

<b>DATE OF DETERMINATION</b>	22 June 2017
<b>PANEL MEMBERS</b>	Jason Perica (Chair), Michael Leavey, Kara Krason, Nick Jones
<b>APOLOGIES</b>	John Gilbert, Justin Hamilton
<b>DECLARATIONS OF INTEREST</b>	Sandra Hutton declared a non-pecuniary conflict of interest as a colleague is representing the applicant in this matter.

Public meeting held at Lake Macquarie Council, 126-138 Main Road, Speers Point on 22 June 2017, opened at 4:00 pm and closed at 7.00pm.

#### **MATTER DETERMINED**

2015HCC019 – Lake Macquarie – DA/1006/2015 – Highway Service Centre(s) at 264 and 266 Newport Road, Cooranbong and 106 Hawke Mount Road, Dora Creek (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 the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision was unanimous.

The Panel generally agreed with the conclusions and balance of the environmental assessment within the Council staff report. The Panel noted the General terms of approval and support from a number of State Agencies, as well as the Council officers and specialists.

The proposal will have social and economic benefits arising from the jobs related to the proposal, convenience to motorists, further opportunities for motorist breaks and competition arising from increased choice. There a number of negative impacts, although these are able to be reasonably mitigated, noting the strategic framework which specifically contemplates and facilitates the proposed use on the sites. There are some non-compliances with the zone objectives, although this must be considered in light of the gazetted Planning Proposals which specifically facilitated the permissibility of the use on the sites (and noting *BGP Properties Pty Ltd v Lake Macquarie City Council [2004] 138 LGERA 237*).

Despite this, the zoning of the site, the context and environmental considerations did warrant a careful approach in the design and mitigation measures. To this end, the Panel was of the view a number of conditions warranted further mitigation measures, particularly regarding acoustic and visual impacts, and a precautionary approach to acoustic impacts was warranted given the nature of the site, proposed use and surrounds. These matters particularly gave rise to a recommended new Condition No. 2A (as below).




Subject to the recommended conditions as amended in this decision, the Panel was of the view the proposal was suited to the sites, with environmental impacts able to be appropriately managed and/or mitigated.

The Panel was also aware of a concern regarding a revised acoustic report not being available on the website upon re-exhibition. However, advice was received from Council staff stating the original report was available, the revised report was available in hard copy at locations nominated in advice to neighbours, and as soon as being made aware of the issue, the report was made available on-line. Given these factors, the site inspection and the long consideration given the issue at the Panel meeting, it was not considered this issue denied procedural fairness in terms of proper consideration and review of the acoustic matters.

## CONDITIONS

Conditions as recommended in the attachment to the Council staff assessment report to the JRPP Meeting on 22 June, 2017, subject to the following amendments:

- Condition 2 be amended to add the two vehicular turning path plans as submitted by Cadway Projects;
- A new Condition 2A be added to the consent stating:  
*"2A. A solid acoustic and visual screening wall shall be erected for the entire perimeter of the north-bound site (at the edge of the proposed Highway Service Centre use), to a height of 3.2m above ground level and laterally extending the proposed western acoustic wall. This shall also extend to the western side of the off-ramp from the freeway within RMS land (being the ramp leading into the north-bound site from the freeway), provided this is agreed by the RMS (if not this component may be deleted, although the remaining wall within the site would still be required). The "outer face" of the wall shall be treated in colour and finish to be compatible and complementary to the rural setting, in order to provide a visual screen to the development from surrounding land. Details regarding the acoustic treatment and visual finish of the wall are to be provided prior to the issue of a Construction Certificate and for the written approval of Council prior to the release of the Construction Certificate".*
- The first sentence of Condition 13 be corrected to state "Access for people with disabilities must be provided within the site in accordance with Australian Standard AS 1428.1".
- Condition 16 be amended to add a sentence to the effect that if access to neighbouring properties is denied by the landowner, suitable evidence must be provided of such, as well as efforts to gain access, to the Council and Certifying authority.
- Condition 18 (and wherever elsewhere occurring within the consent conditions): add the words "and/or rope bridge" after the words "Glider poles"
- Condition 22 be amended to specify that the condition must be satisfied prior to the issue of an Occupation Certificate.
- Condition 23 specify that the terms of the s.88B Instrument are to be agreed by Council in writing.
- In Condition 24, the words "At least" be added prior to "Twenty tubestock".
- Condition 26 be amended to specify the Litter Management Plan is to be provided for the whole site and to add that "regularly" also means daily within the site.
- Condition 31 be amended to specify the Landscape Plan is to be updated to ensure it is consistent with the latest approved layout plans.
- Condition 57 be amended to add the following sentence at the end: "If the sleep arousal operating noise level is not achieved, further noise attenuation works would be required within the site to ensure such compliance is achieved".
- Condition 58 be amended to clarify that the recommendations of the acoustic report are to be incorporated into the design and construction of the development except where other conditions of the consent in relation to acoustic issues apply, with the other conditions prevailing to the extent of any inconsistency.
- The last paragraph of Condition 77 be deleted (where it is a duplicate paragraph);
- Condition 89 be amended to specify the Air Quality Management Plan is to include all operational components of the use (such as tenancies and vehicles within the site).
- A new condition be added stating "Where this consent does not specify a time when a condition is to be complied with, it shall be taken to mean the first Occupation Certificate, unless it is framed and intended as an ongoing operational condition".
- The General Terms of approval from other agencies be incorporated into the consent, as opposed to attachments.

PANEL MEMBERS	
 Jason Perica (Chair)	 Michael Leavey
 Kara Krason	Approved via email 27/06/2017  Councillor Nick Jones

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2015HCC019 – Lake Macquarie – DA/1006/2015
2	PROPOSED DEVELOPMENT	Highway Service Centre
3	STREET ADDRESS	264 and 266 Newport Road, Cooranbong and 106 Hawke Mount Road, Dora Creek (2 sites)
4	APPLICANT/OWNER	GIC Sydney HSC (North) Pty Ltd / F3 Development Fund No 2 Pty Ltd, F3 Development Fund Pty Ltd and RMS
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments (include): <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <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>Lake Macquarie Local Environmental Plan 2014</li> </ul> </li> <li>Draft environmental planning instruments: Nil directly relevant</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Lake Macquarie Development Control Plan 2014</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Act 1979 and associated Regulation 2000</i>.</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: 9 June 2017</li> <li>Written submissions during public exhibition: 43 submissions representing 55 people, businesses and resident's associations, and a Change.org petition with 128 signatories</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Object – Marie Grant on behalf of Cooranbong Business and Community Alliance, Brad Watson on behalf of Sector Hampton Road, Jeff Bromage, Rebecca Demellweek</li> <li>On behalf of the applicant – Marion Lourens on behalf of Elton Consulting</li> </ul> </li> </ul>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Site inspection Thursday, 22 June 2017</li> <li>Final briefing meeting to discuss council's recommendation, Thursday 22 June 2017. Attendees: <ul style="list-style-type: none"> <li><u>Panel members</u>: Jason Perica (Chair), Kara Krason, Michael Leavey, Nick Jones</li> <li><u>Council assessment staff</u>: Andrew Leese, Amy Regardo</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report