

DATE OF DETERMINATION	10 November 2016
PANEL MEMBERS	Jason Perica (Chair), Kara Krason, Michael Leavey, Cllr John Gilbert and Sandra Hutton
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Lake Macquarie City Council on Thursday 10 November 2016, opened at 1.30pm and closed at 2.35pm.

MATTER DETERMINED

2016HCC005 – Lake Macquarie City Council DA/2122/2015, Hospital Alterations and Additions, 42 Fairfax Road, Warners Bay.

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 support the proposed variation to the Height of Buildings development standard and approve the development application (with conditions) as described in Schedule 1, pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979*. The decision was unanimous.

REASONS FOR THE DECISION

- a) The Panel considered the written variation request to the maximum Height of Buildings development standard for the site and considered that compliance with the standard was unnecessary, and that there were sufficient environmental planning grounds to support the proposed variation, as the proposal was considered consistent with the zone objectives and consistent with the objectives of the height standard within Clause 4.3 of LMLEP 2014. Further, the specific nature of the site, including the slope of the land, landscaping and nature of adjoining development and proposed design measures, resulted in a development that suited the site and did not cause any significant impacts on neighbouring land from the height non-compliance.
- b) In terms of the wider consideration of the proposed development, the Panel generally agreed with the environmental assessment and balance of considerations within the Council staff assessment report, although took the view that certain aspects of the proposed development warranted further regulation and mitigation measures through conditions of consent relating to: service vehicle hours (to reasonably protect neighbour amenity in morning hours); landscaping (to appropriately address the relationship with adjoining land); hospital staffing numbers (to appropriately regulate proposed staffing, given parking demand and parking provision is linked to staffing numbers); approval under the Water Management Act 2000 (to address separate approval requirements); parking management (to ensure appropriate on-site parking allocation and management of access where access is constrained); and fencing (to appropriately address the relationship with the adjoining school site).

CONDITIONS

The development application was approved subject to the draft conditions recommended within the Council staff assessment report, as amended as follows:

1. Add a new condition 2A as follows:

2A Water Management Act 2000

A Controlled Activity Approval (CAA) under the Water Management Act 2000 (WMA) must be obtained from the Department of Water and Energy (DWE) prior to undertaking works in, on or under waterfront land. Waterfront land for the purposes of this DA is land and material that is in or within 40metres of the top of the bank or shore of any river, lake or estuary.

To obtain a CAA, an application must be submitted to DWE (application forms and further information is available at www.dwe.nsw.gov.au), which includes:

- Site plan, map and/or surveys.
- Structural design and specifications.
- Vegetation Management Plan.
- Works Schedule.
- Erosion and Sediment Control Plan.
- Soil and Water Management Plan.
- Rehabilitation Plan.
- Amendments to Plans.

2. Add a new Condition 2B as follows:

2B Staff Numbers

The total staff on the site shall not exceed 100 at any one time.

3. Add a new Condition 2C as follows:

2C Operational Parking Management Plan

The Principal Certifying Authority shall not issue the first or any Construction Certificate without an Operational Parking Management Plan, to be approved by Lake Macquarie City Council.

The party having the benefit of this consent shall submit the Operational Parking Management Plan to Lake Macquarie City Council's Asset Management Department for approval. The Operational Parking Management Plan shall allocate fifty (50) staff parking spaces at the eastern portion of the development site and address visibility and safety of the northern internal access, including a review of existing landscaping, retaining walls, mirrors, passing bays, signage and the like, to reasonably maximise safety within the constraints of the site. The Plan shall also detail proposed management measures to ensure staff are aware of and use the staff parking on site, and measures to discourage staff from parking in the surrounding area, while providing convenient parking on site for hospital visitors and users.

Outcomes and recommendations of any approved Operational Parking Management Plan shall be implemented as part of the development the subject of this consent and an Occupation Certificate shall not be issued unless the outcomes and recommendations of the Operational Parking Management Plan are constructed and implemented.

4. Add a new Condition 2D as follows:

2D Waste Collection and Service Vehicle Management

All service vehicles shall only operate within the site between 7am – 6pm Monday to Friday and 8am – 1pm Saturdays and Sundays. No waste collection shall occur on the site on Sundays or Public Holidays.

5. Condition 21 be replaced with the following two conditions:

21 Category 3 Landscaping

Landscape works shall be constructed in accordance with the approved landscape plans as scheduled in these Conditions of Consent, except as amended by conditions of consent.

All landscape works shall be carried out by members of Landscape NSW & ACT Master Landscapers Association and implemented under the full supervision of an appropriately qualified landscape contractor.

Trees along the southern boundary shall be *Elaeocarpus* 'Eumundi' and *Elaeocarpus* 'Prima Donna' 75Lt planted at 5m centres to provide a continuous vegetative screen along the boundary with Biddabah Public School. Trees are to be maintained by the proponent/land owner until establishment and any failing trees replaced, with landscaping to be maintained to remain healthy.

Landscape works must conform to planting densities as scheduled comprising plants at nominated spacing's in all areas dedicated to planting. All planted areas covered with a minimum of 100mm mulch to aid plant establishment.

All landscape works to be maintained to achieve continuous healthy growth improving amenity and aesthetics over the site and meeting the aims for development in the zone.

At the practical completion of landscape works, the landscape consultant who prepared the documentation shall submit to the Principal Certifying Authority a Landscape Compliance Report prior to issue of Occupation Certificate that establishes satisfactory completion of the landscape works approved by this consent.

21A Southern and Northern Boundary Planting

Landscape planting shall be provided along the southern boundary of the existing and proposed portions of the subject building for a minimum length of 90m, as marked in red on the approved landscape Plan prepared by Terras Landscape Architects, Drawing No. L02 dated 26/08/2016. These plantings shall comprise a diversity of small shrubs with a maximum mature height of 1.2m planted at 1m intervals and canopy trees with a minimum canopy height of 2m planted at 3-4m intervals. Details shall be approved by Council's Landscape Architect prior to the issue of any Construction Certificate.

Where possible existing vegetation shall be retained.

Note: Potential species of suitable trees with a narrow canopy that can be underpruned to avoid climbing opportunities and concealment

- *Hymenosporum flavum*
- *Elaeocarpus* 'Prima Donna'
- *Callistemon salignus*
- *Agonis flexuosa* 'Burgundy'
- *Brachychiton bidwillii*

- *Backhousia citriodora*
- *Eucalyptus* 'Euky Dwarf'
- *Banksia integrifolia* 'Sentinel'
- *Melaleuca styphelioides*

Along the northern boundary adjoining the proposed new car park, the landscape bed shall be increased in width, if possible, to provide additional landscaping along the northern boundary, while retaining the parking numbers and compliance with aisle and space dimensions to meet Australian Standards.

6. Add a new Condition 45 as follows:

Boundary Fencing





A 2.1m high Colorbond fence of a dark recessive colour to match (or complement) existing Colorbond fencing along the northern boundary shall be erected as detailed below in conjunction with the development subject of this consent:

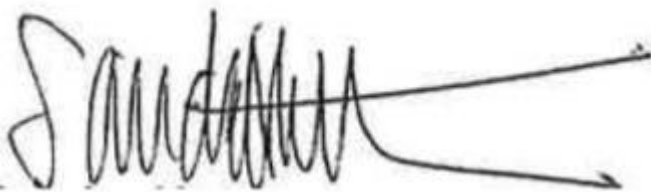
- Northern boundary fencing shall be provided from the existing colorbond fence to the eastern edge of the proposed development, including parking areas.
- Southern boundary fencing adjoining Biddibah Public School shall be provided for the entire length of the development and shall extend west for the length of the existing hospital building and include the southern return to the existing lapped and capped timber fence.

The fencing shall be maintained in a good condition in perpetuity. All costs associated with the erection of new fencing shall be borne by the person with the benefit of the consent and not the relevant neighbouring property owner(s).

Fourteen days written notice shall be given to the relevant neighbouring property owner of the intention to erect the boundary fencing.

All fencing shall be erected as described above prior to the issue of the any Interim or Final Occupation Certificate whichever should occur first.

PANEL MEMBERS	
	
Jason Perica (Chair)	Kara Krason
	
Michael Leavey	John Gilbert

 Sandra Hutton	
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SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016HCC005 – Lake Macquarie City Council DA/2122/2015
2	PROPOSED DEVELOPMENT	Hospital Alterations and Additions
3	STREET ADDRESS	42 Fairfax Road, Warners Bay
4	APPLICANT/OWNER	Erilyan Pty Ltd / HCOA Operations Aust Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private Infrastructure and Community Facility that has a capital investment value of more than \$5 million.
6	RELEVANT MANDATORY CONSIDERATIONS	<p>Environmental planning instruments:</p> <ol style="list-style-type: none"> 1. State Environmental Planning Policy (Infrastructure) 2007 2. State Environmental Planning Policy No. 55 – Remediation of Land 3. State Environmental Planning Policy No. 71 – Coastal Development 4. 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>Memorandum from Council staff dated 10 November 2016</p> <p>Plans of Proposed Development and supporting documents</p> <p>Clause 4.6 Variation – Height of Buildings</p> <p>Written submissions during public exhibition: Eleven</p>

		<p>Verbal submissions at the panel meeting:</p> <ul style="list-style-type: none"> • Partial Support – one: Trevor Mason • Object – nil • On behalf of the applicant – four: James Curtin, Andrew Cowan, Robin White & Michael Sheather Reid
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<p>10 November 2016 – Site Inspection</p> <p>10 November – Final briefing meeting</p> <p>18 August 2016 – Briefing Meeting</p>
9	COUNCIL RECOMMENDATION	<p>Support Clause 4.6 Variation Request to height and approve with conditions,</p>
10	DRAFT CONDITIONS	<p>Attached to the council assessment report</p>