



31 March 2017

CR2015/003026  
SF2012/003026  
PM

General Manager  
Lake Macquarie City Council  
DX 7869  
NEWCASTLE

Attention: Mr Andrew Leese

PACIFIC MOTORWAY (M1): HIGHWAY SERVICE CENTRE- LOT 4 DP 264501; LOT 211 DP 702166, 266 NEWPORT ROAD, COORANBONG; 101 HAWKE MOUNT ROAD, DORA CREEK (DA/1006/2015)

Dear Mr Leese

I refer to your email dated 24 March 2017 (your reference: DA/1006/2015) regarding the subject development application 1006/2015 (**Development Application**). Roads and Maritime Services (**Roads and Maritime**) is the roads authority for the M1 Pacific Motorway which is a controlled access road under the *Roads Act 1993* ('the **Roads Act**).

The subject development is for a twin highway service centre with separate north and south bound facilities on the M1 Pacific Motorway, each including the provision of 24-hour fuel and associated service facilities that will accommodate light and heavy vehicles, refreshment and relaxation areas, a shop(s), restaurant(s), car parking, truck parking, signage and lighting (the **HSC Development**).

The M1 Motorway Reserve will be the access route to the HSC Development. Roads and Maritime is an approval body under section 91A of the Environmental Planning and Assessment Act 1979 for the Development Application. The HSC Development will also require Roads and Maritime consent under sections 70 and 138 of the Roads Act because the HSC Development involves:

1. carrying out works in, on or over the M1 Motorway Reserve (a public road); and
2. construction of a means of access to or from a freeway.

Roads and Maritime Services

The M1 Pacific Motorway is a critical freight and transport route within NSW and the HSC Development must satisfy Roads and Maritime's minimum standards for a 'Highway Service Centre' including its ongoing operation and maintenance during the life of the development. The Developer will need to enter into a WAD and a Maintenance Deed with Roads and Maritime prior to commencement of any road works and construction works relating to the HSC Development

Roads and Maritime is also the registered proprietor of the Roads and Maritime freehold land which does not form part of the dedicated road reserve being lot 50 DP 701946 (**RMS Land**) over which access will be required to access the HSC Development from the M1 Motorway Reserve. As such, landowner's consent under the Environmental Planning & Assessment Act 1979 (**EP&A Act 1979**) is required from Roads and Maritime for the Development Application to proceed. To facilitate access over the RMS Land the developer will be required to enter into a Heads of Agreement (**HOA**) before Roads and Maritime will grant landowner's consent for the Development Application. These General Terms of Approval (**GTAs**) are not to be construed as RMS providing landowner's consent to the Development Application. If RMS determines it is appropriate to grant such consent, this will be provided separately to Council.

#### Roads and Maritime Terms of Approval

Roads and Maritime has reviewed the information provided as part of the Development Application, and provides the following GTAs for the HSC Development (reference to HSC Development unless otherwise stated means GTAs for each north and south bound facilities) in accordance with Section 91 of the EP&A Act 1979 for Integrated Development:

- Entry and exit ramps shall be designed and constructed to provide vehicular access to and from the subject site(s) generally in accordance with the revised Civil Works plans by Cardno dated 12 June 2015 and the *Austrroads Guide to Road Design 2009* (with Road and Maritime supplements), and all other relevant guidelines and standards, to the satisfaction of the Roads and Maritime.

The design vehicle must be able to achieve a minimum speed that is equivalent to 80% of the posted speed of the M1 Pacific Motorway at the merge location. Further design changes may also be required to ensure Roads and Maritime's Safety in Design, Maintenance and Asset teams' requirements can be achieved.

- Entry and exit ramps, and internal configurations, shall accommodate safe access for PBS Class 2B vehicles (A-Double configuration). Turning paths demonstrating appropriate access for this all vehicle type will be required during the detailed design process prior to the issue of any Construction Certificate (interim or final).

The M1 Pacific Motorway is a critical freight and transport route within NSW, and it is considered that appropriate provisions should be made for higher productivity vehicle types. Turning paths demonstrating appropriate access for this and all other vehicle types is required to ensure the road user safety function of the HSC Development is not compromised.

- Prior to the issue of any Construction Certificate (interim or final) for the HSC Development, the developer must enter into a Long Term Access Licence to permit access over the RMS Land between the M1 Motorway Reserve and the HSC Development.
- The developer must not construct any means of access from the M1 Pacific Motorway otherwise than in accordance with the consent of Roads and Maritime. Roads and Maritime can revoke such consent in accordance with section 70 of the Roads Act including any change or discontinuation of the HSC Development use.
- The southbound and northbound service centres shall be constructed and occupied concurrently to serve as a road safety function. If, for any reason, (other than short term temporary closure e.g.

fire) the northbound or southbound centre ceases operation, the other centre must also be closed immediately.

- No vehicular connections shall be permitted from the site(s) to the local road network, including but not limited to Newport Road and Hawk Mount Roads, Coorانبong (excluding temporary access via the local road network prior to the issue of any occupation certificate during construction phase if in accordance with an agreed construction traffic management plan CTMP as required below)
- Fencing across the full frontage of the M1 Pacific Motorway shall be provided to prevent pedestrian access located to RMS satisfaction prior to the issue of any Construction Certificate (interim or final).
- The HSC development must operate and the services must be provided 24 hours a day, seven days a week including fuel and associated service facilities that will accommodate:
  - light and heavy vehicles;
  - refreshment and relaxation areas;
  - a shop;
  - restaurants;
  - car parking;
  - truck and coach parking; and
  - lighting.
- Separate undercover fuel areas for heavy and light vehicles must be provided.
- An emergency break down clearance point is to be provided in each centre suitable for all vehicle types to be inspected and towed for mechanical repair off-site shall be provided.
- A minimum of twenty-five (25) B-Double parking spaces that can also accommodate larger vehicles must be provided for each centre. Each space must be clearly marked and identified so that no other type of vehicle can use these spaces.
- The minimum vehicle parking spaces provided for each centre shall be based on demand and meet or exceed either the Lake Macquarie City Council Development Control Plan (**LMDCP 2014**) or the Roads and Maritime Guide to Traffic Generating Development requirements. The demand based assessment is to be undertaken at similar HSC during peak holiday periods to ascertain the appropriate minimum parking to be provided and is to account for future growth on the M1 Pacific Motorway corridor over a 30 year period.
- A minimum of two (2) coach bus parking spaces that can accommodate longer vehicles up to 30m shall be provided for each centre. Each space must be clearly marked and identified so that no other type of vehicle can use these spaces.
- A minimum of ten (10) recreation vehicle and trailer parking spaces shall be provided for each centre which can be easily and safely accessed. Each space must be clearly marked and identified so that no other type of vehicle can use these spaces.
- A maximum of two (2) drive through facilities will be permitted for each centre at any one time.
- Prior to the issue of any Construction Certificate (interim or final) internal directional signage plans must be submitted to Roads and Maritime for approval prior to installation, and shall be maintained to the satisfaction of Roads and Maritime and Council, at no cost to either Roads and Maritime or

Council. The signage (as approved) must be installed prior to the issue of any Occupation Certificate.

- Prior to the issue of a Construction Certificate (interim or final) a pedestrian safety audit shall be undertaken on the service centre design by a suitably qualified consultant and submitted to Roads and Maritime for review and acceptance. This audit shall include, but is not to be limited to, proposed access points from all parking areas, proposed paths and pedestrian desire lines.
- A 'no obligation' 24 hr rest area facility shall be provided for users who choose not to utilise the food outlets, inclusive of an outdoor picnic / eating area(s), to the satisfaction of Roads and Maritime and Council. Design details are to be provided to Roads and Maritime for review and acceptance prior to issue of a Construction Certificate (interim or final).
- A separate dining area and / or restaurant for heavy vehicle drivers shall be provided for each centre which must operate 24 hours a day.
- No supply, sale or consumption of alcohol shall be permitted on the site of the HSC Development at any time.
- The day to day operations of the HSC Development shall be coordinated through an on –site 'centre manager' to ensure a high standard facility, address any safety issues, and must maintain the each centre and facilities in a clean and presentable manner commensurate with high standard facilities. The HSC Development shall have a 'centre manager' representative on site available 24hr 7day a week 365 day a year that has the authority to act immediately on the provider's behalf.
- As road works are required on a classified (State) road, Roads and Maritime will require the developer to enter into a Works Authorisation Deed (**WAD**) with Roads and Maritime. The developer must enter into a WAD with Roads and Maritime prior to the issue of any Construction Certificate (interim or final) for the HSC Development.
- Any conditions of consent set by Council do not guarantee Roads and Maritime's final consent to the specific road work, for which it is responsible, on the road network. Roads and Maritime must provide a final consent for each specific change to the classified (State) road network prior to the commencement of any work. Further advice regarding the WAD process is provided in *Attachment A*.

Prior to the issue of a Construction Certificate (interim or final) for the HSC Development the developer shall complete all road works under the WAD to practical completion, as determined by Roads and Maritime. Note all road works subject to a WAD for both centres shall be completed to practical completion prior to the issue of an Occupation Certificate for both centres.

*Comment: The WAD process, including acceptance of design documentation and construction, can take a considerable amount of time. The developer should be aware of this and allow sufficient lead time within the project development program to accommodate this process. It is therefore suggested that the developer work through the process as soon as possible with Roads and Maritime.*

- 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 M1 Pacific Motorway during the construction phase of the development. The CTMP must be submitted to Roads and Maritime and Council for review and acceptance prior to the issue of a Construction Certificate (interim or final).
- The applicant must obtain a Road Occupancy Licence (**ROL**) prior to the closure of any lane or erection of any structures within the roadway associated with the future roadworks. An ROL can be obtained from Hunter Traffic Operations via the Roads and Maritime website (see: <https://myrta.com/oplinc2>).

- All works (including, but not limited to, road works and the construction of access ramps onto the M1 Pacific Motorway) shall be undertaken at full cost to the developer to the satisfaction of Roads and Maritime.
- Prior to the issue of a Construction Certificate (interim or final), a Maintenance Deed must be entered into with Roads and Maritime for the long term maintenance of the access ramps and centres.
- Discharged stormwater from the HSC Development shall not exceed the capacity of the M1 Pacific Motorway stormwater drainage system. Council shall ensure that drainage from the HSC Development is appropriately catered for and should advise Roads and Maritime of any adjustments to the existing system that are required prior to issue of a Construction Certificate (interim or final).
- The developer is not permitted to place any advertising or signage on the HSC Development site, M1 Pacific Motorway, or RMS Land unless otherwise agreed by Roads and Maritime.
- A signage strategy is required to ensure the rationalisation of signage on the site and for use as a guide for the introduction of any new signs on the site in the future. No signage visible from the M1 Pacific Motorway is supported as part of the subject application. A signage strategy, inclusive of drawings to scale, illustrating the location, type, construction, size, and method of illumination, for all business identification signage required for each tenancy, is to be provided to roads and maritime for review and approval prior to the lodgement of any development application with the appropriate consent authority.

Roads and Maritime highlights that, in determining the application under Part 4 of the EP&A Act 1979, it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the HSC Development. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of development consent, as well as the social implications of the HSC Development on surrounding developments and towns. Depending on the level of environmental assessment undertaken to date and the nature of the works, the consent authority may require the developer to undertake further environmental assessment for any ancillary road works.

Please note these GTAs should not be construed as landowner's consent to the lodgement of the Development Application by Roads and Maritime. Roads and Maritime's landowner's consent may not be forthcoming until appropriate agreement is reached with the landowner regarding the terms of the developer's occupation of RMS Land.

Should you require further information, or you would like to discuss the request for further information, please contact Peter Marler on 02 4908 7734 or by email at [development.hunter@rms.nsw.gov.au](mailto:development.hunter@rms.nsw.gov.au).

Kind regards,



Anna Zycki  
Regional Manager  
Hunter

## **Attachment A: WAD Advice to Consent Authority and Developer**

### **Advice to the Consent Authority**

- On the Minister's determination a copy of the Project Approval should be forwarded to Roads and Maritime within the appellant period for advice / consideration and action where required.
- Conditions of development consent do not guarantee Roads and Maritime consent to the specific road works, traffic control signals and/or other structures or works for which it is responsible. The developer must obtain Roads and Maritime authorisation in writing prior to the commencement of any road works on the M1 Pacific Motorway, including traffic management, temporary or permanent road works associated with the proposed development.

### **Advice to the Developer**

- Following development consent, early discussion with the Roads and Maritime Project Manager is recommended. Roads and Maritime will initiate the WAD process by sending out a letter and information pack on receipt of the Project Approval, including the name and contact details of the Project Manager.
- As the WAD process, including acceptance of design documentation and construction can take considerable time, you should allow sufficient lead time within the project development program to ensure that all documentation and works are completed in advance of occupation. Roads and Maritime will not consider granting concurrence to occupation until it is satisfied all documentation and works under the WAD have been completed.
- Authorisation to commence construction will only be granted when Roads and Maritime is satisfied that all requirements under the WAD have been met by the developer, including Roads and Maritime fees and charges, an unconditional bank guarantee for the full value of the works, detailed design documentation, environmental assessment, road occupancy license, among other matters. Roads and Maritime will issue a letter to the developer advising of this authorisation.
- Any property acquisition / dedication required to accommodate the State road works / traffic control signals associated with the proposed development shall be at full cost to the developer, including all legal and survey costs. This land shall be dedicated by the developer as public road reserve in favour of the Council, as the owner.
- Part of the developers' timeline should make provision for Roads and Maritime to satisfy its obligations under the *Environmental Planning and Assessment Act 1979* (EP&A Act) to assess the environmental impacts of the works within the road reserve. Further investigation and assessment to that undertaken for the development consent may be required to the satisfaction of Roads and Maritime, under Part 5 of the EP&A Act.
- It is recommended that the developer use design consultants with the experience and knowledge of Roads and Maritime design requirements, in particular the Austroads *Guide to Road Design 2010* (with Roads and Maritime supplements) and relevant Australian Standards.
- A fact sheet providing further information on the WAD process can be obtained from the Roads and Maritime Private Developments Website at:  
[http://www.rms.nsw.gov.au/roadprojects/community\\_environment/private\\_developments.html](http://www.rms.nsw.gov.au/roadprojects/community_environment/private_developments.html)
- Construction on a State road and / or traffic control signals requires the engagement of a Roads and Maritime pre-qualified contractor. A list of pre-qualified contractors can be found on the Roads and Maritime website below.

<http://www.rms.nsw.gov.au/doingbusinesswithus/tenderscontracts/prequalifiedcontractors.html>



Office of  
Environment  
& Heritage

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DOC16/638860-7  
DA/1006/2015

Mr Andrew Leese  
Planner  
Lake Macquarie City Council  
council@lakemac.gov.au

Dear Mr Leese


**Concurrence Conditions - M1 Pacific Motorway - Highway Service Centre - 266 Newport Road, Cooranbong and 101 Hawke Mount Road, Dora Creek**

I refer to your letter dated 7 December 2016 in which Lake Macquarie City Council requested concurrence from the Chief Executive of the Office of Environment and Heritage (OEH) for a proposed Highway Service Centre at Dora Creek and Cooranbong. This request was in accordance with section 79B of the *Environmental Planning and Assessment Act 1979*.

OEH has reviewed Council's request and determined to grant concurrence for the proposed development subject to a number of conditions. Draft concurrence conditions for this proposal were provided to Council for review on 3 March 2017. On 15 March 2017, OEH received advice from the Council's consultant advising that no changes to the draft concurrence conditions were required. OEH therefore provides concurrence for this project subject to the conditions provided in **Attachment A**.

If you require any further information regarding this matter please contact Robert Gibson, Regional Biodiversity Conservation Officer, on 4927 3154.

Yours sincerely



17 MAR 2017

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

(By Delegation)

Enclosure: Attachment A  
cc: Ecological Australia, Bolton Street, Newcastle

**ATTACHMENT A: CONCURRENCE CONDITIONS - PROPOSED M1 PACIFIC MOTORWAY - HIGHWAY SERVICE CENTRE - 266 NEWPORT ROAD, COORANBONG AND 101 HAWKE MOUNT ROAD, DORA CREEK**

## **CONCURRENCE CONDITIONS**

1. The development must be undertaken in accordance with the Species Impact Statement (SIS) including but not limited to the ameliorative measures documented in Chapter 8 of the SIS and the compensatory strategies documented in Chapter 9 of the SIS (as updated by the SIS Addendum Report dated 24 February 2017).

*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 Chief Executive of OEH in this Concurrence Report.*

2. Prior to the commencement of construction the proponent must arrange for the production of a proper survey plan, prepared by a registered surveyor that clearly shows the location and boundaries of the offset land, as shown schematically in the SIS Addendum Report (dated 24 February 2017). An electronic copy of each survey plan that can be clearly printed at A1 or A0 scale must be provided to OEH within two (2) weeks of these plans being produced.

*Reason: To legally define the biodiversity offset area and thus define where particular activities will occur for the proposed development.*

3. This determination, and the conditions of this determination, do not relieve the applicant of any obligation to obtain other statutory approvals necessary to undertake the activity, including but not limited to any approvals required under the Australian Government *Environment Protection and Biodiversity Conservation Act 1999*.

4. If, during the course of undertaking the activity, the applicant becomes aware of the presence of threatened species, populations or endangered ecological communities, or their habitats, that were not identified and assessed in the SIS and which are likely to be affected by the activity, the applicant must:

- immediately cease all work likely to affect the threatened species, populations or endangered ecological communities, or their habitats;
- notify the Senior Team Leader Planning of OEH Hunter Central Coast Branch as soon as practicable by telephone, electronically or in writing; and
- not recommence work likely to affect the threatened species, populations or endangered ecological communities, or their habitats until receiving written advice from OEH to do so.

*Reason: To minimise unanticipated impacts on threatened species, populations and endangered ecological communities.*

### **5. Equipment and materials storage**

At all times when the activity is not being undertaken, the applicant must store any machinery, equipment or materials required at a secure onsite location. Machinery, vehicles and other construction equipment must be cleaned in accordance with the Construction Environmental Management Plan. All fuels, oils and pollutants are to be stored in a designated bunded areas. Vehicles and machinery must be refuelled within designated bunded areas.

*Reason: To reduce the risk of weed invasion and pollution and to ensure that equipment is stored and secured in suitable locations.*

### **6. Fire Fighting Equipment**

The applicant must ensure that fire-fighting equipment is provided on site during periods of declared high fire danger. Machinery which may result in sparking or ignition must not be operated during total fire bans. The applicant must store fuel and other similar flammable materials, such as gas cylinders and paint, in appropriate fire-resistant storage containers.

*Reason: To minimise fire risk.*



## 7. Revegetation

The applicant must only use locally-sourced endemic native plant species for site revegetation works, and must plant at least 50 per cent of the recommended species per stratum per vegetation community as described in the Vegetation Management Plan.

*Reason: To ensure that works sites are suitably rehabilitated following the completion of the activity; that they contain a high diversity of species and result in vegetation communities with varied structure and a range of food and shelter resources for native threatened fauna species.*





Department of  
Primary Industries  
Water

**RECEIVED**

14 JUN 2016

LAKE MACQUARIE  
CITY COUNCIL

Contact: Algis Sutas  
Phone: 02 4348 5014  
Fax:  
Email: [algis.sutas@dpi.nsw.gov.au](mailto:algis.sutas@dpi.nsw.gov.au)  
Our ref: 20 ERM2015/0693  
Our file:  
Your ref: 1006/2015

P

The General Manager  
Lake Macquarie City Council  
Box 1906  
Hunter Reg Mail Ctr NSW 2310

Attention: Mr Andrew Leese

31 May 2016

Dear Mr Leese

**Re: Integrated Development Referral – General Terms of Approval**

**Dev Ref: 1006/2015**

**Description of proposed activity: Twin Service Centres M1 Pacific Motorway**

**Site location: 266 Newport Rd, Cooranbong**

**101 Hawke Mount Road, Dora Creek**

I refer to your recent letter dated 10 May 2016 regarding the above integrated Development Application (DA). Attached, please find DPI Water's General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, DPI Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- DPI Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, DPI Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.
- DPI Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- DPI Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, DPI Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

**The attached GTA are not the controlled activity approval.** The applicant must apply (to DPI Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office or Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from DPI Water's website:

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)      [Water licensing](#) > [Approvals](#) > Controlled activities

DPI Water requests that Council provide a copy of this letter to the applicant.

DPI Water also requests that Council provides DPI Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely



**Algis Sutas**

**Water Regulation Officer**

**Water Regulatory Operations, WR Operations - South Coast & Hunter**

**NSW Department of Primary Industries – DPI Water**

**ERM 2015/0693****General Terms of Approval**for work requiring a controlled activity approval  
under s91 of the *Water Management Act 2000*

Number	Condition	File No: ERM 2015/0693
Site Address:	266 Newport Rd, Cooranbong and 101 Hawke Mount Road, Dora Creek	
DA Number:	1006/2015	
LGA:	Lake Macquarie City Council	
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to 1006/2015 and provided by Council:</p> <p>(i) Plan titled "<b>Overall Site &amp; Locality Plan</b>" prepared by Cadway Projects (drawing number 11010 SK001, issue F) dated 19 April 2016.</p> <p>(ii) Plans titled "<b>Figure 2 :Northbound Riparian Areas</b>" and "<b>Figure 4: Southbound Riparian Areas</b>" prepared by Northrup (job number NL140438) dated 14 April 2016.</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.</p>	
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.	
3	<p>The consent holder must prepare or commission the preparation of:</p> <p>(i) Vegetation Management Plan</p> <p>(ii) Erosion and Sediment Control Plan</p>	
4	<p>All plans must be prepared by a suitably qualified person and submitted to the DPI Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at <a href="http://www.water.nsw.gov.au/Water-Licensing/Approvals">www.water.nsw.gov.au/ Water-Licensing/Approvals</a>.</p> <p>(i) Vegetation Management Plans</p> <p>(ii) Laying pipes and cables in watercourses</p> <p>(iii) Riparian Corridors</p> <p>(iv) In-stream works</p> <p>(v) Outlet structures</p> <p>(vi) Watercourse crossings</p>	
5	<p>The consent holder must</p> <p>(i) carry out any controlled activity in accordance with approved plans and</p> <p>(ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and</p> <p>(iii) when required, provide a certificate of completion to DPI Water.</p>	
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved	

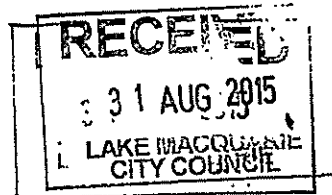
Number	Condition	File No: ERM 2015/0693
	by the DPI Water.	
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.	
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.	
9	The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to DPI Water as and when required.	
10	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by DPI Water.	
11	The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by DPI Water.	
12	The consent holder must ensure that no materials or cleared vegetation that may <ul style="list-style-type: none"> <li>(i) obstruct flow,</li> <li>(ii) wash into the water body, or</li> <li>(iii) cause damage to river banks;</li> </ul> are left on waterfront land other than in accordance with a plan approved by DPI Water.	
13	The consent holder is to ensure that all drainage works <ul style="list-style-type: none"> <li>(i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water; and</li> <li>(ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.</li> </ul>	
14	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.	
15	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.	
16	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.	
17	The consent holder must clearly mark (with stakes using a GPS or peg out survey), protect and maintain riparian corridors to the satisfaction of DPI Water and in accordance with a plan approved by DPI Water.	
18	The consent holder must ensure that any construction below ground level does not result in the need for permanent dewatering, other than in accordance with licence conditions approved by DPI Water.	
<b>END OF CONDITIONS</b>		

In reply please send to: Newcastle District Office

Our reference: FN99-00305L0

Your reference: DA/1006/2015

Contact: Peter Evans (02) 4908 4391



General Manager  
LAKE MACQUARIE CITY COUNCIL  
BOX 1906  
HRMC NSW 2310

27 August 2015

Dear Sir or Madam,

**BUILDING/ DEVELOPMENT APPLICATION NO. TBA15-32410L1**  
**LOT 211 DP 702166 NO 101 FREEMANS DR COORANBONG**

At its meeting on 26 August 2015, the members of the Mine Subsidence Board granted its "conditional approval" of Council's Integrated Development Application (DA/698/2015), for a proposed Vehicle Service Station at No. 101 Hawke Mount Road, Cooranbong. The Board's conditions 1 to 3, are detailed below;

1. Demonstrate by geotechnical investigations that mine workings are;
  - a) Long term stable and there is no risk of mine subsidence affecting the site;  
*Or alternatively;*
  - b) By geotechnical investigation and analysis, recommend mine subsidence design parameters for the Boards acceptance.

In each case, the geotechnical investigation shall contain confirmation of the depth of coal seam, height of the workings, thickness of competent rock, as well as detailing the pillar dimensions used in any analysis. It should also include sensitivity and risk analysis, and a review of potential subsidence scenarios with a recommendation for the Board's consideration and acceptance.

2. Where mine subsidence design parameters are nominated, or there is a risk of mine subsidence;
  - 2.1 Submit an "Impact Statement" prior to commencement of detailed design for acceptance by the Board, which shall;
    - a. Identify the Mine Subsidence Parameters used for the design.
    - b. List the structures and building elements.
    - c. Summarise the outcome of a mine subsidence risk assessment.
    - d. List the design mitigation measures proposed.
    - e. Comment on the sensitivity of the design to greater levels of mine subsidence.

Standard (Auto) BAs



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2.2 The final design shall;

- a. Be developed from the concept design accompanying the Building Application.
- b. Include sufficient drawing plans, long-sections, elevations and details, to describe the work and proposed mine subsidence mitigation measures.
- c. Include design mitigation measures to reduce the transfer of horizontal strain into building structures.
- d. Include an additional grade for tilt due to mine subsidence, in excess of the minimum Code requirements for structures including pipes, gutters and wet areas.
- e. For underground pipes or conduits, allow for flexible joints, flexible bedding surround and flexible building connections and penetrations.
- f. Ensure there is sufficient capacity in any storage structure for tilt due to mine subsidence.
- g. Locate underground structures to facilitate ease of repair and replacement.
- h. Ensure internal finishes are installed in accordance with relevant codes and standards and industry best practice guidelines with additional provision for mine subsidence.
- i. Ensure there is suitable provision for articulation jointing in building elements. All control joints including articulation for mine subsidence are to be shown on the design plans and elevations,
- j. Ensure there is provision for isolation joints between adjoining structures. For example between a building and adjacent paving.
- k. Ensure roads, driveways and pavement areas are designed as flexible structures with an asphalt surface and unbound base course. If a concrete surface course is required, it shall be designed so any damage is slight classification and include expansion and crack control joints or sacrificial sections.

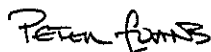
2.3 Submit final design drawings incorporating the mine subsidence mitigation measures identified in the "Impact Statement" for approval by the Board prior to commencement of construction. This shall include certification by the project engineer to the effect that the improvement will remain "safe, serviceable and any damage from mine subsidence will be slight, localised and readily repairable" taking into account the mine subsidence parameters.

3. On completion, certification by a qualified structural engineer is to be forwarded to the Board, that all improvements have been constructed in compliance with plans approved by the Board under this development application with supporting documentation.

This "conditional approval" remains current for 2 years from the date of this letter. You will need to respond adequately to these conditions before the Board will consider its approval of this development.

If you have any queries concerning this matter, please contact Mr Peter Evans on 49084391.

Yours faithfully



**Peter Evans**  
**Subsidence Risk Engineer**

Copy: District Manager Newcastle



29 May 2017

GIC HSC North Pty Ltd  
C/- Marion Lourens  
ADW Johnson  
7/335 Hillsborough Road  
Warners Bay NSW 2282

By email

Dear Sir/Madam

**Advice regarding acoustic conditions**

**Our ref: NLS/GIC001-00001**

**1. Your instructions**

Thank you for your instructions to advise about draft conditions to address potential acoustic impacts of a proposed highway service centre at Cooranbong.

**2. Background**

- 2.1 On 26 June 2015, GIC HSC North Pty Ltd (**GIC**) lodged Development Application DA 1006/2015 (**Development Application**) with Lake Macquarie City Council (**Council**) for a twin highway service centre on both sides of the M1 Motorway at Cooranbong.
- 2.2 Council has recently raised concerns about the potential acoustic impacts of the northbound site on a neighbouring dwelling. The Statement of Environmental Effects and Noise and Vibration Impact Assessment Report conclude that there will be a minor exceedance of night-time sleep disturbance goals at one receiver (NB2).
- 2.3 We are instructed that this receiver is the dwelling on Lot 175 DP 650940 (**Lot 175**), which is located approximately 120m to the west of the proposed service centre. The exceedance occurs when windows of the dwelling are open. Internal noise levels will be at levels unlikely to cause awakening reactions if windows are closed.
- 2.4 The owners of Lot 175 have reached an agreement with the owner of the service centre land, and have not objected to the Development Application. Despite the acoustic consultants advising that the agreement is appropriate in the circumstances (letter dated 20 December 2016), the Council has advised that it is still concerned that the acoustic impacts have not been adequately mitigated.
- 2.5 GIC proposes to address the Council's concerns by suggesting a condition of Development Consent requiring additional mitigation measures to be implemented if the owners of Lot 175 consider it necessary.

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### 3. Advice

#### The Consent Authority's power to impose the condition

- 3.1 A consent authority has power to impose a condition requiring works on land that is not the subject of a development application.
- 3.2 Section 80A(1)(f) provides that a condition of development consent may be imposed if "it requires the carrying out of works (whether or not being works on land to which the application relates) relating to any matter referred to in section 79C(1) applicable to the development the subject of the consent" (emphasis added).
- 3.3 Section 79C provides that the consent authority must take into consideration various matters of relevance to proposed development when determining a development application. One of those matters is "the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality".
- 3.4 The consent authority must therefore consider the acoustic impacts of the proposed highway service centre and has the power to impose a condition requiring works on Lot 175 to mitigate those impacts.

#### Adaptive Management

- 3.5 The proposed condition involves an adaptive management approach to mitigation of the potential acoustic impacts. The Courts have consistently accepted conditions that require adaptive management as a means of mitigating impacts.
- 3.6 Preston CJ held in *Newcastle & Hunter Valley Speleological Society Inc v Upper Hunter Shire Council and Stoneco Pty Ltd* [2010] NSWLEC 48 (Speleological Society) at [184] that,
  - ... in adaptive management, the goal to be achieved is set, so there is no uncertainty as to the outcome and conditions requiring adaptive management do not lack certainty, but rather they establish a regime which would permit changes, within defined parameters, to the way the outcome is achieved.
- 3.7 An adaptive management approach therefore involves monitoring impacts based on agreed indicators and making changes or taking action if required in order to ensure operations meet the desired outcome.
- 3.8 Any condition requiring adaptive management must be drafted so there is certainty surrounding the criteria to be complied with.

#### The proposed condition

- 3.9 We have set out below a suggested condition that:
  - (a) contains clear criteria for compliance at the relevant receiver;
  - (b) provides a 6 month time period for the landowner to request mitigation, to allow the landowner to experience the noise from the proposed development in both warmer and cooler months of the year;
  - (c) includes time periods that commence on the issue of an occupation certificate, so the parties can easily identify the specific date of commencement of a particular time period; and
  - (d) is drafted in a way that reduces the possibility of an accidental breach or a breach that could arise because of circumstances outside of the operator's control.

#### Dwelling Treatment

- (a) Prior to the issue of an Occupation Certificate, the landowner of Lot 175 DP 650940 (**Lot 175**) must be provided with a copy of this condition and address or other contact details, should the owner wish to provide a written request as specified in condition (b).
- (b) If a written request is received from the owner of Lot 175 within 6 months of the issue of an Occupation Certificate, the operator of the northbound highway service centre must arrange for independent noise monitoring to be carried out by a qualified acoustic consultant to establish whether:
  - (i) the operation of the development exceeds the sleep disturbance noise goals provided in Table 14 of the Noise and Vibration Impact Assessment Report, prepared by SLR dated 2 May 2016 (refer report 620.10453R3 Revision 1 *M1 Twin Service Centres – Cooranbong – Noise and Vibration Impact Assessment*); and
  - (ii) internal L<sub>Amax</sub> noise levels with façade openings such as windows and / or door open exceeds 55dBA.<sup>1</sup>
- (c) In the event the monitoring required by condition (b) shows a non-compliance with the criteria specified in that condition, the operator will, subject to the owner of Lot 175 providing access, implement noise mitigation measures at the residence located on Lot 175 to the extent required to achieve compliance and as recommended by the acoustic consultant. The noise mitigation measures must be reasonable and feasible, having regard to the guidance provided in the NSW Industrial Noise Policy and NSW Road Noise Policy.
- (d) The operator will appoint a qualified builder or technician to install noise mitigation measures to the residence. The works must be completed within 3 months of the owner of Lot 175 agreeing to provide access to Lot 175 for the purposes of carrying out the works.
- (e) On completion of the works, the operator must submit to Lake Macquarie City Council a statement prepared by a qualified acoustic consultant confirming completion of the works and demonstrating compliance the criteria specified in condition (b).
- (f) For the avoidance of doubt:
  - (i) any works carried out in accordance with this condition must comply with the Building Code of Australia;
  - (ii) nothing in this condition requires the operator of the highway service centre to provide treatment or any mitigation measures for dwellings or buildings that did not exist as at the date of the development application for this development; and
  - (iii) nothing in this condition requires the operator of the highway service centre to take any action if the owner of Lot 175:

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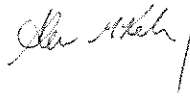
<sup>1</sup> These criteria are set out in the email from SLR dated 24 May 2017.

- (A) does not make a written request within 6 months of the issue of an Occupation Certificate; or
- (B) refuses to provide access to Lot 175 for the purposes of the operator implementing the mitigation measures, within 2 months of being requested to do so.


**4. Next steps**

- 4.1 GIC should, through its consultants, provide this advice to Council and propose the above condition as a means of addressing Council's concerns about the acoustic impacts of the proposed highway service centre.

Yours faithfully



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