

**DETERMINATION AND STATEMENT OF REASONS**  
NORTHERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	Wednesday, 18 September 2019
<b>PANEL MEMBERS</b>	Garry West (Chair), Pamela Westing, Stephen Gow and Paul Drake
<b>APOLOGIES</b>	Robert Hussey
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Port Macquarie Library on 18 September 2019, opened at 5.47pm and closed at 7.08pm.

**MATTER DETERMINED**

2019NTH011 – Port Macquarie-Hastings Council – DA2015 - 953.3 at Milligans Road HERONS CREEK, Broken Bago State-Forest BAGO – modification to approved quarry (as described in Schedule 1)

**PANEL CONSIDERATION AND DECISION**

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

**Development application**

The panel determined to approve the development application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

**REASONS FOR THE DECISION**

- The development as amended complies with the “substantially the same” test as required by the Act;
- The modified proposal is in the wider public interest and will not create any new adverse social, environmental or economic impacts;
- No new information was received from the public consultation that would lead to a refusal of the application; and
- The Applicant will need to make application to the EPA for a modified Environment Protection Licence.

**CONDITIONS**

The development application was approved subject to the conditions in the council assessment report with the following amendments:

- A (1) – Cad file date added to the table for the Water Supply Dam Plans;
- B (16) – New condition requiring geotech report and engineering certification of the new dam location prior to issue of the Construction Certificate;
- Condition F (15) was amended to delete a reference to maintenance of the access to the water supply dam.

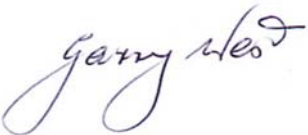

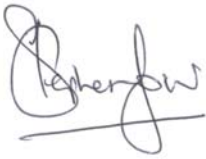

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Alleged errors in information included with the modified development application;
- Concern that original development application was approved when modifications were required;
- Visual impact concerns;

- Insufficient information submitted with modified development application;
- Concerns about sediment material/run off;
- The need for geotechnical justification of the proposed new dam location;
- Concerns about stream classification and the potential need for further agency consultation;
- Concern that the modification application would result in a development that is not substantially the same as the approved development.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and the issues raised during the public meeting were satisfactorily explained. The panel notes that in addressing these issues an new condition B (16) was inserted to ensure the geotech report and engineering certification for the dam is carried out as part of the application for a construction certificate.

PANEL MEMBERS	
 Garry West (Chair)	 Pamela Westing
 Stephen Gow	 Paul Drake

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019NTH011 – Port Macquarie-Hastings Council – DA2015 - 953.3
2	PROPOSED DEVELOPMENT	Modification to location of water storage dam for extractive industry (quarry)
3	STREET ADDRESS	Milligans Road HERONS CREEK, Broken Bago State-Forest BAGO
4	APPLICANT OWNER	CTK Natural Resources Forestry Corporation of NSW
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy No 33 – Hazardous and Offensive Development</li> <li>State Environmental Planning Policy No 44 – Koala Habitat Protection</li> <li>State Environmental Planning Policy No 55 – Remediation of Land</li> <li>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2008</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>Port Macquarie-Hastings Local Environmental Plan 2011</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Port Macquarie-Hastings Development Control Plan 2013</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: August 2019</li> <li>Written submissions during public exhibition: 10</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In support – Troy Terp</li> <li>In objection – Maureen Churnside, Gary Churnside and Maureen Churnside (on behalf of Paul Kolbe) and Sally Kolbe</li> <li>Council assessment officer – Chris Gardiner</li> <li>On behalf of the applicant – Richard Rienstra (Forestry Corporation) and Graham Lockett (CTK Natural Resources)</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>NIL</li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report and amended by the Panel at the Public Meeting