

## **JOINT REGIONAL PLANNING PANEL**

### **Hunter and Central Coast**

<b>JRPP No</b>	<b>2013HCC002 DA</b>
<b>DA Number</b>	<b>DA/251/2013</b>
<b>Local Government Area</b>	<b>Lake Macquarie City Council</b>
<b>Proposed Development</b>	<b>Home Improvement Centre - Staged Development (Stage 1A) Bulky goods Centre and Restaurant, Landscaping and Signage</b>
<b>Street Address</b>	<b>Lot 10 DP 1013486, Lot 11 DP 1013486, Lot 12 DP 1013486, Lot 13 DP 1013486, Lot 14 DP 1013486  4B South Street, Windale</b>
<b>Applicant</b>	<b>Hydrox Nominees Pty Ltd</b>
<b>Owner</b>	<b>Lake Macquarie City Council</b>
<b>Capital Investment Value</b>	<b>\$38,435,000.00</b>
<b>Recommendation</b>	<b>Approval with Conditions – Development Consent</b>
<b>Report by</b>	<b>Brian Gibson Senior Planner Lake Macquarie City Council</b>

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## 1 PRÉCIS

At the Joint Regional Planning Panel Meeting held at Lake Macquarie City Council on 18 December 2014, a motion was carried to defer determination of the application to allow additional information to be submitted to address the issues raised. This Addendum Assessment Report is supplementary to Council's original Planning Assessment Report. The Addendum Assessment Report provides an assessment of additional information provided by the applicant to address the issues raised by the Panel.

The applicant submitted additional information in February 2015 to address the issues raised by the Panel. This information included revised site plans, landscape plans, floor plans and elevations, and an Acoustic Report.

The amended plans were referred to the Mine Subsidence Board, being an integrated authority, for its approval. The Mine Subsidence Board has re-granted its general terms of approval for both the construction and subdivision aspects of the development.

The Roads & Maritime Service was consulted with in relation to its general terms of approval. Following the consultation the Roads & Maritime Service provided revised general terms of approval.

An assessment of the additional information identified the deferral issues have been addressed either through design amendments or the imposition of conditions.

## 2 INTEGRATED REFERRALS

The proposed development is defined as Integrated Development under Section 91 of the Environmental Planning and Assessment Act 1979. Notwithstanding that General Terms of Approval (GTAs) were previously granted by each integrated authority with the original application, further consultation with the Roads & Maritime Service (RMS) and Mine Subsidence Board (MSB) was undertaken post the deferral of the matter by the JRPP. A copy of each response is contained within Appendix A of this report, whilst details of each approval are given below:

### 2.1 Mine Subsidence Compensation Act 1961

The GTAs in relation to Section 15 of the Mine Subsidence Act 1961, as issued by the MSB on 20 June 2013 and 16 December 2014 respectively related to an approval of the Building and Subdivision.

At the JRPP meeting issues were raised in relation to the amended plans having been approved by the MSB and conflicting wording between the GTA issued for the building and subdivision components. These issues have been resolved through the MSB issuing a revised set of GTAs on 13 January 2015 as relating to the amended building plans and a revised set of GTAs on 15 January 2015 as relating to the subdivision. Both approvals are valid for two years from the date of the correspondence

Note, the revised subdivision approval of 15 January 2015 removed reference to limiting any building thereon to 30 metres in length and 18 metres wide.

### 2.2 Roads Act 1993

The GTAs in relation to Section 138 of the Roads Act, 1993, as issued by the RMS on 9 July 2014 contained a number of provisions that raised concerns for the applicant and Council. Following discussions involving all three parties, the RMS advised in correspondence dated 9 February 2015 that it had revised the GTA as follows (the RMS' changes are highlighted in red/lighter text):

#### Pacific Highway/Groves Road intersection

- The developer shall upgrade the Pacific Highway / Groves Road intersection by providing a fourth leg for vehicular access into and out of the subject site. The upgrade shall be designed and constructed in accordance with Austroads *Guide to Road Design 2010* (with Roads and Maritime supplements) and Roads and Maritime *Traffic Signal*

*Design* to the satisfaction of Roads and Maritime including, but not limited to, the following works:

- A right turn storage lane shall be provided on the southbound Pacific Highway approach to Groves Road. The lane shall be minimum of 70 metres in length, not including tapers.
- A left turn deceleration lane, ~~generally~~ in accordance with Drawing No. MMD-302816-C-SK-00\_XX-2005 (**Attachment A**) ~~in terms of lane layout~~, shall be provided on the northbound Pacific Highway approach to Groves Road.
- The intersection shall be designed to ensure that the operational performance, network efficiency and road safety of the Pacific Highway is maintained. The concept and detailed design for the intersection along with traffic signal phasing shall be provided to Roads and Maritime for review and acceptance and must be supported by appropriate traffic modelling as agreed with Roads and Maritime. Restrictions to movements shall be implemented, if required for efficient and safe operation.

#### Proposed new signalised intersection south of Groves Road

- The developer shall design and construct a new three leg Traffic Signal Controlled intersection south of Groves Road providing right in, left in and left out access to the site. The intersection shall be designed and constructed in accordance with Austroads *Guide to Road Design 2010* (with Roads and Maritime supplements) and Roads and Maritime *Traffic Signal Design* to the satisfaction of Roads and Maritime including, but not limited to, the following works:
  - A right turn storage lane shall be provided on the southbound Pacific Highway approach to Groves Road. The lane shall be a minimum of 65 metres in length, not including tapers.
  - A left turn deceleration lane shall be provided on the northbound Pacific Highway approach to Groves Road. The lane shall be a minimum of 65 metres in length, not including tapers.

#### Proposed left in only access at the southern end of the site

- The developer shall design and construct a new left in only vehicular access from the Pacific Highway at the southern end of the site. The access shall be designed and constructed in accordance with Austroads *Guide to Road Design 2010* (with Roads and Maritime supplements) and Roads and Maritime *Traffic Signal Design* to the satisfaction of Roads and Maritime including, but not limited to, the following works:
  - A left turn deceleration lane shall be provided on the northbound Pacific Highway approach to the proposed access.
  - The access shall be restricted to service vehicles only and a physical barrier shall be provided to prevent vehicular access to the general car park area.

#### General

- All signalised intersections shall be designed and constructed to accommodate on-road cyclists unless specified otherwise by Roads and Maritime. If cyclists cannot be

accommodated on-road due to site constraints, and subject to agreement by Roads and Maritime, adequate provision shall be made off-road.

- All traffic lanes shall be 3.5 metres in width on the Pacific Highway and at traffic signal controlled intersections, or as determined by Roads and Maritime.
- Co-ordination and linking of all traffic control signals is required at full cost to the developer, to Roads and Maritime requirements.
- Appropriate pedestrian and cyclist facilities, foot/cycle paths and ramps, connecting to traffic signal controlled intersections shall be provided to the satisfaction of Roads and Maritime and Council. Pedestrian fencing **on a concrete strip base** shall be required in certain areas to prevent any unwarranted pedestrian movements, including across the Pacific Highway. This will be identified as part of the design review process.
- Street lighting shall be provided at all intersections and pedestrian crossings to the relevant Australian Standard, or as determined by Roads and Maritime.
- All works associated with the proposed development shall be at full cost to the developer and at no cost to Roads and Maritime or Council.
- A Construction Traffic Management Plan (CTMP) shall be prepared and include a Vehicle Movement Plan and a Traffic Control Plan. The CTMP shall be prepared with the intention of having minimal impact on the operation of the road network during the construction phase of the development. **The CTMP can include consideration of one left in only access including design requirements in accordance with Austroads Guide to Road Design 2010 (with Roads and Maritime supplements) (including deceleration lane) from the Pacific Highway in a single location agreed to with RMS.** The CTMP shall be submitted to Roads and Maritime and Council for review and acceptance prior to any construction activities commencing on site.
- As road works are required on a State road, Roads and Maritime will require the developer to enter into a Works Authorisation Deed (WAD) with Roads and Maritime. Roads and Maritime will exercise its powers under Section 87 of the Roads Act 1993 (the Act) and the functions of the roads authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the Act, as applicable, for all works under the WAD. Further advice regarding the WAD is provided as **Attachment B**.
- **The WAD shall be executed prior to the issuing the first construction certificate for the proposed development.**
- **All road works required under the WAD shall be constructed to practical completion to the satisfaction of RMS prior to an occupation certificate (interim or final) being granted.**
- Signs should be constructed entirely within private property and should not encroach or overhang, into the road reserve.
- The proposed signs should not have/use:
  - Flashing lights or messages.
  - Electronically changeable messages, unless in accordance with the Department Planning's Transport Corridor Outdoor Advertising and Signage Guidelines (July 2007).

- Animated display, moving parts or simulated movement.
- Complex displays that hold a driver's attention beyond "glance appreciation".
- Displays resembling traffic signs or signals, or giving instruction to traffic by using words such as 'halt' or 'stop'.
- A method of illumination that distracts or dazzles.

Additionally, Council should ensure that all signs meet the requirements of State Environmental Planning Policy (SEPP) No 64 - Advertising and Signage. Council should also take into account the Department of Planning's Transport Corridor Outdoor Advertising and Signage Guidelines (July 2007).

On receipt and review of the concept design (including turning path templates for all movements into and out of the site and at the Pacific Highway / Groves Road intersection) Roads and Maritime reserves the right to revise its requirements. Operational performance, network efficiency and road safety will all be considered and assessed, in conjunction with the geometric design, to ensure they are maintained to the satisfaction of Roads and Maritime.

Roads and Maritime may need to make modifications to traffic arrangements **at intersections** in the future to meet the increasing demands of the network and all road users.

Further to the issuing of the GTAs the RMS recommended the following change to the draft conditions:

### **Construction Traffic Management Plan**

The Principal Certifying Authority shall not issue the first or any Construction Certificate without a Construction Traffic Management Plan (CTMP) as approved by Council **and Roads and Maritime**. The CTMP is to be implemented prior to the commencement of works and maintained until the completion.

The party having the benefit of this consent is to be submitted to Council's Asset Management Department for approval prior a CTMP. The CTMP is to include a Vehicle Movement Plan and Traffic Control Plan. It shall be prepared with the intention of minimising impact on the operation of the road network during construction and neighbouring properties.

### 3 CONCURRENCE REFERRALS

The proposed development requires the concurrence of the NSW Office of Environment & Heritage (OEH). The OEH issued its Concurrence to the Proposal on 10 November 2014 subject to conditions.

Notwithstanding that concurrence had been granted, Council and the applicant discussed condition 7(b) following which Council wrote to the OEH requesting clarification on matters relating to the translocation.

On consideration of Council's request OEH issued a revised Concurrence on 17 December 2014 stating that it *"..agreed to allow more flexibility in the location in which the ten translocated plants may be located on Lot 10 DP 1013486; provided that the site has similar attributes to those where the plants occur naturally, including soil type and hydrology, and associated species. As a consequence OEH has changed the wording of concurrence 7(b) and 7(d)".*

A copy of the revised Concurrence is attached as Appendix B.

## 4 JRPP ISSUES FOR DEFERRAL

At the Joint Regional Planning Panel Meeting held at Lake Macquarie City Council on 18 December 2014, the panel carried a motion to defer determination of the application to “..enable discussions between the applicant and Council Officers regarding the provision of more extensive landscaping of the subject land, including the appropriate landscaping of the interface between the proposed developments and the adjoining land to the West”.

The matters identified by the panel are addressed below.

### 4.1 Landscaping of the Interface between the development and the Playing Fields

A meeting with the proponent following the JRPP meeting outlined the following issues for discussion:

- a) Tree Retention (northern boundary Stage 1 A, South St interface, Pacific Hwy & Southern site aspect-detention basin surrounds)
- b) Treatment of Western boundary interface
- c) Landscape Masterplan required to be approved as part of a concept masterplan approval
- d) Detailed Landscape Plans consistent with requirements of LMDCP & Landscape Design Guidelines for subject stage DA
- e) South Street, Lake Street (Entry Node) and Pacific Hwy streetscape interfaces and public domain outcomes and Council expectations

Amended plans were then provided by the Applicant (attached as Appendix C), to address the interface issues as discussed. These plans include:

- Overall Site Plan (DA01/L)
- Overall Rear Elevations (DA15/C)
- Retaining Wall Sections (DA16/A)
- Tenancy Floor & Roof Plans (DA2.01/C)
- Tenancy Elevations & Section (DA2.02/D)

- Landscape Master Plan (001)
- Landscape Plan (101, 102, 103, 104 & 105)
- Landscape Details (501)
- Landscape Sections (502)
- Landscape Elevations (503)

In relation to the plans and discussions with Council's Landscape Architect, an assessment identified:

- Sections of the western interface, within the development site, incorporate landscape buffers (see Figure 1). Whilst these landscape buffers do not extend for the entire length of the interface they achieve a minimum width of two metres. In addition the built form of the rear elevations has been amended to incorporate additional articulation, expressed elements and additional signage, and the floor level of the Bulky Goods Tenancies 9-13 has been reduced approximately 1 metre.

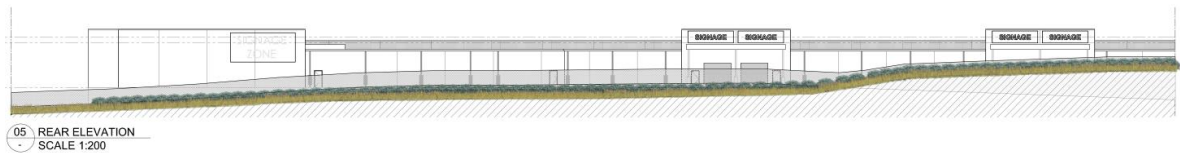


**Figure 1**

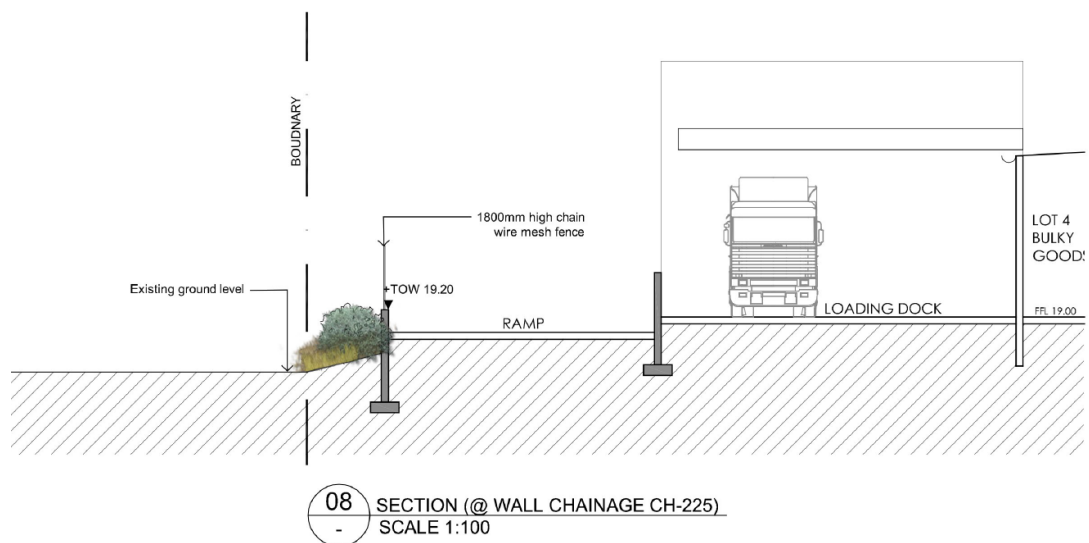
Although large proportions of the western boundary interface provide views from the adjoining Playing Fields towards the rear elevation of the Bulky Goods Tenancies, the improved rear elevations soften this outlook. Where sections do not incorporate a landscaped buffer the levels on either side of the interface are generally at the same grade with the exception of a section at the rear of the Bulky Goods Tenancies 1-8 where the western side (Playing Fields) is approximately 1.6 metres higher than the

service road. Consequently there will be no views of expansive retaining walls from the Playing Fields.

- ii. Issues exist however with the northern section of the proposed landscape buffer at the rear of the Bulky Good Tenancies 9-13 (Section 5 Rear Elevation [Figure 2] & Section 8 Elevation 5 [Figure 3]) as no tree planting is nominated to abut the PCYC site. This is not supported and does not reflect outcomes discussed in the previous meeting with the proponent.



**Figure 2**



**Figure 3**

The interface adjoining the PCYC has been altered from the original design through a reduced floor height of the Bulky Goods Tenancies, inclusive of the Service Road. This has resulted in the retaining wall on the common boundary being setback from the boundary behind a landscaped batter and being lower in height. Whilst the landscaped batter is an improvement, the interface warrants an additional element in the form of trees to form a more appropriate buffer. In this regard, a recommended condition will require *Corymbia* tree species (minimum 75L pot size) be planted along this interface.

- iii. No tree retention is nominated as per recommendation of the preliminary Arborist report and as was discussed at the meeting with the Applicant and Consulting Landscape Architect. Recommended conditions will address this issue.
- iv. A number of additional modifications to the landscape plans are recommended from a landscape, streetscape and visual perspective. These include changing areas of turf to mulch and mass plantings, changes to boundary fence alignment and styles, landscaping within the car park areas, and additional tree plantings. These changes will be included as part of the recommended conditions.

In addition to the above, the applicant's response seeking to address the interface issues was considered by Council's Community Planning Section. Advice was provided on 9 February 2015 of no objections subject to the imposition of a condition to ensure no part of the development uses community land.

## **4.2 Plan Inconsistencies**

A review of the Architectural Plans, Landscaping Plan and the revised Acoustic Report (see 5.1 of this report) identified a number of inconsistencies between the plans. The inconsistencies relate to:

- Boundary fencing
- Acoustic Barrier

These inconsistencies are to be addressed through recommended conditions.



The recommendations are unclear in terms of whether the 2.4 metres is measured from the level of the access road or the approximate natural ground level at the top of the proposed retaining wall, and of what materials it is to be constructed of. Due to the timing of receipt of the Acoustic Report the opportunity to clarify aspects of construction of the fence will need to be resolved through a recommended condition.

The condition will require design detail such as whether the 2.4 high barrier applies from the level of the access road or the natural ground level, the materials of which it is to be constructed and ameliorative measures to address the streetscape outcome.

## **5.2 Pylon Signs**

The original planning report and draft conditions restricted the proposed Pylon Signs (two in total at 12 metres) to a maximum height of nine metres. Following the deferral of the development application Council and the Applicant negotiated a revised signage scheme whereby three Pylon Signs will be permitted along the Pacific Highway frontage with each being restricted to a height of nine metres.

A recommended condition is to apply.

## **5.3 Capital Investment Value**

At the Panel meeting clarification was sought regarding the nominated Capital Investment Value (CIV) and what it applied to. At the meeting the applicant's representative advised the CIV applied to the entire staged development, inclusive of Stages 1A and 1B.

Subsequent to the meeting the applicant provided the following breakdown of costs:

Total - \$38.5M

Lot 1 - Building and car park \$10.8M

Site works \$1.6M

Lot 2 - Building and car park \$7.9M

Site works \$1.1M

Lot 3 - Building and car park \$2.2M

Site works \$400k

Lot 4 - Building and car park \$9.3M

Site works \$1.7M

Works outside the boundary \$3.5M

Note, the reference to 'Lot' above is as used by the applicant in relation to Figure 5 below. The 'Lot' reference does not apply to any proposed subdivision as part of this application rather being a component/section of the site for construction purposes.

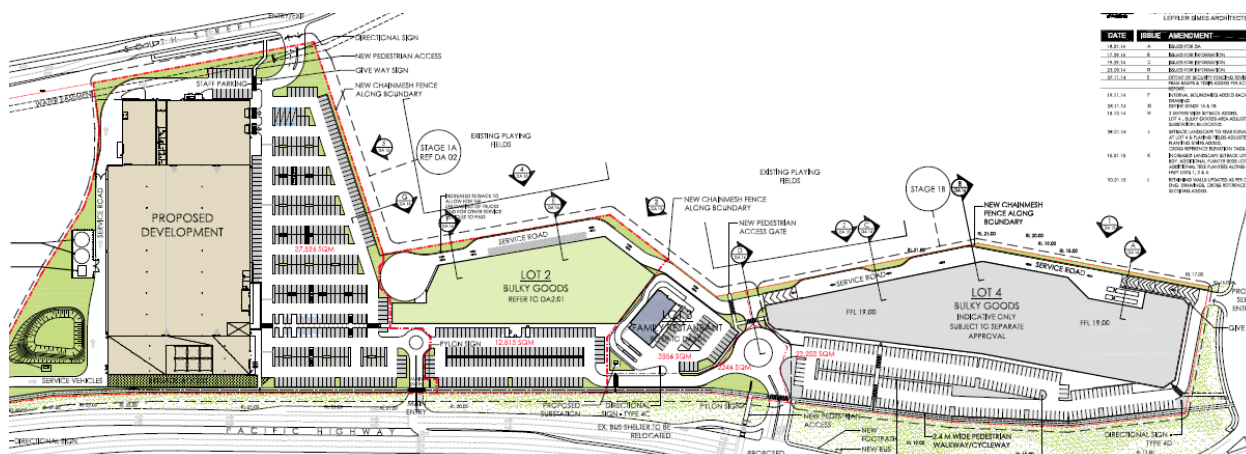


Figure 5

## 5.4 Staged Development Under 83B of the Environmental Planning and Assessment Act, 1979

At the previous meeting clarification was sought in relation to the proposed staging of the development under Section 83B of the Environmental Planning and Assessment Act, 1979. Stage 1A seeks development consent for the construction and operation of buildings and site works whilst Stage 1B sets out the concept proposal for that part of the development for which a detailed proposal will be the subject of a subsequent development application

The applicant provided Site Plan (DA01/L) by Leffler Simes Pty Ltd, Job No. 2906, dated FEB 2013, detailing those parts of the development which relate to each stage as follows:

- Stage 1A involves all works in Lots 1, 2 and 3; and
- Stage 1B involves all works in Lot 4 including the Lake Street entrance, car parking, internal roads, footpaths and rear service road.

Figure 5 is an excerpt from the Overall Site Plan that highlights the breakup of the development into Lots 1, 2, 3 & 4.

## 5.5 Translocation

The Panel sought to have greater certainty over the translocation options/opportunities within the development site when reassessing the proposal.

The applicant advised, under the direction of a suitably qualified professional, the intent to translocate the 10 stems of the *Grevillea parviflora* (subsp) *parviflora* onto Masters Land, if possible, in the landscaped area on the south-western side of the turning area of the Service Road. The applicant further advised that if not possible the translocation would occur on Council land in the vicinity of the playing fields.

Refer to Figure 6 below for details of the potential translocation areas.

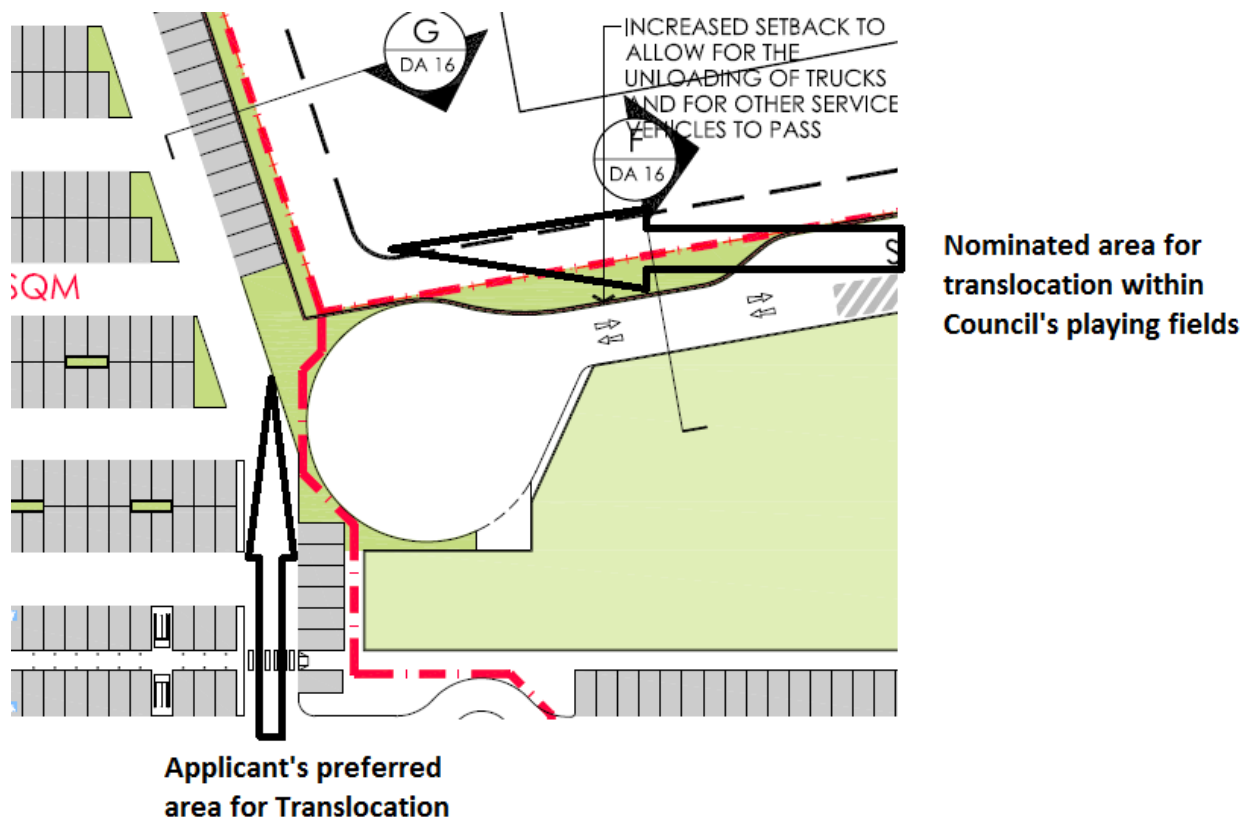


Figure 6

## 6 CONCLUSION & RECOMMENDATION

The assessment of this application has required consideration of many complex and competing issues. It is acknowledged that the site contains threatened species, adjoins a main road (Pacific Highway and Newcastle Inner City Bypass) and sensitive land uses (sporting fields and residential development).

Notwithstanding the above, the site is strategically located and appropriately zoned to support the Building Products Warehouse, Bulky Goods Development and Restaurant subject to design outcomes. The Panel generally supported the proposed development and its design outcomes at its December 2014 meeting however raised issues with regard to the interface with the adjoining Sporting Fields, landscaping of the development and clarification of a number of matters.

The applicant has sought to address these matters through additional information and amendments to the plans. The proposed modifications and additional information resolves the matters as raised by the JRPP and removes the ambiguity that existed with the previously recommended Deferred Commencement.

All relevant State Government Departments have issued General Terms of Approval or concurrence for the proposed subdivision. The Departments consulted with in terms of the amended plans have not raised any objections to the proposal.

The development if granted consent will benefit the community through the creation of jobs during the construction and operation phases, involve the development of a vacant site, improve access to retail businesses as well as employment opportunities for the local community, provide road and pedestrian infrastructure, rehabilitate and improve an existing watercourse, and secure in perpetuity a conservation offset at Ryhope that supports the long term viability of a threatened species via a Voluntary Planning Agreement. The development will result in the destruction of threatened species contained within the development site, and potentially cause environmental impacts (acoustic, amenity, traffic) however the design outcomes and recommended conditions address these issues.

The current application has adequately addressed outstanding issues raised by the panel, and a determination of the development application is warranted to provide certainty to the applicant and the local community, as well as making a contribution to the economic growth and development of the city.

On balance, the proposed development is considered to be suitable for the locality, and in the public interest. It is therefore, recommended that the application be approved, subject to the recommended conditions contained in Appendix D of this report.

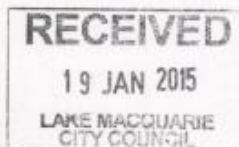
Brian Gibson  
**Senior Development Planner**  
**Lake Macquarie City Council**

I have reviewed the above planning assessment report and concur with the recommendation.

John Andrews  
**Chief Development Planner**  
**Lake Macquarie City Council**

## **APPENDIX A – GENERAL TERMS OF APPROVAL**

In reply please send to: Newcastle District Office  
 Our reference: FN82-04304L0  
 Your reference: DA/251/2013  
 Contact: Ian Bullen (02) 4908 4353



LAKE MACQUARIE CITY COUNCIL  
 BOX 1906  
 HRMC NSW 2310

15 January 2015

Dear Sir or Madam

**SUBDIVISION APPLICATION NO. TSUB15-02361L1**  
**LOT 11 DP 1013486 NO 6 PACIFIC HWY GATESHEAD**  
**CREATING: CREATE LOTS 1-4**

The Mine Subsidence Board has granted its approval for this subdivision, subject to:

- (a) the number, size and boundaries of lots being substantially as shown on the approved plan, and
- (b) notification being made to the Board of any changes to lot numbering and of the registered DP number.

**The Mine Subsidence Board's approval is required for the erection of all improvements.**

This property has varying subsidence implications. Applications to erect improvements on it would therefore be considered on their individual merits. Any restrictions applied would depend upon the proposed use, location of the development on site and number of structures involved.

The Board may consider various types of improvements for the site. Developments may be required to cater for strict engineering requirements, details of which may be obtained from the Board's office.

This approval does not alter the Board's conditions as advised on the 20 Jun 2013 in writing to the Lake Macquarie Council for DA/251/2013. The approval required Geotechnical information to be submitted to the Board for assessment before a construction approval is issued by the Board. Works should not commence until the conditions of the above Development Application have been met.

*Architectural plans submitted to the Mine Subsidence Board for approval must show the location and detailing of articulation/control joints in brickwork to comply with the requirements of the Building Code of Australia and best building practices.*

This approval is valid for two years from the date of this letter.

S 11 (Auto) Apr 2008



ABN: 87 445 348 918

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**File No:** FN82-04304L0

During planning and design of proposed improvements applicants should consult with our staff.

Yours faithfully



Ian Bullen

A/District Manager

In reply please send to: Newcastle District Office  
 Our reference: FN82-04304L0  
 Your reference: DA/251/2013  
 Contact: Peter Evans (02) 4908 4391



GENERAL MANAGER  
 LAKE MACQUARIE CITY COUNCIL  
 BOX 1906  
 HUNTER REGION MAIL CENTRE NSW 2310

13 January 2015

Attention: Mr Brian Gibson | Senior Development Planner

Dear Sir

**BUILDING APPLICATION NO. TBA15-30464L1**  
**LOT 10-14 DP 1013486 SOUTH STREET, WINDALE**  
**MASTERS HOME IMPROVEMENT**

The Mine Subsidence Board has granted its conditional approval of this building application on the following conditions;

1. The completion of a detailed geotechnical analysis to confirm the mine workings are long term stable and any risk of mine subsidence affecting the site can be provided for by structural design. Alternatively, remove any risk of mine subsidence by a suitable means, such as grouting.
2. The geotechnical investigation is to include details on the depth of coal seam, height of workings, floor conditions and thickness of competent rock, as well as detailing the pillar dimensions used in any analysis. A sensitivity analysis of the parameters used in any calculations is to be included in the report. The report must be to the satisfaction of the Mine Subsidence Board.
3. The submission of design final drawings prior to commencement of construction, are to contain a certification by a qualified Structural Engineer to the effect that the improvements will be constructed in accordance with any design parameters provided by a Geotechnical Engineer, who has analysed the mine workings, and any damage, would be slight, localized and readily repairable. A copy of the geotechnical advice is to be provided to the Mine Subsidence Board.
4. All masonry walls to be fully articulated to meet mine subsidence design, geotechnical conditions of the site and the requirements of the relevant codes and standards. The location of articulation joints are to be clearly shown on plan and elevations.

T 01B (Auto) Feb 2002



ABN: 87 445 348 918

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5. Attention is to be given to internal finishes to ensure they have been designed and installed in accordance to relevant codes and standards. Particularly attention is to be given to tiled areas. Avoid the use of brittle materials liable to damage from mine subsidence.
6. Drainage/sewer design needs to provide for mine subsidence effects determined in the geotechnical report. This may necessitate additional downpipes and drainage points. The services shall be located to facilitate ease of repair and replacement. Services under the building are to be minimised.
7. Roads, driveways and pavements are to be constructed in asphalt or flexible pavement. If concrete areas are required, specific design is to be provided to demonstrate that any damage will be localized and of a slight classification. Concrete design would need to include full articulation and separation/sacrificial sections where appropriate.
8. Upon completion of construction, work as executed certification by a qualified structural engineer is to be forwarded to the Board confirming construction was in accordance with the plans submitted.

This approval is current for two (2) years.

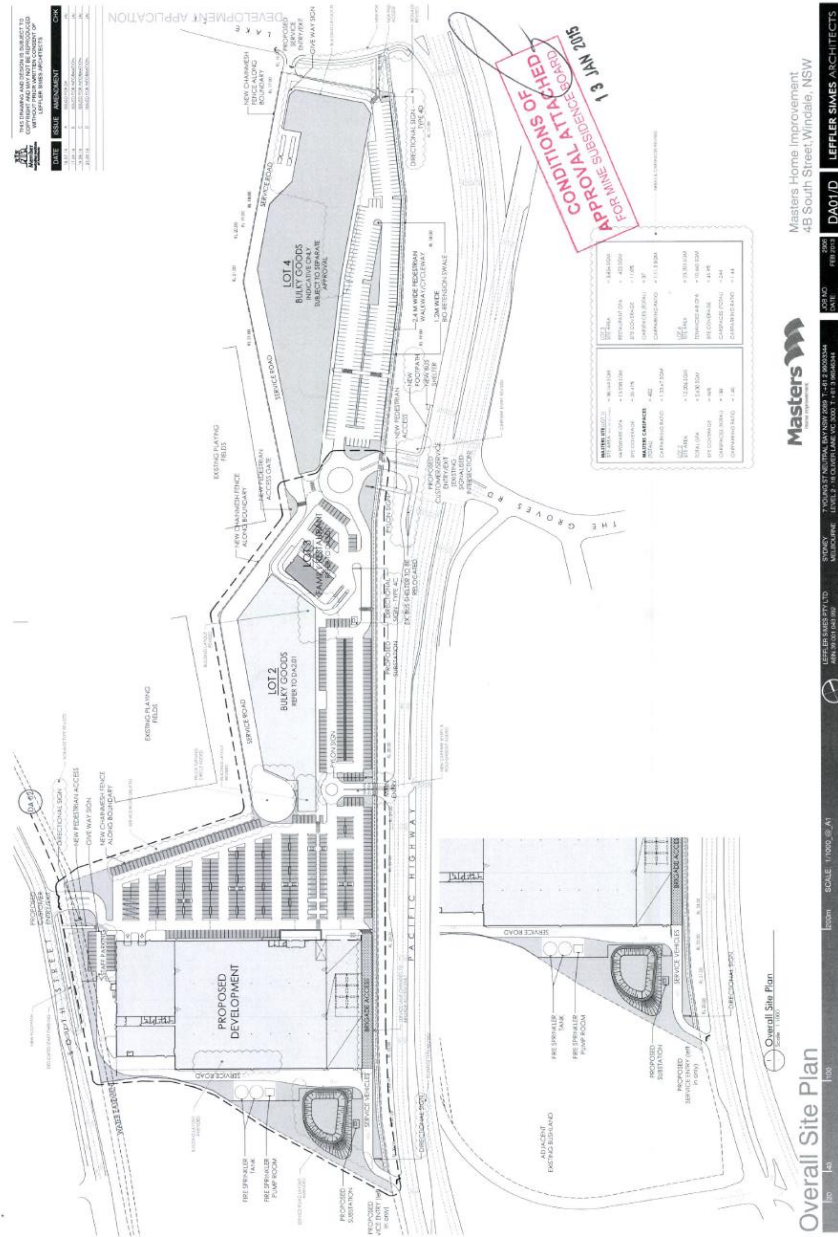
To help satisfy the above conditions it is recommended the applicant liaise with the Board during the design development phase. Due to the proposed size of the buildings there will be a number of mine subsidence compatibility issues.

As previously advised and agreed, in the event of a change in the development size or footprint, details are to be submitted for reconsideration by the Board.

Yours faithfully



Subsidence Risk Engineer  
Mine Subsidence Board



## **APPENDIX B – CONCURRENCE CORRESPONDENCE**



Office of  
Environment  
& Heritage

Your reference: DA/251/ 2013  
Our reference: DOC14/230474-02  
Contact: Robert Gibson, 4908 6851

Mr Brian Bell  
General Manager  
Lake Macquarie City Council  
Box 1906  
HUNTER REGION MAIL CENTRE NSW 2310

Attention: Mr Brian Gibson

Dear Mr Bell

**RE: THREATENED SPECIES CONCURRENCE – PROPOSED DEVELOPMENT AT 4B SOUTH STREET, WINDALE, NSW, 2306 BY HYDROX NOMINEES PTY LTD (DA/251/2013) – NEW CONCURRENCE CONDITIONS**

The Office of Environment and Heritage (OEH) issued its concurrence, with conditions, for the proposed development (DA/251/2013) at Windale on 10 November 2014. On 26 November 2014, Lake Macquarie City Council contacted OEH and highlighted a potential problem with the implementation of the translocation of ten plants of *Grevillea parviflora* subsp. *parviflora* as stipulated in concurrence condition 7(b). OEH discussed this matter further with Council on 16 December 2014.

OEH has considered Council's concerns and has agreed to allow more flexibility in the location in which the ten translocated plants may be located on Lot 10 DP 1013486; provided that the site has similar attributes to those where the plants occur naturally, including soil type and hydrology, and associated species. As a consequence OEH has changed the wording of concurrence conditions 7(b) and 7(d).

OEH is unable to vary the conditions of a concurrence issued under Part 4, section 79B of the *Environmental Planning and Assessment Act 1979*, and so the previously-issued concurrence has now been revoked and a new concurrence issued. A copy of the new concurrence conditions for this project are provided in **Attachment 1**.

If you require any further information regarding this matter, please contact Robert Gibson, Regional Biodiversity Conservation Officer, on 4908 6851.

Yours sincerely



17 DEC 2014

**RICHARD BATH**  
Senior Team Leader Planning, Hunter Central Coast Region  
Regional Operations

Enclosure: Attachment 1

PO Box 488G Newcastle NSW 2300  
117 Bull Street, Newcastle West NSW 2302  
Tel: (02) 4908 6800 Fax: (02) 4908 6810  
ABN 30 841 387 271  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

**ATTACHMENT 1:****NEW CONCURRENCE CONDITIONS FOR A PROPOSED RETAIL DEVELOPMENT (DA/251/2013) ON LOTS 10, 11, 12, 13 & 14 OF DEPOSITED PLAN (DP) 1013486 (4B SOUTH STREET, WINDALE, NSW, 2306), LAKE MACQUARIE LGA**

1. The development must be undertaken in accordance with the Species Impact Statement (SIS) including but not limited to the ameliorative measures documented in Section 7 of the SIS.

*Reason: To ensure that the proposal is undertaken as described in the SIS and incorporates amelioration measures for threatened species as agreed to by the Minister administering the Threatened Species Conservation Act 1995 for this issued Concurrence.*

2. The provision of biodiversity offset at Ryhope ('the Offset') as shown in Figure 1 (below) must be secured in perpetuity for conservation prior to any construction certificate being granted. Evidence of this is to be provided to the planning authority prior to the granting of any construction certificate by the Principal Certifying Authority. As a minimum such evidence is to include transfer of the 4.35 hectares of unmade roads (known as Lot 1 DP 1198888) in the Offset from the applicant to the consent authority; a Planning Agreement with the consent authority or future owner of the offset land demonstrating commitment and funding for ongoing conservation management; and a Section 88E instrument under the *Conveyancing Act 1919* securing the land for conservation purposes.
3. The Proponent must only sell the 4.35 hectares of unmade roads in the Offset (shown in Figure 1, below) to Lake Macquarie City Council, as described in section 7.3.1 of the SIS.
4. The proponent must develop a 'Vegetation Management Plan' and a 'Plan of Management' for the Offset land as required under the Planning Agreement. A Vegetation Management Plan must be submitted to and approved by Lake Macquarie City Council's nominated delegate prior to the granting of any construction certificate. A Plan of Management is to be submitted to and approved by Lake Macquarie City Council prior to completion of maintenance works.
5. The Vegetation Management Plan must be implemented in accordance with the requirements of the Planning Agreement agreed between the proponent and Lake Macquarie City Council until such time as the Offset Land has reached a Stable State. Stable State means the condition of the Offset Lands so that they require minimum management works to maintain conservation value and can be mainly self-managed with only low levels of annual maintenance management after the maintenance works have been undertaken.

The Proponent must provide funding to Lake Macquarie City Council in accordance with the provisions of the Planning Agreement for the ongoing management of the Offset Land after it has reached a Stable State. The Offset Land will then be managed by the Council in accordance with a 'Plan of Management' prepared in accordance with the Planning Agreement. The Plan of Management will contain a provision requiring consultation with OEH's Senior Team Leader Planning, Hunter Central Coast Region on review of the plan by the Council.

Note: Definitions. For the purposes of this Concurrence references to:

- 'Stable state' means the condition of the Environmental Conservation Lands so that they require minimum management works to maintain conservation value and can be mainly self-managed with only low levels of annual maintenance management after the Maintenance Works have been undertaken and which must have achieved, at a minimum:
  - (a) 100% removal of Noxious Weeds and Transformer Weeds (unless otherwise agreed with the Planning Authority, acting reasonably);
  - (b) a locked gate at the start of the fire trail, nearest Wakefield Road;

- (c) fencing on the perimeter of the Environmental Conservation Lands to prevent illegal vehicular access and at a minimum, the fencing is to be constructed along the Wakefield Road boundary including with adequate returns;
  - (d) removal of rubbish (unless otherwise agreed by the Planning Authority, acting reasonably);
  - (e) prevention of accelerated erosion through erosion control generally in accordance with the 'Blue Book', *Managing urban stormwater: Soils and construction Volume 1*, Landcom, Fourth Edition, March 2004 ISBN 0- 9752303-3-7; and
  - (f) signs on the perimeter to promote appropriate use of the Environmental Conservation Land. Signage is to be approved by Planning Authority prior to installation, but excludes the upgrade of the track through the Environmental Conservation Lands; and
- 'OEH's Senior Team Leader Planning, Hunter Central Coast Region' means 'Senior Team Leader Planning, Hunter Central Coast Region, North Branch, Office of Environment and Heritage'.
6. The Offset land must be managed for conservation in perpetuity, as per OEH's offsetting principles (OEH 2011b).
- Reasons: To ensure that the proposal is undertaken as described in the SIS and incorporates amelioration measures for threatened species as agreed to by the Minister administering the Threatened Species Conservation Act 1995 for this issued Concurrence.*
7. The measures stated in Section 7 of the SIS must be implemented and in addition to the following conditions:
- (a) The proponent must enter into an access / works license with Council's Property Department for translocation work (described below) on Council land, and / or as otherwise agreed with the Planning Authority. Any license is to be entered into prior to issue of any construction certificate;
  - (b) The proponent must translocate ten (10) ten plants of Small-flower Grevillea from across the development footprint on Lot 10 DP 1013486 into an another area on Lot 10 DP 1013486 considered by an ecologist to have similar site attributes to those supporting the local remnant population;
  - (c) Any translocated plants must be planted within the area enclosed by exclusion fencing as described in Section 7.2 of the SIS;
  - (d) Any translocated plants must be removed in a mass of soil at least 30 cm diameter by 30 cm deep centred on any existing stem, and each plant with soil wad must be carefully planted so as not to harm any naturally occurring stems of Small-flower Grevillea, if present. The soil around each plant must remain intact during the translocation and planting steps. Care must be exercised so that shape of the hole conforms to the shape of soil wad so as to prevent holes or settling of soil that could adversely affect plant survival. All plants must be watered in well within one (1) hour of being translocated;
  - (e) Translocation must be supervised by an appropriately qualified ecologist;
  - (f) Each translocated plant must be allocated a unique number, be photographed, have its maximum height measured and its location recorded by GPS (Eastings and Northings in World Geodetic System (WGS) 84, Zone 56);
  - (g) The translocation must be done in accordance with 'Guidelines for the Translocation of Threatened Plants in Australia (Second edition)' produced by the Australian Network for Plant Conservation;
  - (h) The translocated plants must be monitored on an annual basis for a period of five (5) years in which the number and height of live stems; presence of flower buds, open flowers,

developing fruit, ripe fruit or old fruit stem, number of dead stems, height of dead stems per plant is noted, and each translocated plant is photographed. Annual monitoring reports are to be submitted to the planning authority over the 5 year monitoring period; and

- (i) Weeding and other appropriate management activities, as determined by an appropriately qualified ecologist may be conducted in and around the translocated plants of Small-flower Grevillea.

*Reasons: (a) To preserve the genetic variation of this isolated population of Grevillea parviflora subsp. parviflora; (b) to learn more about the ecology of this species and how this species may be managed to ensure its survival.*

## **APPENDIX C – AMENDED PLANS**

**APPENDIX D – CONDITIONS OF APPROVAL**

