

DATE OF DETERMINATION	09 February 2017
PANEL MEMBERS	Jason Perica (Chair), Susan Budd, Michael Leavey, Cllr John Gilbert and Justin Hamilton
APOLOGIES	None
DECLARATIONS OF INTEREST	Ms Kara Krason declared a reasonably perceived non-pecuniary conflict of interest as she is a former employee of an individual whose estate has a financial interest in an adjoining property and did not participate in the matter.

Public meeting held at Lake Macquarie City Council on Thursday 09 February 2017 opened at 2.30pm and closed at 4.45 pm.

MATTER DETERMINED

2015HCC020 – Lake Macquarie City Council DA/1043/2015, Residential Care Facility, Lot 2 DP 788892, 158 Macquarie Road, Cardiff.

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at Item 6; the material listed at Item 7 and the matters observed at site inspections listed at Item 8 in Schedule 1.

The Panel determined to defer determination of the development application. The decision was unanimous.

REASONS FOR THE DECISION

In deciding to defer determination of the DA, the Panel had regard to the following:






1. The recommendation of Council staff to defer determination due to the absence of comments/response from the Roads and Maritime Service (noting the frontage and proposed vehicular access is to a classified road, with associated works and alterations);
2. The publishing of certain reports did not occur at least 7 days prior to the meeting, which were important to a neighbour's area of concern;
3. The need for the Panel to have a copy of the Clause 4.6 Variation Request associated with the application, should the Panel decide this was necessary in making a determination;
4. Benefits in clarifying certain aspects of the proposal prior to making a decision.

TERMS OF THE DEFERRAL

The development application was deferred for subsequent consideration by the Panel, which the Panel favoured occurring by electronic means, as soon as is practicable, pending the consideration of a further report by Council staff, with the following matters being addressed (which may involve interaction by Council staff with others, as appropriate):

1. Comments/response from the Roads and Maritime Service, with assistance as may be provided by the Panel Secretariat to encourage a timely response, and the implications of such advice;

2. Allowance for the adjoining neighbour to the north to make a further submission on flooding/stormwater issues, given a December 2016 report was not available for a full 7 days prior to the Panel meeting of 9 February 2017. If the neighbour chooses to make a submission, this be considered provided it is received by the Council by 16 February 2017;
3. A copy of the applicant's Clause 4.6 Variation Request;
4. A copy of any legal advice received by the Council in regard to interpretative aspects of the proposal, such as "natural watercourse"; and consideration of the aerial photographs of the development site provided by the applicant's consultants at the panel meeting;
5. Consideration of the late submission from the adjoining objector (via their legal representative Dibbs Barker), dated 9 February 2017;
6. Clarification regarding the validity of the Mine Subsidence Board GTA's, noting that the wrong plans may have been attached to the GTAs;
7. A list of the revisions to the latest plans provided by the applicant, and plans and clarified supporting information demonstrating compliance with the retention of 20 trees as required by Council's Development Control Plan;
8. Consideration by the applicant and Council staff of appropriate bus availability for users of the Residential Care Facility and evacuation during times of flooding or bushfires; and
9. Clarification regarding assumptions used for traffic modelling.

PANEL MEMBERS	
 Jason Perica (Chair)	 Michael Leavey
 Susan Budd	 Councillor John Gilbert
 Justin Hamilton	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2015HCC020 – Lake Macquarie City Council DA/1043/2015
2	PROPOSED DEVELOPMENT	Residential Care Facility
3	STREET ADDRESS	Lot 2 DP 788892, 159 Macquarie Road, Cardiff.
4	APPLICANT/OWNER	Hammondcare
5	TYPE OF REGIONAL DEVELOPMENT	CIV over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<p>Environmental planning instruments:</p> <ol style="list-style-type: none"> 1. State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 2. State Environmental Planning Policy No. 44 – Koala Habitat Protection 3. State Environmental Planning Policy No. 64 – Advertising and Signage 4. State Environmental Planning Policy (Infrastructure) 2007 5. Lake Macquarie Local Environmental Plan 2014 <p>Draft environmental planning instruments: Nil</p> <p>Development control plans:</p> <ul style="list-style-type: none"> • Lake Macquarie Development Control Plan 2014 <p>Planning agreements: Nil</p> <p>Regulations:</p> <ul style="list-style-type: none"> • Environmental Planning and Assessment Act Regulation 2000 <p>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</p> <p>The suitability of the site for the development.</p> <p>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> and <i>Environmental Planning and Assessment Regulation 2000</i>.</p> <p>The public interest, including the principles of ecologically sustainable development.</p>
7	MATERIAL CONSIDERED BY THE PANEL	<p>Council Assessment Report and Proposed Conditions</p> <p>Plans of Development</p> <p>Written submissions during public exhibition: Ten</p> <p>Verbal submissions at the panel meeting:</p> <ul style="list-style-type: none"> • Object – Mr Jeff Askew, Ms Penny Murray, Dr, Brett Phillips • On behalf of the applicant – Mr Andrew Chivers, Mr Richard Abbott, Mr Ken McPhail

8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	09 February 2017 - Site Inspection 09 February 2017 - Final briefing meeting 09 February 2017 – Public Meeting
9	COUNCIL RECOMMENDATION	Defer determination
10	DRAFT CONDITIONS	Attached with Council report (updated prior to the meeting by staff to update plans, and correct certain conditions)