. The submissions received during the public notification period raise relevant issues regarding the likely adverse impacts of the development on the locality and adjoining properties (Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979).

7. The proposed development is not in the public interest (Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (10)	Total (1)

CARRIED

Councillor Fitzgibbon returned to the meeting, the time being 6.50pm

Mr Michael Jones representing Professional Construction Services Pty Ltd	For Recommendation	PE49/2018 - Development Application No. 8/2017/548/1 - Alterations and additions to an existing dwelling to establish an 84 place centre-based child care facility 1764 Wine Country Drive, North Rothbury	97	3 mins
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Mr Nathan Williams	Against Recommendation	PE49/2018 - Development Application No. 8/2017/548/1 - Alterations and additions to an existing dwelling to establish an 84 place centre-based child care facility 1764 Wine Country Drive, North Rothbury	97	3 mins
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PLANNING AND ENVIRONMENT NO. PE49/2018

SUBJECT: DEVELOPMENT APPLICATION NO. 8/2017/548/1 - ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING TO ESTABLISH AN 84 PLACE CENTRE-BASED CHILD CARE FACILITY

1764 WINE COUNTRY DRIVE, NORTH ROTHBURY

MOTION **Moved:** Councillor Dagg **Seconded:** Councillor Burke
626
RESOLVED

1. That:

- (i) That Council determine Development Application No. 8/2017/548/1 proposing alterations and additions to an existing dwelling to establish an 84 place centre-based child care facility at 1764 Wine Country Drive (Lot 10 DP 1090815) North Rothbury, by the granting of deferred commencement development consent pursuant to Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, subject to the conditions contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
- The proposal is a permitted landuse in the RU2 Rural Landscape zone under Cessnock Local Environmental Plan 2011.
 - The variations proposed to Chapter C.1 (Car Parking) of Cessnock Development Control Plan 2010, are supported on the basis of evidence provided by the applicant demonstrating that on-site car parking can be provided in satisfaction of the performance objectives, and that strict compliance with the numerical requirements is unreasonable and unnecessary.
 - The proposal incorporates adequate measures to ensure the development does not result in any adverse impacts on the natural and built environments or the social and economic locality.
 - Satisfactory measures are proposed with respect to the nature and capacity of infrastructure to cater for the proposed development with specific regard given to required upgrades of Morgan Street and the Wine Country Drive/Morgan Street intersection.
 - The proposal is consistent with the existing and emerging streetscape and character of the locality. The site is considered suitable for the proposed development as it is located within an established residential locality adjoining a business zone. Therefore, the construction of additional child care facilities is consistent with the desired future character of the area.
- (iii) In considering community views, the following is relevant:

- The proposal is consistent with the existing and desired future amenity and character of the surrounding area, as the land surrounding the proposed child care facility is primarily used for urban purposes.
 - A suitable area for the placement of waste receptacles has been proposed on site.
 - An acoustic report and supporting documentation was submitted to Council in support of the development application. Such report was prepared specific to the Guideline for Child Care Centre Acoustic Assessment 2013, and considered satisfactory by Council.
 - With respect to wastewater, a Section 68 Application (15/2017/101) has been issued by Council supporting a commercial pump-out system for the management of wastewater on site.
 - Details confirming the disposal of stormwater from the site have been submitted to Council, and are considered to be in accordance with Council's 'Engineering Requirements for Development'.
 - Relevant conditions of consent with respect to the upgrade of Morgan Street to cater for increased traffic movements, have been imposed on the notice of determination.
 - Relevant conditions of consent with respect to the Wine Country Drive/Morgan Street intersection, have been imposed on the notice of determination, and the final design of the intersection will be approved by the RMS.
- (iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

CONDITIONS OF CONSENT

SCHEDULE 1

Within twelve (12) months from the date of determination, the proponent shall submit the following information/documentation, to the satisfaction of Council:

The applicant must provide evidence that the easement relocation is accepted by all burdened property owners of upstream lots – Lot 11 DP 1090815 and Lot 12 DP 1090815. The proposed re-alignment of the easement must be undertaken entirely within the subject site, being Lot 10 DP 1090815.

A suitable 88B instrument prepared in accordance with Conveyancing Act 1919 shall be submitted to Council.

This consent will not operate until the applicant satisfies Council that the matter/s listed above have been complied with. Upon satisfactory evidence being provided that the matter/s listed above have been satisfied, Council will give notice to the applicant of the date from which the consent operates.

Note: Pursuant to section 4.53 of the Environmental Planning and Assessment Act 1979, this consent will lapse if the Applicant fails to satisfy the Council as to the matters listed in this deferred commencement condition within twelve (12) months from the date of determination.

SCHEDULE 2 –
CONDITIONS OF CONSENT APPLICABLE AFTER SATISFACTION OF DEFERRED
COMMENCEMENT CONDITION IN SCHEDULE 1

TERMS OF CONSENT

CONDITIONS OF CONSENT

1. General Terms of Approval

All General Terms of Approval issued by NSW Rural Fire Service dated 31 May 2018 (Reference No: D17/3644) shall be complied with prior, during and at the completion of the development, as required.

A copy of the General Terms of Approval is attached to this determination notice.

2. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2017/548/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Plan Title: Site Plan Job No: 0797	ENZHUO Studio	26/07/18
Plan Title: Ground (existing in shade) Job No: 0797	ENZHUO Studio	26/07/18
Plan Title: Ground Job No: 0797	ENZHUO Studio	26/07/18
Plan Title: First Job No: 0797	ENZHUO Studio	26/07/18
Plan Title: Elevation A+B Job No: 0797	ENZHUO Studio	26/07/18
Plan Title: Elevation C+D Job No: 0797	ENZHUO Studio	26/07/18
Plan Title: Section 01 Job No: 0797	ENZHUO Studio	26/07/18
Plan Title: Carpark Plan Job No: 0797	ENZHUO Studio	26/07/18
Plan Title: Stormwater Management Concept for DA Plan & Details Job No: 23201 Sheet No: 101 Rev: DA-A	Hoolihan Partners Consulting Engineers	16-06-18

Document Title	Prepared By	Dated
Document Title: Small Site and Minor Development Assessment Reference: GFF 17519	Greg Little BSC Principal Consultant General Flora and Fauna (GFF)	July 2017
Document Title: Traffic Assessment Report for proposed Child Care Centre Wine Country Drive North Rothbury	BJ Bradley & Associates Consulting Civil and Traffic Engineers	4 September 2017
Document Title: Statement of Environmental Effects Version: 2.1 Final for DA Submission	Michael Leavey Consulting Planning & Development Services	September 2017
Document Title: Addendum to Statement of Environmental Effects	Michael Leavey Consulting Planning & Development Services	25 June 2018
Document Title: Noise Impact Assessment Document No: 171462-7284-R1	Spectrum Acoustics Noise and Vibration Consultants	June 2018
Document Title: Email Response to Council (Noise Impact Assessment Addendum) Reference: 171462/7646B	Spectrum Acoustics Noise and Vibration Consultants	6 July 2018
Document Title: Bushfire Assessment Project: 17210	Australian Bushfire Assessment Consultants	September 2017
Document Title: RE: Cessnock City Council DA 8/2017/548/1 Child Care Facility 1764 Wine Country Drive (Bushfire Report Addendum)	Clarke Dowdle & Associates Development Consultants	22 May 2018
Document: BCA Assessment Report	Grandaconsulting	22 December 2017

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

3. Separate Approval for Signs

A separate DA for any proposed signs additional to those approved as part of this consent must be submitted to and approved by Council prior to the erection or display of any such signs.

4. CC, PCA & Notice Required

In accordance with the provisions of Section 6.6 (cf previous s 81A) of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- a) A CC has been issued by the consent authority, Council or an accredited certifier; and
- b) A PCA has been appointed by the person having benefit of the development consent in accordance with Section 6.5 (cf previous s 109E) of the *EP&A Act 1979*; and

- c) If Council is not the *PCA*, notify Council no later than two (2) days before building work commences as to who is the appointed *PCA*; and
- d) At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work.

5. BCA Compliance

Pursuant to Section 4.17(11) (cf previous s 80A) of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of a Construction Certificate.

6. Cessnock Section 94A Levy Development Contributions Plan

A total monetary contribution of \$7,125.80 is to be paid to Council, pursuant to Section 7.12 (cf previous s 94A) of the *Environmental Planning and Assessment Act 1979*, such contribution is to be paid prior to the issue of a Construction Certificate in respect of the proposed development.

- i) This condition is imposed in accordance with the provisions of *Cessnock S94A Levy Development Contributions Plan 2017*. A copy of the document is available on Council's website at www.cessnock.nsw.gov.au or maybe inspected at Councils' Customer Services Section, Administration Building, Vincent Street Cessnock.
- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

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

7. Acoustic and BCA Assessment Report

Prior to the issue of a *CC*, plans shall be submitted to, and approved by the *CA* confirming that the recommendations specified in the *BCA Compliance Report* prepared by Granada Consulting dated 22 December 2017, and the recommendations specified in the *Noise Impact Assessment Document No: 171462-7284-R1 Spectrum Acoustics Noise and Vibration Consultants June 2018*, have been implemented in the final design of the proposed development.

In respect of the Noise Impact Assessment, the plans are to confirm that a 1.8m high brick wall will be erected along the southern elevation of the first floor outdoor play area, as illustrated on the approved plans.

8. Disabled Access

The building is to be provided with access and facilities for people with disabilities in accordance with the Disability (Access to Premises – buildings) Standards 2010

9. Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a CC.

10. Relocation of Easement

The proposed re-alignment of the easement to drain water must be undertaken wholly within the subject site – Lot 10 DP 1090815, and in accordance with Council's further conditions of consent.

11. Security for Cost of Damage and Completion of Public Work

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

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

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

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

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

12. Road Works Required

The applicant must bear the cost of construction of the following works:

- a) Road and Stormwater Drainage works in Morgan Street in accordance with the approved plans.
- b) All works within the Council road reserve as identified by the structural engineering design plans.

Development Consent does not give approval to undertake any works on Council property. An application must be made to Council for a S138 Roads Act Approval to construct these works. Detailed engineering drawings (plans, sections and elevation views) and specifications of the works required by this Condition must accompany the application form.

The Roadworks Approval request / application must be submitted to, and approved by, Council prior to the issue of a CC.

These works must be constructed in accordance with the conditions of the Roadworks Permit and be completed prior to the issue of an OC.

Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.

13. Road - Bond

The applicant shall lodge payment of fees and contributions as follows:-

Based on a road length of approximately 95 metres. Final bond amounts will be levied on accurate dimensions contained within the engineering plans.

- a) Road fees - engineering plan checking and supervision of \$4,400.
- b) A performance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (transferable).
- c) A road maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (refundable).

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts. If no contract price is submitted, Council will estimate the value of construction works.

The fees and bonds shall be payable prior to the issue of a CC for the Civil Works and/or release of the Subdivision Certificate and shall be in accordance with Council's adopted fees and charges current at the time of payment.

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

14. RMS Approval Required

Approval must be obtained from New South Wales *RMS* for the proposed works in the public road reserve (Wine Country Drive) in the form of a Works Authorisation Deed (WAD).

The following works are required in accordance with the approved Works Authorisation Deed (WAD):

- a) Upgrade works to allow right turn into Morgan Street from Wine Country Drive and right turn out from Morgan Street to the appropriate RMS standards.
- b) Install approved signage/line marking as directed by RMS.
- c) Construct drainage works as necessary.
- d) Install No Stopping signage for the entire frontage of the property on Wine Country Drive.

Evidence of the approval/WAD must be submitted to the CA prior to the issue of any CC.

15. Roadworks

The registered proprietors of the land shall construct the following for the full frontage of Lot 10 for the full length of Morgan Street to allow for the turning circle in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to the release of the S138 Roads Act Approval.

- a) Construct kerb and gutter
- b) Construct and gravel road shoulders
- c) Upgrade Morgan Street from the intersection of Wine Country Drive to a two-way 6m sealed pavement width in accordance with Council's Engineering Requirements for Development
- d) Topdress and turf footpath
- e) Construct drainage works

16. Car Parking – Commercial/Industrial

The design of the vehicular access and off street parking facilities must comply with, but not be limited to *AS 2890.1-2004 Parking Facilities – Off-Street Car Parking*, *AS 2890.2-2002 Parking Facilities – Off-Street commercial vehicles facilities*, and *AS 2890.3-1993 Parking Facilities – Bicycle parking facilities*. Details demonstrating compliance with these Standards are to be included on the plans submitted in association with a CC application.

A design certificate satisfying these requirements is to be issued by a suitably qualified professional engineer and submitted to the CA prior to the issue of a CC.

17. Parking – Minimum Requirement

Onsite car parking shall be provided for a minimum of twenty-three (23) vehicles and such being set out generally in accordance with Council's Development Control Plan.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

18. Parking – Delivery Vehicles

A separate off-street loading/unloading facility with capacity to accommodate the largest delivery vehicle likely to deliver goods to and from the premises shall be provided for all loading and unloading of vehicles wholly within the property. Such facility shall be constructed clear of the car parking area and driveways.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

19. Disabled Car Parking Spaces

A total of one (1) car parking spaces for use by persons with a disability must be provided as part of the total car parking requirements.

Plans demonstrating compliance with this requirement and the following Australian Standards are to be submitted to, and approved by, the CA prior to the issue of a CC.

- * AS/NZS 2890.1:2004 Parking Facilities – Off street car parking
- * AS/NZS 1428.1:2009 Design for access and mobility – General requirements for access – New building work
- * AS/NZS 1428.4.1:2009 Design for access and mobility – Means to assist the orientation of people with vision impairment – Tactile ground surface indicators.

20. Stormwater – Construction Management Plan Requirement

A construction management plan shall be submitted with the application for the CC and approved by the CA as satisfying the below requirements:

- a) Details of sedimentation and erosion control
- b) Details of provision of truck and machinery wash down areas. Note: All trucks and machinery must be free from all foreign material where such material is likely to cause pollution. An area must be set aside for the cleaning of concrete agitator trucks.
- c) Details of dust mitigation on building sites and access roads
- d) Location and phone number of the site office
- e) Details regarding provision of areas set aside for the storage/stockpiling of:
 - i) Construction refuse
 - ii) Construction materials

- iii) Raw materials such as sand, soil, mulch and the like
- v) Details regarding the provision of facilities for workers associated with the development.

Note: All protection and control of earthworks shall be carried out in accordance with Council's "Engineering Requirements for Development", Department of Conservation and Land Management's 'Urban Erosion and Sediment Control' requirements, and the Department of Housing 'Soil and Water Management for Urban Developments'.

21. Stormwater - Detailed Design Requirements

Detailed design of stormwater treatments on site must meet the following reductions in pollutant loads:

- 80% of total suspended solids
- 45% of total phosphorus
- 45% total nitrogen

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

22. Stormwater – Detailed Design Requirements

A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property, and connection to the existing drainage system in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices). Such layout shall include existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

23. Stormwater – Detention Requirement

The registered proprietor of the land is to provide a stormwater detention facility within the boundaries of the site to reduce the peak stormwater discharge from the developed lot to that of the peak stormwater discharged from the undeveloped lot for all storm events from the 1 in 1 year to the 1 in 100 year Average Recurrence Interval (ARI) storm event. A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details shall include onsite storage, the method of controlled release from the site, and connection to an approved drainage system in accordance with Council's 'Engineering Requirements for Development'.

Detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development, shall be prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics. The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

24. Food Premises

The construction and operation of the food premises shall comply with all applicable legislation, regulation and standards including:

- a) Food Act 2003
- b) Food Regulation 2015
- c) Food Standards Australia and New Zealand – Food Standards Code 2003
- d) AS 4674-2004 for Design, Construction and Fit out of Food Premises
- e) AS 1668.2-2002 – The use of ventilation and air conditioning in buildings
- f) BCA.

Details submitted in association with the CC application are to demonstrate compliance with this requirement, and shall include the following:

- a) a separate floor and sectional plan detailing:
 - i) the kitchen/cafe area floor, wall, and ceiling surface finishes
 - ii) location of the required handwash basin/s and cleaning sinks/s
 - iii) location of dry and cold storage areas,
 - iv) fit-out details for the kitchen and servery, including proposed refrigeration and cooking equipment
 - v) designated cupboard or locker for the storage of staff clothing and personal belongings
 - vi) location of the bar area.

The details are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

25. Air Conditioning Units

Any air conditioning unit on the site must be installed and operated at all times so as not to cause “Offensive Noise” as defined by the *Protection of the Environment Operations Act 1997*.

Details demonstrating noise attenuation measures in this regard are to be submitted to the CA prior to the issue of a CC.

26. Smoke Free Premises

The construction and fit out of the premises shall comply with the *Smoke-Free Environment Act 2000* and *Smoke-Free Environment Regulation 2016*. Details demonstrating compliance with this condition are to be provided to the CA prior to the issue of a CC.

27. Outdoor Lighting

Prior to the issue of a CC, the CA must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises, adjacent dwellings and the road reserve, and that the outdoor lighting complies with the relevant provisions of *AS 1158.3:2005 Pedestrian area (Category P) lighting – Performance and design requirements* and *AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

PRIOR TO COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to the commencement of works on the subject site.

28. Site To Be Secured

The site must be secured and fenced prior to works commencing. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property.

Separate approval is required to erect a hoarding or temporary fence on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed.

29. PCA Signage and Contact Details

Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the proposal is being carried out. The sign must state:

- a) Unauthorised entry to the work site is prohibited
- b) The name of the principal contractor (or person in charge of the site) and a telephone number on which that person may be contacted at any time for business purposes and including outside working hours
- c) The name, address and telephone number of the PCA for the work

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

30. Public Liability Insurance

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note, and provide protection for Cessnock City Council as an interested party, and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

31. Relocation of Services

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.

32. Nominated Location of Waste

The location and facilities for the collection, storage and disposal of waste generated within the premises shall be submitted to the *PCA*, prior to the commencement of works.

33. Toilet Facilities

Toilet facilities are to be provided prior to works commencing, at or in the vicinity of the work site on which work involved in the erection or demolition of a building 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 must be a sewage management facility approved by the NSW Department of Health and/or Council, and operate in an environmentally responsible manner, free of nuisance or offence, and be appropriately serviced.

34. Construction and Traffic Management Plan

The applicant must prepare a Construction Management and Traffic Management Plan incorporating the following matters. The plan must be submitted to and approved by the *CA* as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.

- ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.
- b) During excavation, demolition and construction phases, noise generated from the site must be controlled.
 - c) All site works must comply with the work health and safety requirements of SafeWork NSW.
 - d) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
 - e) All traffic control plans must be in accordance with the *RMS* publication *Traffic Control Worksite Manual* and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

35. S138 Roads Act Approvals

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

36. Approval Required for Equipment in Road Reserve

An application for any of the following on public property (footpaths, roads, reserves) shall be submitted to, and approved by, Council prior to the commencement of works.

- a) Construction zone
- b) A pumping permit
- c) Mobile crane
- d) Skip bins.

37. Soil and Water Management Plan

The applicant must prepare a Soil and Water Management Plan, being compatible with the Construction Management and Traffic Management Plan referred to in this Development Consent and incorporating the following matters. The plan must be submitted to and approved by the CA as satisfying these matters prior to the commencement of works.

- a) Minimise the area of soils exposed at any one time
- b) Conservation of top soil
- c) Identify and protect proposed stockpile locations
- d) Preserve existing vegetation. Identify revegetation technique and materials
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner
- f) Control surface water flows through the site in a manner that:
 - i) Diverts clean-runoff around disturbed areas
 - ii) Minimises slope gradient and flow distance within disturbed areas
 - iii) Ensures surface run-off occurs at non erodible velocities
 - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

38. Soil and Water Management Plan Implemented

The requirements of the Soil and Water Management Plan shall be in place prior to the commencement of demolition works and/or construction works and shall be maintained throughout the demolition and/or construction process.

DURING WORKS

The following conditions are to be complied with during works.

39. Approved Plans Kept On Site

A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.

40. Site is Securely Fenced

The site must be appropriately secured and fenced at all times during works.

41. Construction Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment and Heritage *Noise Guide for Local Government*.

42. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

43. Construction Vehicles

Construction material and vehicles shall not be placed on public footpaths. The use of footpaths or roadways shall be undertaken in accordance with the prevailing kerbside restrictions, the Australian Road Rules and Council's Parking Code.

44. Waste Management

Rubbish generated from the development is to be suitably contained on site at all times. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown off site.

45. Building Materials On Site

All building materials, plant and equipment are to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves, etc.

46. Location of Council Pipes

During all phases of demolition, excavation and construction, it is the full responsibility of the applicant and their contractors to:

- a) Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works
- b) Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits
- c) Ensure dedicated overland flow paths are satisfactorily maintained through the site

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage, and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease, and the PCA and Council must be contacted immediately for advice. Any damage caused to the Council stormwater drainage system must be immediately repaired in full as directed, and at no cost to Council.

47. Stormwater – Impact on Adjoining Land – Natural Drainage

Filling shall not be placed in such a manner that natural drainage from adjoining land will be obstructed.

48. Stormwater – Impact on Adjoining Land – Surface Water

Filling shall not be placed on land in such a manner that surface water will be diverted to adjoining land.

49. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

50. Implementation of Soil and Water Management Plan

The requirements of the Soil and Water Management Plan must be maintained at all times during the works, and any measures required by the Soil and Water Management Plan shall not be removed until the site has been stabilised.

Materials from the site are not to be tracked into the road by vehicles entering or leaving the site. At the end of each working day, any dust/dirt or other sediment shall be swept off the road and contained on the site, and not washed down any stormwater pit or gutter.

The sediment and erosion control measures are to be inspected daily, and defects or system failures are to be repaired as soon as they are detected.

51. Erosion and Sediment Controls

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

52. Virgin Fill To Be Used

All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste, and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or agricultural activities, and which do not contain sulphate ores or soils.

53. Removal of Contaminated Soil

Any soil proposed to be disposed of off-site must be classified, removed and disposed of in accordance with the New South Wales Environment and Heritage *Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-liquid Wastes 1999* and the *Protection of the Environment Operations Act 1997*.

Any soil which fails to meet the criteria is not to be disposed of off-site unless agreed to in writing by the Environment Protection Authority. Results of testing are to be forwarded to Cessnock Council for acknowledgement before any off-site disposal, and before proceeding with any construction works.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of either an Interim or Final Occupation Certificate (as specified within the condition):

54. Child Care Centre

A service approval to operate the child care centre must be obtained from New South Wales Family and Community Services, prior to the issue of an OC.

The age breakdown and the number of children attending the child care centre shall not exceed the maximum number of approved child care places advised by New South Wales Family and Community Services.

55. Section 68 Approval

Prior to the use of the premises for the purposes approved by this consent, and prior to the issue of an OC, the following matters are to be completed:

The redundant Onsite System of Sewage Management has been decommissioned in accordance with Council requirements and satisfaction; and

The dedicated collection well and pump-out system has been installed and commissioned in accordance with Council approval.

The OC is not to be issued until the Certifying Authority has received a satisfactory final inspection report from Council verifying that these above requirements have been completed to Council's satisfaction.

56. Waste Management Plan

Prior to the issue of an OC, the PCA must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

57. Waste Disposal

Prior to the issue of an OC and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

58. Relocation of Easement

The applicant shall provide a 3m wide inter-allotment drainage easement to drain Lot 11 and Lot 12, DP 1090815. Construction of the drainage line, together with the necessary grated yard inlet pits, shall be carried out in accordance with Council's 'Engineering Requirements for Development' – full details shall be submitted to, and approved by, Council prior to the release of an Occupation Certificate.

Note:

- a) A suitable 88B instrument creating the easement, in accordance with the requirements of the Conveyancing Act 1919, shall be submitted to Council, prior to the endorsement of the surveyor's transparency
- b) Construction shall be completed prior to endorsement of the surveyors transparency

59. Use of Existing Drainage System

Where elements of the existing drainage system are to be utilised, the existing drainage system shall be overhauled and maintained clear of silt and accumulated debris. Silt and the like shall be removed, not flushed, from the system.

A certificate shall be provided by a suitably qualified person to the satisfaction of the PCA, (a registered plumber, or a person of equivalent or greater experience or qualification) prior to the issue of an OC, to confirm that the system is in good working order and adequate to accept additional flows.

60. Positive Covenant – OSD

Prior to the issue of an *OC*, a positive covenant must be created under Section 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to maintain the onsite detention and onsite retention/re-use facilities on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a) The proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the onsite stormwater detention facilities (“OSD”).
- b) The proprietor shall have the OSD inspected annually by a competent person.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times, to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures which comprise the OSD, or which convey stormwater from the said land, and recover the costs of any such works from the proprietor.
- d) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.

The proprietor, or successor, must bear all costs associated with the preparation of the subject 88E instrument. Proof of registration with the NSW Department of Lands must be submitted to, and approved by, the *PCA* prior to the issue of an *OC*.

61. Certification of Fire Services

The building must comply with the fire safety provisions applicable to the approved use. The applicant shall provide Council and the Fire Commissioner with a copy of the Final Fire Safety Certificate and the Fire Safety Schedule relating to the required fire safety measures, in accordance with Division 4 of the Environmental Planning and Assessment Regulation 2000 prior to occupation of the building or issue of an *OC*.

The Final Fire Safety Certificate and the Fire Safety Schedule are to be prominently displayed in the building.

62. Change of Building Use

Prior to the use or occupation of the subject building, an *OC* is required to be issued by the nominated *PCA*.

63. Fire Safety Upgrade

All Fire Safety Upgrade works required by Clause 94 of the EP&A Regulation, and as stipulated in Condition 7 shall be constructed/installed and certified by an appropriately qualified person. All fire safety measures within the building, including any sprinklers are to be included in the fire safety schedule.

64. Food Premises

Council must be notified that the premises is being used for the preparation, manufacture, or storage of food for sale, and an inspection of the completed fit out is to be conducted by Council prior to the issue of an *OC*.

65. Acoustic Report Recommendations Complied With

A certificate must be submitted to and approved by the CA prior to the issue of an OC demonstrating compliance with the recommendations of the Noise Impact Assessment Document No: 171462-7284-R1, Spectrum Acoustics Noise and Vibration Consultants, June 2018.

In respect of the Noise Impact Assessment, the certification is to confirm that a 1.8m high brick wall has been erected along the southern elevation of the first floor outdoor play area, as illustrated on the approved plans.

The certificate must be prepared by an accredited acoustic consultant, and must certify that the recommendations in the approved acoustic report have been complied with and the desired acoustic performance achieved.

66. Completion of Landscape Works

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

67. Completion of Road Works

Prior to the issue of an OC, the PCA must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Council's S138 Roads Act Approval.

Works-as-Executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a registered surveyor, together with certification by a qualified practising Civil Engineer, to verify that the works have been constructed in accordance with the approved design and relevant AS, must be provided to Council prior to the issue of an OC.

The Works-as-Executed plan(s) must show the as-built details in comparison to those shown on the plans approved with the road works permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

68. Road Works/Intersection – Construct

The registered proprietors of the land shall construct all approved roadworks/intersection works in the public road reserve (Wine Country Drive), prior to the issue of an OC to the satisfaction of the RMS in accordance with the approved Works Authorisation Deed (WAD).

69. Roads – Concrete Crossing

The registered proprietors shall construct and maintain a concrete access crossing from the kerb and gutter in Morgan Street to the property boundary, in accordance with Council's "Engineering Requirements for Development" and AS 2890.1. A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve. The access crossing is required to be constructed prior to the issue of a Final OC. Where an Interim OC is issued the crossing shall be completed within six (6) months from the date of the Interim OC.

Construction of the crossing will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (steel and formwork inspection).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. (A separate fee will be required to be paid when the final inspection is booked.) Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

The applicant is to advise Council at least 48 hours prior to inspection of works within the footpath and/or road reserve.

70. Parking – Completion

Car parking areas shall be completed prior to the issue of an OC.

71. Parking – Loading Facility Requirement

Loading/unloading facilities shall be constructed prior to the issue of an OC.

72. Disabled Access/Parking

The proposed development shall be provided with vehicular access and parking for the disabled in accordance with *AS 1428.1* and *AS 2890.6*. The access shall be provided prior to issue of an OC.

ONGOING USE

The following conditions are to be complied with as part of the ongoing use of the premises.

73. Child Care Centre

A current service approval to operate the child care centre from the New South Wales Family and Community Services must be maintained/held, at all times.

74. Hours of Operation

The property is to be open for business and used for the purpose approved only within the hours of 6.30am and 6.30pm, Monday to Friday.

75. Maximum Number of Children

The maximum number of children cared for the premises must not exceed the following at any given time:

Age Range (years)	Maximum Number of Children Permitted
0-1	8
1-2	16
2-3	20
3-4	20
4-5	20
Total	84

76. Submission of Annual Fire Safety Statement

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

77. Outdoor Lighting

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and road reserve, and must comply with, where relevant, *AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance* and design requirements and *AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

78. Maintenance of Landscaping

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

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

An annual report shall be submitted to Council, for the three (3) years following issue of the OC, certifying that the landscaping works have been satisfactorily maintained.

79. Stormwater – Impact on Adjoining Land

Filling shall not be placed in such a manner that obstructs natural drainage from adjoining land.

Filling shall not be placed on land in such a manner that surface water will be diverted to adjoining land.

80. Discharge Into Waterways

No waste water, chemicals or other substances harmful to the environment shall be permitted to discharge to the waterway that runs through the site, or to Council's stormwater system. Only clean, unpolluted water is permitted to discharge. Waste oil shall be stored in a covered and suitably bunded area, pending regular removal to a waste oil recycler.

81. Liquid Spills

Sufficient supplies of appropriate absorbent materials shall be kept on site to recover any liquid spillage. Liquid spills shall be cleaned up using dry methods, by placing absorbent material on the spill, and sweeping or shovelling the material into a secure bin. Materials used to clean up must be disposed of to an appropriately licensed waste facility.

82. Parking Areas to be Kept Clear

At all times, the loading area, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.

83. Driveways to be Maintained

All access crossings and driveways shall be maintained in good order for the life of the development.

ADVISORY NOTES

84. Disability Inclusion Act

This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Inclusion Act 2014. The applicant/owner is responsible for ensuring compliance with this, and other, anti-discrimination legislation. The Disability Inclusion Act 2014 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provide the most comprehensive technical guidance under the Disability Inclusion Act 2014 currently available in Australia.

85. "DIAL BEFORE YOU DIG" DIAL 1100

Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au

86. Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.

87. Other Approvals and Permits

The applicant shall apply to Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

88. Responsibility for Other Consents/Agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

89. Site Contamination Issues During Construction

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination, Council must be immediately notified by the applicant, and works must cease. Works must not recommence on site until approval is granted by Council.

FOR

Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Fitzgibbon
Councillor Gray
Councillor Dagg
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent

Total (10)**AGAINST**

Councillor Olsen
Councillor Stapleford

Total (2)***CARRIED***

**CONSIDERATION AND ADOPTION OF ALL REPORTS BY ENGLOBO
OR INDIVIDUALLY WITH NOMINATED EXCEPTIONS**

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Lyons
627

RESOLVED

That Report No's:-

CO30/2018 Pay Day Lending Machines
CO31/2018 Hart Road, Government Road and Gingers Lane, Weston Intersection
CO32/2018 Mobility Parking Adjacent to Kurri Kurri Centrelink
CO33/2018 2018 National General Assembly Motion

be dealt with englobo.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

MOTION
628

Moved: Councillor Burke

Seconded: Councillor Lyons

RESOLVED

That the following reports be resolved as recommended:-

CO30/2018 Pay Day Lending Machines
CO31/2018 Hart Road, Government Road and Gingers Lane, Weston Intersection
CO32/2018 Mobility Parking Adjacent to Kurri Kurri Centrelink
CO33/2018 2018 National General Assembly Motion

FOR

AGAINST

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Fitzgibbon
Councillor Gray
Councillor Dagg
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent
Total (12)

Total (0)

CARRIED UNANIMOUSLY

**NOTICE OF INTENTION TO DEAL WITH MATTERS IN
CONFIDENTIAL SESSION**

NOTICE OF INTENTION NO. NI4/2018

**SUBJECT: NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL
SESSION**

**PE50/2018 - DEVELOPMENT COMPLIANCE INVESTIGATION
REGARDING THE ALLEGED UNAUTHORISED USE OF A SHED AS A
DWELLING AT 10 GLENNIE STREET, ELLALONG**

Councillor Stapleford declared a Non Pecuniary Significant Interest for the reason that he is related to one of the parties involved in the matter. Councillor Stapleford left the meeting and took no part in discussion and voting.

Councillor Stapleford left the meeting, the time being 7.09pm

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Sander
629

RESOLVED

1. That Council consider in Confidential Session the following matters in accordance with Section 10A(2) (g) of the Local Government Act 1993:

Report Number PE50/2018 – Development Compliance Investigation regarding the alleged unauthorised use of a shed as a dwelling at 10 Glennie Street, Ellalong as it deals with advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

2. That Council request the Mayor in accordance with Section 253 of the Local Government (General) Regulation 2005 to report on these matters to the meeting in Open Session following completion of the Confidential Session.

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (10)	Total (1)

CARRIED

7.10PM

Confidential reports (closed session)

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Gray

That the meeting moved into closed session in order to consider confidential items.

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (10)	Total (1)

CARRIED

Councillor Stapleford returned to the meeting, the time being 7.36pm

7.36PM

Open Session

The meeting moved back into Open Session and the General Manager reported on the outcomes of the Closed Session

PLANNING AND ENVIRONMENT NO. PE50/2018

SUBJECT: DEVELOPMENT COMPLIANCE INVESTIGATION REGARDING THE ALLEGED UNAUTHORISED USE OF A SHED AS A DWELLING AT 10 GLENNIE STREET, ELLALONG

This matter is considered to be confidential under Section 10A(2) (e) (g) of the Local Government Act, as it deals with information that would, if disclosed, prejudice the maintenance of law; AND advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Gray

630

RESOLVED

1. That Council note the action taken by Council's Development Compliance Officer to-date, in accordance with Council's adopted Compliance and Enforcement Policy.
2. That based on the evidence obtained/submitted to-date and Council's advice, Council discontinue the investigation and take no further enforcement action in relation to the alleged unauthorised use of the shed as a dwelling, unless new evidence is tendered from an identifiable source.

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Fitzgibbon	Councillor Dunn
Councillor Gray	Councillor Fagg
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (8)	Total (3)

CARRIED

MOTIONS OF URGENCY

MOTIONS OF URGENCY NO. MOU15/2018

SUBJECT: MOTIONS OF URGENCY

NIL

GENERAL MANAGER'S UNIT

GENERAL MANAGER'S UNIT NO. GMU18/2018

SUBJECT: ARMISTICE CENTENARY GRANTS PROGRAM

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Sander
631

RESOLVED

1. That Council allocate \$16,888 to the Armistice banner and banner pole project provided from the Restricted Assets (Miscellaneous and Property) Reserve (old loan fund savings).
2. That Council accept the grant of \$19,046 under the Armistice Centenary Grants Program by 7 September 2018.
3. That Council install four banner poles in Weston, four banner poles in Greta and one banner pole in Wollombi subject to relevant approvals required.
4. That Council will continue to seek external funding opportunities to increase the number of poles in the other towns and villages in the Cessnock LGA.
5. That Exact locations for the banner poles are emailed to ward Councillors for feedback.
6. That Council takes future banner design and civic aesthetics to the Cultural Facilities Committee for their input.

FOR

AGAINST

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Fitzgibbon
Councillor Gray
Councillor Dagg
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent
Total (12)

Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT

PLANNING AND ENVIRONMENT NO. PE46/2018

SUBJECT: DISPOSAL OF SURPLUS COUNCIL LAND

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Burke

1. That Council authorise the General Manager to obtain open market valuations and then negotiate the sale to the open market the following surplus Council properties, for no less than 90% of the valuation obtained, being;
 - a. Lot 7, Section F DP1846 ID11454 (27 Middle Street, East Branxton)
 - b. Lot 7, Section C DP193027 ID16557 (5 Frederick Street, North Rothbury)
 - c. Lot 4, Section 3 DP758382 ID16094 (29 Helena Street, Ellalong)
 - d. Lot 2, Section 44 DP32655 ID9684 (163 Cessnock Road, Weston)

2. That Council authorise the General Manager to engage a suitable real estate agent or agents to undertake to dispose of the surplus Council properties, being;
 - a. Lot 7, Section F DP1846 ID11454 (27 Middle Street, East Branxton)
 - b. Lot 7, Section C DP193027 ID16557 (5 Frederick Street, North Rothbury)
 - c. Lot 4, Section 3 DP758382 ID16094 (29 Helena Street, Ellalong)
 - d. Lot 2, Section 44 DP32655 ID9684 (163 Cessnock Road, Weston)

3. That Council authorise the common seal of Cessnock City Council be affixed to the Transfer of Land between Cessnock City Council and the purchaser of the following surplus Council properties, being;
 - a. Lot 7, Section F DP1846 ID11454 (27 Middle Street, East Branxton)
 - b. Lot 7, Section C DP193027 ID16557 (5 Frederick Street, North Rothbury)
 - c. Lot 4, Section 3 DP758382 ID16094 (29 Helena Street, Ellalong)
 - d. Lot 2, Section 44 DP32655 ID9684 (163 Cessnock Road, Weston)

4. That Council authorise the Mayor and the General Manager to execute the Transfer between Cessnock City Council and the purchaser of the following surplus Council properties, being;
 - a. Lot 7, Section F DP1846 ID11454 (27 Middle Street, East Branxton)
 - b. Lot 7, Section C DP193027 ID16557 (5 Frederick Street, North Rothbury)
 - c. Lot 4, Section 3 DP758382 ID16094 (29 Helena Street, Ellalong)
 - d. Lot 2, Section 44 DP32655 ID9684 (163 Cessnock Road, Weston)

5. That Council allocate the proceeds of sale in accordance with the adopted Property Investment Fund Policy

Councillor Doherty left the meeting, the time being 7.43pm

Councillor Doherty returned to the meeting, the time being 7.45pm

AMENDMENT **Moved:** Councillor Olsen

That the report be deferred.

The amendment lapsed for want of a seconder.

The Motion was then **PUT** and **CARRIED**.

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Burke
632
RESOLVED

1. That Council authorise the General Manager to obtain open market valuations and then negotiate the sale to the open market the following surplus Council properties, for no less than 90% of the valuation obtained, being;
 - a. Lot 7, Section F DP1846 ID11454 (27 Middle Street, East Branxton)
 - b. Lot 7, Section C DP193027 ID16557 (5 Frederick Street, North Rothbury)
 - c. Lot 4, Section 3 DP758382 ID16094 (29 Helena Street, Ellalong)
 - d. Lot 2, Section 44 DP32655 ID9684 (163 Cessnock Road, Weston)

2. That Council authorise the General Manager to engage a suitable real estate agent or agents to undertake to dispose of the surplus Council properties, being;
 - a. Lot 7, Section F DP1846 ID11454 (27 Middle Street, East Branxton)
 - b. Lot 7, Section C DP193027 ID16557 (5 Frederick Street, North Rothbury)
 - c. Lot 4, Section 3 DP758382 ID16094 (29 Helena Street, Ellalong)
 - d. Lot 2, Section 44 DP32655 ID9684 (163 Cessnock Road, Weston)

3. That Council authorise the common seal of Cessnock City Council be affixed to the Transfer of Land between Cessnock City Council and the purchaser of the following surplus Council properties, being;
 - a. Lot 7, Section F DP1846 ID11454 (27 Middle Street, East Branxton)
 - b. Lot 7, Section C DP193027 ID16557 (5 Frederick Street, North Rothbury)
 - c. Lot 4, Section 3 DP758382 ID16094 (29 Helena Street, Ellalong)
 - d. Lot 2, Section 44 DP32655 ID9684 (163 Cessnock Road, Weston)

4. That Council authorise the Mayor and the General Manager to execute the Transfer between Cessnock City Council and the purchaser of the following surplus Council properties, being;
 - a. Lot 7, Section F DP1846 ID11454 (27 Middle Street, East Branxton)
 - b. Lot 7, Section C DP193027 ID16557 (5 Frederick Street, North Rothbury)
 - c. Lot 4, Section 3 DP758382 ID16094 (29 Helena Street, Ellalong)
 - d. Lot 2, Section 44 DP32655 ID9684 (163 Cessnock Road, Weston)

5. That Council allocate the proceeds of sale in accordance with the adopted Property Investment Fund Policy

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (1)

CARRIED

PLANNING AND ENVIRONMENT NO. PE48/2018

SUBJECT: DEVELOPMENT APPLICATION 8/2018/388/1 - SINGLE STOREY DWELLING WITH ATTACHED SECONDARY DWELLING AND ATTACHED GARAGES

41 OLIVIA PLACE, NORTH ROTHBURY

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Dagg
633
RESOLVED

1. That:

- (i) Development Application No. 8/2018/388/1 proposing a single storey dwelling, attached secondary dwelling and attached garages at 41 Olivia Place, North Rothbury be approved pursuant to Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979 subject to the conditions contained in this report**

- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:**
 - a) The proposal is a permitted land use in the RU5 zone under Cessnock Local Environmental Plan 2011;**
 - b) The proposal is consistent with the objectives of the RU5 zone under Cessnock Local Environmental Plan 2011;**
 - c) The proposal is consistent with the relevant provisions contained within applicable State Environmental Planning Policies;**
 - d) The proposal is generally compliant with the provisions of Cessnock Development Control Plan 2010 (as applicable), and any variations are considered minor in nature;**
 - e) The proposal incorporates adequate measures to ensure the development does not result in any adverse impacts on the natural and built environments;**
 - f) The proposal incorporates adequate measures to ensure the development does not result in any adverse impacts on the social and economic locality;**
 - g) The site is considered suitable for the proposed development as it is located within an established residential locality, and the construction of housing is consistent with the desired future character of the area; and**
 - h) The proposed development is considered to maintain the public interest.**

- (iii) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979**

CONDITIONS OF CONSENT

STATEMENT OF REASONS:

Pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*, the reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:

- i) The proposal is a permitted land use in the RU5 zone under Cessnock Local Environmental Plan 2011;
- j) The proposal is consistent with the objectives of the RU5 zone under Cessnock Local Environmental Plan 2011;
- k) The proposal is consistent with the relevant provisions contained within applicable State Environmental Planning Policies;
- l) The proposal is generally compliant with the provisions of Cessnock Development Control Plan 2010 (as applicable), and any variations are considered minor in nature;
- m) The proposal incorporates adequate measures to ensure the development does not result in any adverse impacts on the natural and built environments;
- n) The proposal incorporates adequate measures to ensure the development does not result in any adverse impacts on the social and economic locality;
- o) The site is considered suitable for the proposed development as it is located within an established residential locality, and the construction of housing is consistent with the desired future character of the area; and
- p) The proposed development is considered to maintain the public interest.

CONSIDERATION OF SUBMISSIONS

Pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*, in respect of considering community views, it is noted that the Application was not required to be placed on public exhibition and no submissions were made. The Cessnock DCP 2010 (Part B2) did not require public notification of this application.

CONDITIONS OF CONSENT

1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2018/388/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Job Number 301594 Sheets 1, 2, 3, 4, 5 & 2.5 Rev. C	Hudson Homes	10.05.18

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

2. CC, PCA & Notice Required

In accordance with the provisions of Section 6.6 of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- a) A CC has been issued by the consent authority, Council or an accredited certifier; and
- b) A PCA has been appointed by the person having benefit of the development consent in accordance with Section 109E of the *EP&A Act 1979*; and
- c) If Council is not the PCA, notify Council no later than two (2) days before building work commences as to who is the appointed PCA; and
- d) At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of a Construction Certificate.

3. Residential S94 Contributions Plan

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

Fee Type Code	Contribution Type	Amount Payable
525	District Open Space	\$ 747.04
523	District Community Facilities (Halls)	\$ 457.34
524	District Community Facilities (Libraries)	\$ 122.05
522	District Community Facilities (Bushfire)	\$ 34.87
527	District Roads – Urban Areas	\$ 568.66
543	Studies (Plan Preparation)	\$ 42.92
540	Plan Administration	\$ 163.62
534	Total	\$2,136.50

A copy of the Residential Contributions Plan may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

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

PRIOR TO COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to the commencement of works on the subject site/s:

4. PCA Signage and Contact Details

Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the proposal is being carried out. The sign must state:

- a) Unauthorised entry to the work site is prohibited.
- b) The name of the principal contractor (or person in charge of the site) and a telephone number on which that person may be contacted at any time for business purposes and including outside working hours.
- c) The name, address and telephone number of the *PCA* for the work.

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

5. Home Building Act Requirements

Pursuant to Section 6.6 of the EP&A Act 1979, residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA for the development to which the work relates has given the council written notice of the following information:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act.
- b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information required by (a) or (b) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates has given the council written notice of the updated information.

6. Road Opening Permit

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

7. Toilet Facilities

Toilet facilities are to be provided prior to works commencing, at or in the vicinity of the work site on which work involved in the erection or demolition of a building 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 must be a sewage management facility approved by the NSW Department of Health and/or Council, and operate in an environmentally responsible manner, free of nuisance or offence, and be appropriately serviced.

8. Relocation of Services

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.

DURING WORKS

The following conditions are to be complied with during works:

9. BCA Compliance

Pursuant to Section 6.6 of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

10. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. No work is to be carried out on Sundays and public holidays.

11. Road – Obstruction of Footpath Restriction

No obstruction is to be caused to Council's footpaths, roads and/or other public areas during construction of the development.

No spoil, building materials, excavated or demolition material from the site shall be stored or deposited on the public road, footpath, public place or Council owned property, without prior approval of Council.

12. Protection of Street Trees

No tree on public property (footpaths, road reserves, etc.) are to be removed or damaged during construction, including for the erection of any fences, hoardings or other temporary works, unless specially approved in this consent.

13. Erosion and Sediment Controls

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

14. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

15. Waste Management

Rubbish generated from the development is to be suitably contained on site at all times. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown off site.

16. Building Materials on Site

All building materials, plant and equipment are to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves, etc.

17. BASIX Certificate

Development shall be undertaken strictly in accordance with all commitments specified in the current BASIX certificate.

18. Securing Excavations

All associated excavations and backfilling associated with the development must be executed safely and in accordance with the appropriate professional standards, and must be properly guarded and protected to prevent them from being dangerous to life or property.

19. Bushfire Protection

The following bushfire protection measures are to be implemented at the commencement of building works, and maintained for the life of the development:

a) Asset Protection Zones

The intent of measures is to provide sufficient space, and maintain reduced fuel loads, so as to ensure radiant heat levels of buildings are below critical limits, and to prevent direct flame contact with a building.

At the commencement of building works, and in perpetuity, the entire property shall be managed as an inner protection area in accordance with Section 4.1.3 and Appendix 5 of Planning for Bushfire Protection 2006 and the Rural Fire Services document 'Standards for Asset Protection Zones':

b) Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bushfire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- i) Water, electricity and gas to comply with Section 4.1.3 of Planning for Bushfire Protection 2006
- ii) All above ground water and gas service pipes external to the building shall be metal, including and up to any taps.

c) Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bushfire attack.

- i) New construction is to comply with AS 3959-2009 'Construction of buildings in bushfire prone areas' – Bushfire Attack Level (BAL) 19 and the additional requirements of Addendum Appendix 3 to Planning for Bush Fire Protection 2006

- ii) Roofing shall have guttering screened to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5 when tested in accordance with AS 1530.2-1993 *'Methods for fire tests on building materials, components and structures – Test for flammability of materials'*
 - iii) Garage doors are to be tight fitting to door jambs with gaps no greater than 5mm when closed, and any roller shutter is to be provided with an ember protection device at the top of the shutter that captures any embers where a gap of 2mm or greater exists on the external surface.
- d) Access

The intent of measures for property access is to provide safe access to/from the public road system for firefighters providing property protection during a bushfire, and for occupants faced with evacuation. To achieve this, the following requirements shall apply:

- i) Access shall comply with Section 4.1.3(2) of *Planning for Bush Fire Protection 2006*.
- e) Landscaping

Landscaping to the site is to comply with the principles of Appendix 5 of *Planning for Bushfire Protection 2006*.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of either an Interim or Final Occupation Certificate (as specified within the condition):

20. BASIX Certification

The applicant shall provide Council with a completed BASIX Pre-Final Self Certification Form (available at Council's offices on Council's website www.cessnock.nsw.gov.au) to certify that the schedule of BASIX commitments has been complied with. The BASIX Pre-Final Self Certification Form shall be submitted to Council for consideration and approval, prior to the final inspection and prior to the issue of an OC.

21. Completion of onsite sewage management system

Prior to issue of a Final OC, written notice is to be provide from Council that the onsite sewage management system has been supplied, installed and constructed in accordance with the approval.

22. Roof Stormwater – Street Gutter

Roof water from the principal and secondary dwellings shall be conducted to the water storage tank in accordance with the BASIX requirements. Any additional roof water, and overflow from the water storage tank, shall be conducted to the street gutter by means of a sealed pipeline having a minimum diameter of 90mm, prior to issue of an OC.

23. Finish of Excavated &/or Filled Areas Around Site

Prior to issue of a Final OC, the excavated and/or filled areas of the site are to be stabilised and drained, to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is to be graded to prevent ponding of water, and to ensure the free flow of water away from the building and adjoining properties.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY

CORPORATE AND COMMUNITY NO. CC59/2018

SUBJECT: JUNE 2018 QUARTERLY REVIEW OF 2017-21 DELIVERY PROGRAM

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Dagg
634

RESOLVED

1. That Council note the progress in implementing the 2017-21 Delivery Program as at 30 June 2018:
 - 91% of deliverables are either complete or on-track for completion as programmed
 - 77% of measures are either on-track or ahead of target
 - 94% of capital works programs are either complete or on-track to be completed as programmed.

2. That Council continue to monitor the incomplete deliverables in future Delivery Program reviews.

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (1)

CARRIED

CORPORATE AND COMMUNITY NO. CC60/2018

SUBJECT: SECTION 449 DISCLOSURE OF INTERESTS RETURNS

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Sander
635

RESOLVED

That Council note the register of annual returns as tabled by the General Manager from Councillors and designated persons.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC61/2018

SUBJECT: RICHMOND MAIN COLLIERY - PROGRESS REPORT

MOTION **Moved:** Councillor Gray **Seconded:** Councillor Burke
636

RESOLVED

1. That Council note the progress of actions for Richmond Main Colliery and that a further report be presented to Council in February 2019.
2. That further progress reports be presented to Council in November 2018 and February 2019.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC62/2018

SUBJECT: FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2018 - REFER FOR AUDIT AND COUNCIL CERTIFICATION

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Dagg
637
RESOLVED

1. That the financial statements are formally referred for external audit.
2. That in accordance with Section 413(2)(c) of the Local Government Act, 1993 the General Purpose Financial Report has been prepared in accordance with:
 - The Local Government Act 1993 and the Regulations made thereunder.
 - The Australian Accounting Standards and professional pronouncements.
 - The Local Government Code of Accounting Practice and Financial Reporting.

To the best of our knowledge and belief, these reports:

- Present fairly the Council's operating result and financial position for the year, and
- Accord with Council's accounting and other records.

We are not aware of any matter that would render the reports false or misleading in any way.

3. That in accordance with the Local Government Code of Accounting Practice and Financial Reporting the Special Purpose Financial Reports have been prepared in accordance with:
 - The Local Government Code of Accounting Practice and Financial Reporting.
 - NSW Government Policy Statement "Application of National Competition Policy to Local Government".
 - Department of Local Government Guidelines "Pricing & Costing for Council Businesses: A Guide to Competitive Neutrality".

To the best of our knowledge and belief, these reports:

- Present fairly the operating result and financial position for each of Council's declared Business Activities for the year, and
- Accord with Council's accounting and other records.

We are not aware of any matter that would render the reports false or misleading in any way.

4. That Council authorise the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer to sign the Statements by Council on its Opinion of the 2017-18 Financial Statements.

FOR**AGAINST**

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Fitzgibbon
Councillor Gray
Councillor Dagg
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent
Total (12)

Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE

WORKS AND INFRASTRUCTURE NO. WI69/2018

**SUBJECT: WOLLOMBI ROAD, CEDAR CREEK ROAD SAFETY IMPROVEMENTS
EAST OF STONEHURST WINERY**

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Lyons
638
RESOLVED

1. That Council note the outcome of investigation and the design options considered.
2. That Council endorse Concept B for interim works and that Concept B may be funded from Council's existing operational budget for the year 2018-19, under the current Delivery Program 2017-21.
3. That Council continue to monitor external funding opportunities to support implementation of Concept A.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI70/2018

SUBJECT: MINUTES OF LOCAL TRAFFIC COMMITTEE HELD 20 AUGUST 2018

Councillor Stapleford declared a Non pecuniary Interest – Significant Conflict for the reason that he is related to people in this report. Councillor Stapleford left the Chamber and took no part in discussion and voting.

Councillor Stapleford left the meeting, the time being 7.59pm

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Gray
639

RESOLVED

That the Minutes of the Local Traffic Committee of 20 August 2018 be adopted as a resolution of the Ordinary Council being:

1. **TC32/2018 – That the matter be deferred to the next available Traffic Committee meeting, pending review of Section 94 plans for the area;**
2. **TC33/2018 – That Council authorise the temporary regulation of traffic on Oakey Creek Road, McDonalds Road and De Beyers Road for the proposed End2End Festival event in accordance with the End2End Festival Parking and TCP;**
3. **TC34/2018 – That Council authorise the temporary regulation of traffic on Paynes Crossing Road, Wollombi for the Wollombi Public Holiday Markets events in accordance with the Wollombi Public Holiday Markets TCP;**
4. **TC35/2018 – That Council:**
 - **Authorise temporary roundabout controls at the intersection of Hart Road, Gingers Lane, Government Road, and Sawyers Gully Road, Loxford, within the existing road footprint by the installation of a semi-mountable annulus and associated signage and line marking;**
 - **Continue liaison with RMS to advance the installation of a properly constructed permanent roundabout at the intersection; and**
 - **Note:**
 - **the treatments previously presented to, and rejected by Local Traffic Committee;**
 - **the treatments already installed;**
 - **the restrictions imposed by legislation, guidelines and Australian Standards, regarding certain proposed treatments, and**
 - **the recent reduction in crash reports at the intersection as a result of the cessation of nearby road work activities on Frame Drive and its return to free flowing conditions.**
5. **TC36/2018 – That Council authorise the temporary regulation of traffic on Congewai Road, Congewai for the Great North Walk Ultras event in accordance with the Great North Walk Ultras TCP;**
6. **TC37/2018 – That Council authorise installation of channelised right turn, short {CHR(S)} and auxiliary left turn, short {AUL(S)} intersection line marking at the entrance to 2198 Broke Road, Pokolbin in accordance with the Proposed Access Plan;**

7. **TC38/2018 – That Council authorise temporary regulation of traffic on Broke Road, Grady Road, and De Beyers Road, Pokolbin for AirVenture Australia 2018 in accordance with the AirVenture Australia 2018 TCPs;**
8. **TC39/2018 – That Council note that:**
- **For the Wollombi Music Festival event scheduled to take place on Wollombi Road, Sweetmans Creek on Friday 21 and Saturday 22 September 2018, no application for the temporary regulation of traffic under the *Roads Act 1993* has been received;**
 - **Should the organisers proceed with the proposal, the conduct of the event would be unauthorised;**
 - **Council officers took all reasonable steps in liaising with the proponents of the event to facilitate the Roads Act application and approval process.**

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

Councillor Stapleford returned to the meeting, the time being 8.03pm

BUSINESS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

BUSINESS WITH NOTICE NO. BN26/2018

SUBJECT: POOL SEASON PASS FEES - AMENDMENT TO FEES & CHARGES

MOTION **Moved:** Councillor Dagg **Seconded:** Councillor Burke
640

RESOLVED

That Council review all pool fees and charges at the end of the 2018-19 pool season, including a potential fee reduction for Pensioners and Seniors.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

ANSWERS TO QUESTIONS FOR NEXT MEETING

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ80/2018

SUBJECT: EASY TO DO BUSINESS

The answer was noted.

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ81/2018

SUBJECT: STAFF ENGAGEMENT SURVEY

The answer was noted.

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ82/2018

SUBJECT: WASTE TRANSFER STATION

The answer was noted.

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ83/2018

SUBJECT: GREEN FROG SYSTEMS - SOLAR LIGHTING

The answer was noted.

ANSWERS TO QUESTIONS FOR NEXT MEETING NO. AQ84/2018

SUBJECT: INFORMATION BAY - ROUTE 33

The answer was noted.

QUESTIONS FOR NEXT MEETING

Councillor Anne Sander

HOWE PARK - FIRE DAMAGE

Councillor Sander asked if consideration has been given to the arrangements for the cricket season at Howe Park after the fire damage.

Councillor Anne Sander

AMBULANCE HALL – KURRI KURRI

Councillor Sander asked when the Ambulance Hall at Kurri will be complete.

Councillor Allan Stapleford

WOLLOMBI PARK BINS

Councillor Stapleford asked when the bins at Wollombi Park will be installed.

Councillor Mark Lyons

SAFETY PEDESTRIAN REFUGE – ALDI/JACARANDA GROVE

Councillor Lyons asked that the Safety Pedestrian Refuse between Aldi and Jacaranda Grove be investigated for safety reasons.

Councillor Mark Lyons

MARTHAVILLE – CONGREGATING OF GROUPS

Councillor Lyons advised that groups are congregating at Marthaville of a night and would like to know what Council can do and whether there has been any damage.

Councillor Di Fitzgibbon

TRAFFIC CONDITIONS – CHRISTIAN COLLEGE

Councillor Fitzgibbon asked for a progress report on the traffic solution for the St Phillips Christian College.

Councillor Rod Doherty

ALLIANCE MEETING MINUTES

Councillor Doherty asked if Councillors could receive copies of the Alliance Tourism Meeting Minutes.

Councillor Ian Olsen

HOWE PARK FIRE

Councillor Olsen asked if the change rooms at Howe Park will be rebuilt in time for the next rugby league season.

Councillor Ian Olsen

BIMBADEEN LOOKOUT UPGRADE

Councillor Olsen asked for an update on the upgrade of the Bimbadeen Lookout area.

Councillor Darrin Gray

SENIOR ENVIRONMENTAL PLANNER

Councillor Gray ask for the timeline for the recruitment of the Senior Environmental Planner.

Councillor Darrin Gray

COMMUNITY CENTRE – KURRI KURRI

Councillor Gray asked for a progress report on the Community Centre Kurri works.

Councillor Melanie Dagg

ALLIANCE MEETINGS

Councillor Dagg asked if Councillors could be notified when Alliance meetings are being held.

Councillor Paul Dunn

ABBOTSFORD STREET BRIDGE

Councillor Dunn asked for an update on the Abbotsford Street Bridge.

CORRESPONDENCE

CORRESPONDENCE NO. CO30/2018

SUBJECT: PAY DAY LENDING MACHINES

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Lyons
641

RESOLVED

That the correspondence be noted.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORRESPONDENCE NO. CO31/2018

SUBJECT: HART ROAD, GOVERNMENT ROAD AND GINGERS LANE, WESTON INTERSECTION

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Lyons
642
RESOLVED

That the correspondence be noted.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORRESPONDENCE NO. CO32/2018

SUBJECT: MOBILITY PARKING ADJACENT TO KURRI KURRI CENTRELINK

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Lyons
643

RESOLVED

That the correspondence be noted.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORRESPONDENCE NO. CO33/2018

SUBJECT: 2018 NATIONAL GENERAL ASSEMBLY MOTION

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Lyons
644
RESOLVED

That the correspondence be noted.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORRESPONDENCE NO. CO34/2018

SUBJECT: FLOODING AT SOUTH CESSNOCK CLAIM

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Dagg
645

RESOLVED

That the correspondence be noted and a copy be forwarded to the State Member, Clayton Barr MP.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

COUNCILLORS REPORTS

Councillor Olsen

Nulkaba Park Run

Councillor Olsen advised of the success of the Nulkaba Park Run on Saturday mornings at St Phillips Christian College and others should be encouraged to attend.

Councillor Gray

Kurri Kuri Hydro Community Consultation Meeting

Councillor Gray advised of his attendance at the Kurri Kurri Hydro Community Consultation Meeting and advised that the new owner, Flow Systems, as a Utility provider, will be looking at sustainable development on the site.

Councillor Lyons

Laguna Lamp Festival

Councillor Lyons gave an update on the Laguna Lamp Festival which he attended.

Mayor Pynsent

Spring Awakening Festival

The Mayor advised that due to impending inclement weather the Spring Awakening Festival which was to be held on Friday 7 September 2018 has been cancelled.

Destination NSW – Vineyards Visitation Advertising Campaign

The Mayor advised that the \$50,000 Council contribution to the marketing campaign which industry funded to \$300,000 through pledges had originally been on matching funding from Destination NSW. The campaign which is currently underway is a value of over \$2m. Councillors are encouraged to view the campaign.

Access to Cessnock Jail

The Mayor advised that a fact sheet had been released by Corrections NSW in regard to the proposed access to now be via Kerlew Street, Nulkaba and this had been distributed to all Councillors that afternoon.

The Meeting Was Declared Closed at 8.17pm

CONFIRMED AND SIGNED at the meeting held on 19 September 2018

.....**CHAIRPERSON**

.....**GENERAL MANAGER**