

COUNCIL ASSESSMENT REPORT

Panel Reference	2017HCC001
DA Number	DA/2011/2016
LGA	Lake Macquarie City Council
Proposed Development	Community Facility
Street Address	37 King Street, Balcolyn 2 Yarrawonga Park Road, Balcolyn 4 Yarrawonga Park Road, Balcolyn 6 Yarrawonga Park Road, Balcolyn 8 Yarrawonga Park Road, Balcolyn 10 Yarrawonga Park Road, Balcolyn 12 Yarrawonga Park Road, Balcolyn 20 Yarrawonga Park Road, Balcolyn(2 lots) 40 Yarrawonga Park Road, Balcolyn (7 lots) 77A Yarrawonga Park Road, Yarrawonga Park Various Rights of Way over the following three properties: 6C Yarrawonga Park Road, Balcolyn (LMCC ownership) 12C Yarrawonga Park Road, Balcolyn (LMCC ownership) 40C Yarrawonga Park Road, Balcolyn (LMCC ownership)
Applicant	Matthew Seidl – Director of Properties, The Crusader Union of Australia
Owner	The Crusader Union of Australia
Date of lodgement	7 December 2016
Number of Submissions	One
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	The development has a CIV of \$21.68 million and is therefore to be determined as Regional Development.
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • Lake Macquarie Local Environmental Plan 2014 (LEP 2014) • Lake Macquarie Development Control Plan 2014 (DCP 2014) • State Environmental Planning Policy No. 19 – Bushland in Urban Areas • State Environmental Planning Policy No. 44 – Koala Habitat Protection • State Environmental Planning Policy No. 71 – Coastal Protection
List all documents submitted with this report for the Panel's consideration	Attachment 1 – CI 4.6 Exception Attachment 2 – Proposed Conditions Attachment 3 – Plans of Development Attachment 4 – RFS GTAs Attachment 5 – OEH GTAs Attachment 6 – Subsidence GTAs
Report prepared by	Andrew Leese , Senior Development Planner, Lake Macquarie City Council
Report date	8 December 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Executive Summary

Date Lodged: Lodgement of Original Plans: 7 December 2016
Council Information request: 3 March 2017
Additional Information received 24 August 2017

Submission Period: 19 December 2016 to 27 January 2017

Zoning: Lake Macquarie Local Environmental Plan 2014 - R2 Low Density Residential
Lake Macquarie Local Environmental Plan 2014 - E2 Environmental Conservation

Approval Bodies: Mine Subsidence Board (Subsidence Advisory NSW)
Rural Fire Service (RFS)
NSW Office of Water
Office of Environment and Heritage – Aboriginal Heritage

Referral Agencies: Hunter Water Corporation
Ausgrid
NSW Police
Roads and Maritime Services (RMS)
Local Aboriginal Land Councils - Awabakal, Biraban, Guringai and Bahtabah

CIV: \$21,684,365 (construction costs) (\$5M+ for Community Facility to be determined by JRPP under SEPP Infrastructure.)

Précis

The Crusaders Union of Australia has operated a youth camp on lakeside land donated to them at this location from the 1950s. They have recently purchased nearby land to expand the services they provide, along with the revamp/redevelopment of their existing facility.

The present application includes work on three 'identified' sites. These sites are known as the:

- Lake site (approx. 4.5 hectares);
- Triangle site (approx. 4,000m²); and
- 100 Acres Wood site (approx. 41 hectares)

The overall site is heavily treed and vegetated, and has some small areas of significant slope. There are presently no built elements on the triangle or 100 acre wood sites. Located on the lake site are a manager's residence, accommodation cabins, maintenance buildings, communal buildings, sports oval and a boathouse.

The lake site will be entirely redeveloped, with new accommodation (increased from approx. 114 beds to 300 beds), new communal meeting and dining, sporting, recreational and boating facilities.

The 'triangle' and '100 acres wood site' will be developed as a camping ground for 120 students, and an associated staging / departure shed.

The applicant has indicated the development will be constructed in two stages.

The development is identified as a special fire protection purpose, (as it includes accommodation, as part of the community facility), under the *Rural Fires Act 1997*.

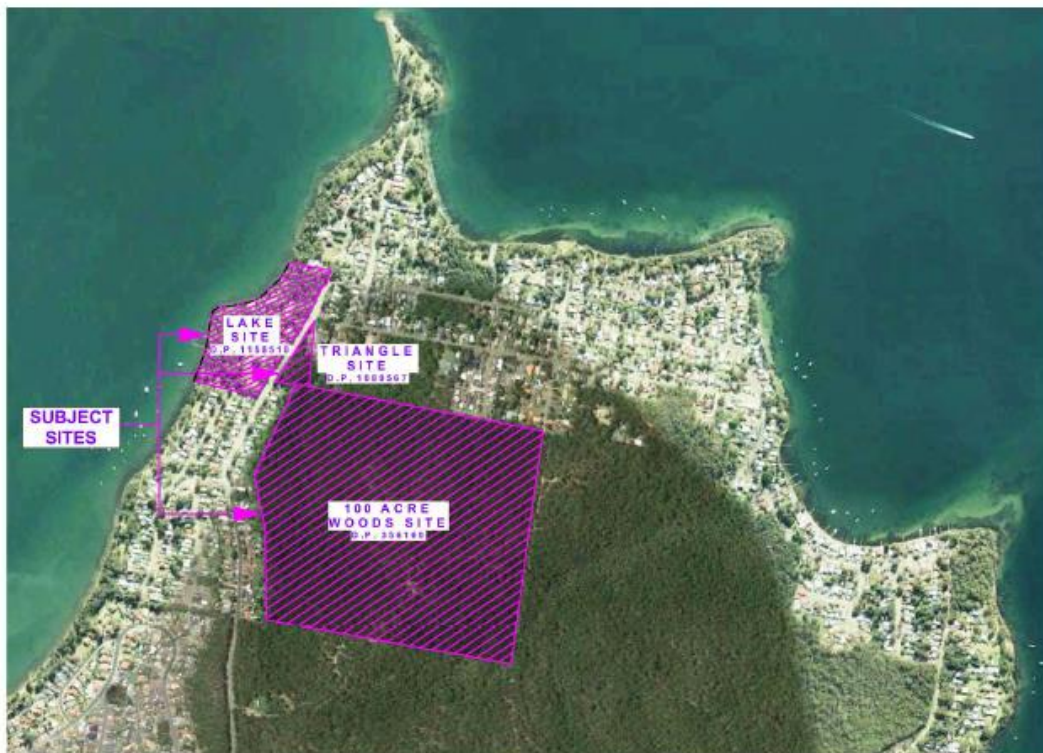


Figure 1 – Locality Plan

The Lake Site consists of 15 individual lots and abuts three waterfront lots owned by Lake Macquarie City Council (LMCC).

The immediate locality is dominated by bushland and low-density residential development. E2 Environmental Conservation zoned land is found to the east of the 100 acre wood site and along with lakefront strip, (aligning with the Foreshore Building Line). E3 Environmental Management zoned land is located to the south of the 100 acre wood site. To the west of the 100 acre wood site and to the north, east and south of the lakefront site is R2 Residential zoned land. There is also a small area of RE1 Public Recreation zoned land directly to the south of the lake front site.

A Community Facility, which the application is for, is defined by the LEP 2014 as:

community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

The Crusaders Union of Australia is a not for profit interdenominational Christian youth organisation that provides holiday and HSC study camps. It also operates a youth camp at Galston. The 2016 Annual Report states 4,349 students visited the Lake Macquarie site in 86 camps. Given the operations at the site, the proposal satisfies the definition of Community Facility.



Figure 2 – Aerial photo of lake site and triangle sites and direct neighbours

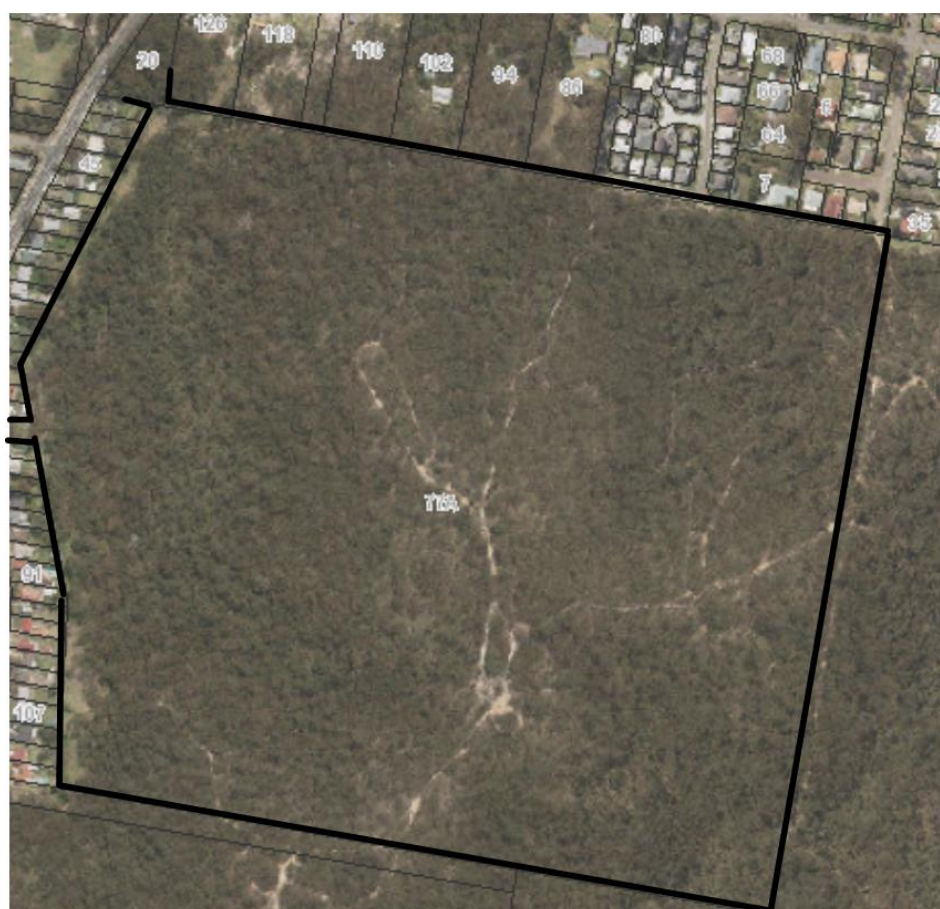


Figure 3 – Aerial photo of 100 acre wood site and direct neighbours

PROJECT DESCRIPTION

The application was lodged by Matthew Seidl (Director of Properties) – The Crusader Union of Australia (CUA). The development has a capital investment in excess of \$21,000,000. The application seeks approval for the following:

Lakefront Site:

- demolition of existing buildings and recreational facilities;
- removal of selected trees within the site;
- provision of 70 car parking spaces, three bus bays, bicycle parking and associated accessways;
- construction of the following main buildings:
 - two x enclosed meeting spaces;
 - two storey dining hall and storage facilities;
 - multi-purpose hall, change rooms and storage facilities;
 - office and administration building;
 - maintenance building;
- refurbishment of the existing “Honeymooners Cottage”;
- construction of accommodation for 300 guests comprising:
 - five x two storey cabins; and
 - one x two storey lodge accommodation.
- construction of three x staff dwellings;
- construction of recreational activity facilities including:
 - two climbing towers / flying fox;
 - two archery facilities; and high ropes activity area.
- construction of a 25 metre swimming pool;
- development of a netball court and two volleyball courts;
- construction of a boat house and yard;
- provision of an outdoor chapel; and
- associated landscaping works.

Triangle Site:

- construction of a staging and equipment building, with associated parking (12 spaces)

100 Acre Wood site:

- Seven camping areas around a fire refuge building/eating hall, with upgraded access path

It is noted this camping area will accommodate 120 people – this is however, not in addition to the 300 on the main site, but where visitors to the main site can experience a camping environment.

The applicant also wishes to stage the development – into two stages, which would allow operations to continue on the site, while stage 1 is constructed. Figure 5 indicates the Stage 1 and Stage 2 division, which is generally Stage 1 being all works to the northern portion of the site, (Dining hall, site office, boat house, maintenance shed and Cabins 1-3). Stage 2 being works generally to the south of the site, (Cabins 4-6, lodge, multi-purpose hall & pool and three staff dwellings). The staging shed and camp site will be developed a part of Stage 1.

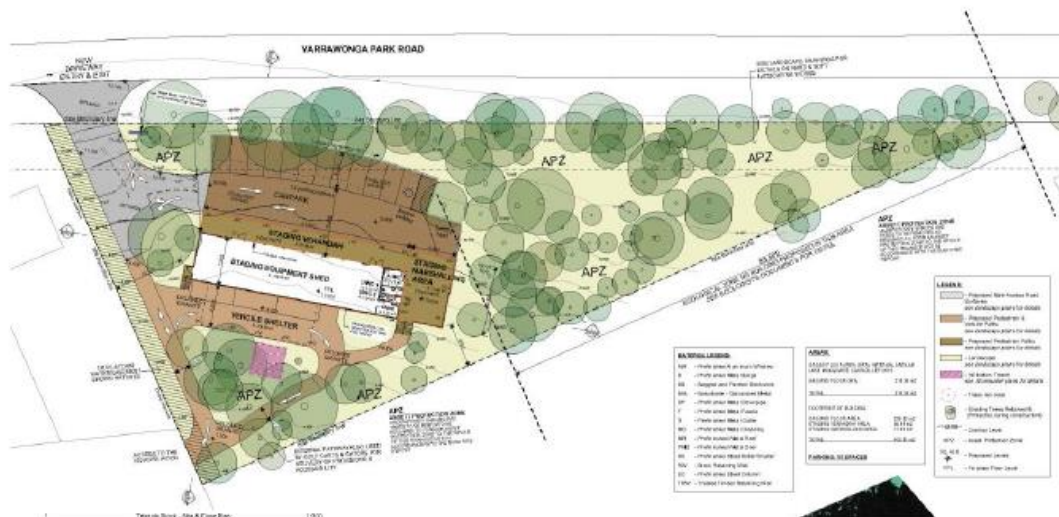


Figure 6 – Triangle site detail

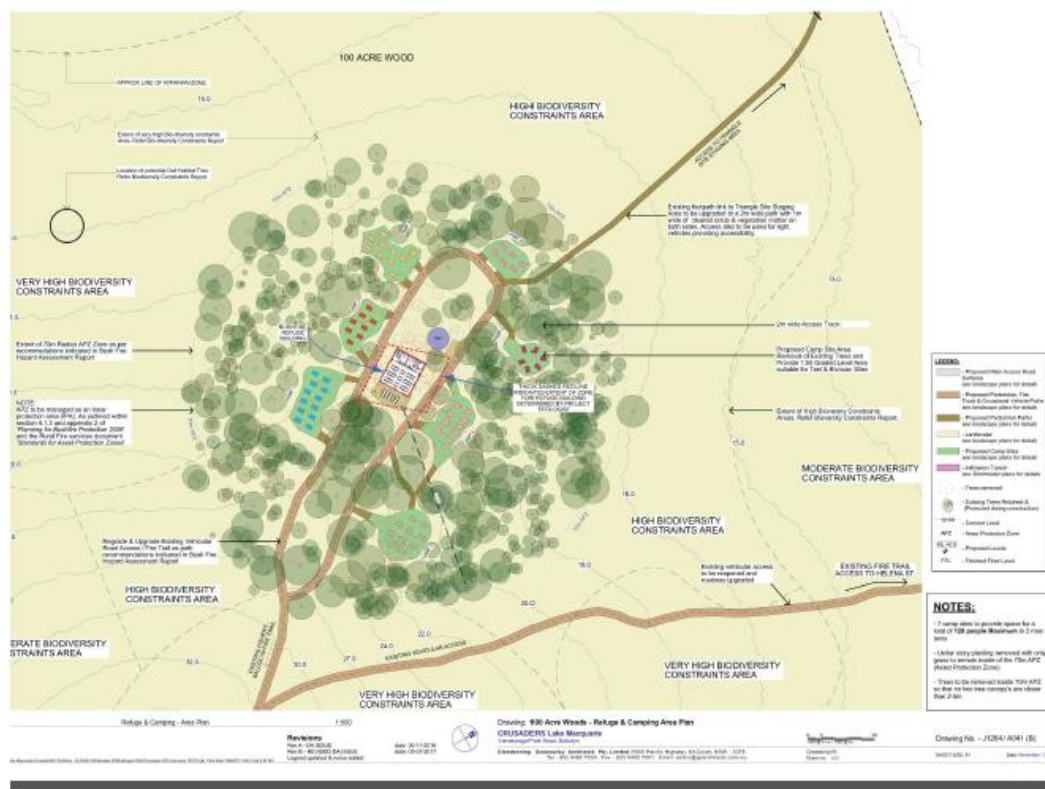


Figure 7 – Detail of proposed camp on 100 Acre Wood site

THE ASSESSMENT

This report provides an assessment of the justification presented in the application against all relevant State and Local planning legislation and policy.

SECTION 79C: POTENTIAL MATTERS FOR CONSIDERATION

79C(1)(a)(i) the provisions of any Environmental Planning Instrument (EPI)

State Environmental Planning Policy 19 - Bushland in Urban Areas

No area of the site is zoned or reserved for open space.

Council owns land adjacent to this site that is zoned for open space (2A Manowie Street). The SEPP requires the effect of the proposed development on bushland zoned or reserved for public open space purposes to be considered.

The proposal will not have an adverse effect on the land zoned for open space and compliance with conditions will ensure erosion controls are in place.

State Environmental Planning Policy No 44—Koala Habitat Protection

This SEPP aims to protect Koala Habitat. The applicant has indicated the site has portions of land considered 'Potential Koala habitat'. The applicant also notes the protection and management of the vast majority of the bushland area of the site will conserve areas that potentially provide habitat for koalas.

This matter was considered by Council's Flora/Fauna planner who has supported the proposal on the basis that a S.88B instrument is imposed to protect the 100 Acre Wood site in accordance with the prepared Bio-diversity Management Plan.

State Environmental Planning Policy No. 55 – Remediation of Land

This SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

No assessment was deemed necessary given the past and present uses of the sites.

State Environmental Planning Policy No. 71 – Coastal Protection

This SEPP aims to protect the NSW coast. The aims of the SEPP are:

This Policy aims:

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and
- (e) to ensure that the visual amenity of the coast is protected, and
- (f) to protect and preserve beach environments and beach amenity, and

- (g) to protect and preserve native coastal vegetation, and
- (h) to protect and preserve the marine environment of New South Wales, and
- (i) to protect and preserve rock platforms, and
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the *Protection of the Environment Administration Act 1991*), and
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
- (l) to encourage a strategic approach to coastal management.

In addition, the application has had regard to the matters for consideration in Clause 8 of the SEPP, as follows:

- (a) the aims of this Policy set out in clause 2,
- (b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,
- (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,
- (d) the suitability of development given its type, location and design and its relationship with the surrounding area,
- (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,
- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,
- (g) measures to conserve animals (within the meaning of the *Threatened Species Conservation Act 1995*) and plants (within the meaning of that Act), and their habitats,
- (h) measures to conserve fish (within the meaning of Part 7A of the *Fisheries Management Act 1994*) and marine vegetation (within the meaning of that Part), and their habitats
- (i) existing wildlife corridors and the impact of development on these corridors,
- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (k) measures to reduce the potential for conflict between land-based and water-based coastal activities,
- (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,
- (m) likely impacts of development on the water quality of coastal waterbodies,
- (n) the conservation and preservation of items of heritage, archaeological or historic significance,
- (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,
- (p) only in cases in which a development application in relation to proposed development is determined:
 - (i) the cumulative impacts of the proposed development on the environment, and
 - (ii) measures to ensure that water and energy usage by the proposed development is efficient.

This application has been assessed having regard to the aims of the SEPP and the matters for consideration under clause 8. The development will not have an adverse impact on achieving the aims of the SEPP and will generally comply with the matters for consideration under Clause 8 of the SEPP.

Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)

Clause 2.2 Zoning of land to which Plan applies

The sites are zoned R2 Low Density Residential and E2 Environmental Conservation. Neighbouring sites have the following zonings:

- R2 Residential Low Density
- E2 Environmental Conservation;
- E3 Environmental Management; and
- RE1 Public Recreation

No portion of the sites have been identified for acquisition by Council.

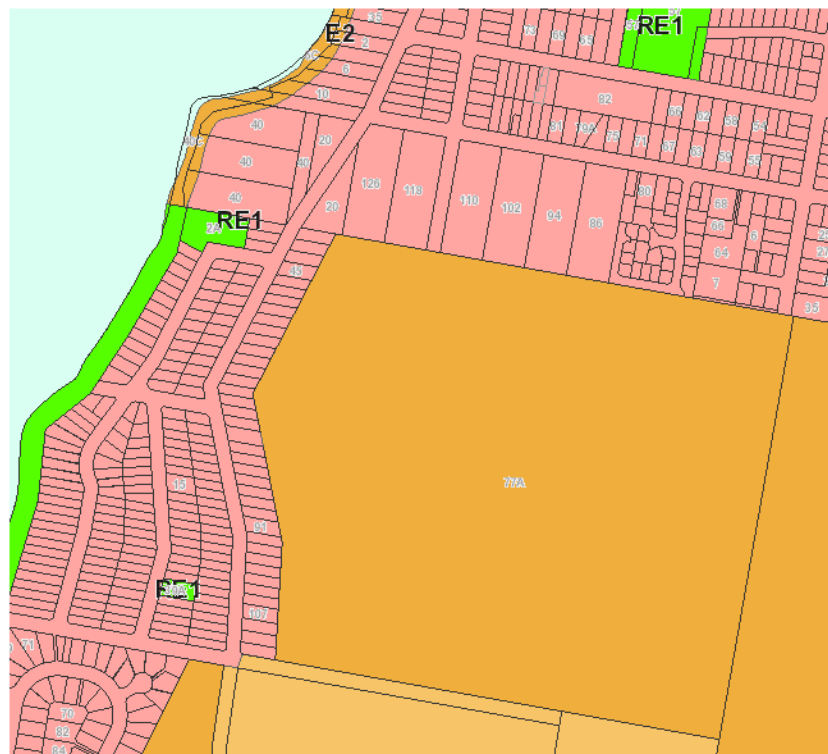


Figure 8 - Extract from Lake Macquarie Local Environmental Plan 2014 Zoning Map

Clause 2.3 Zone objectives and Land Use Table

The objectives for the R2 Residential Low Density zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.

Planning Comment: The proposal continues the operation of an existing permissible non-residential use within the residentially zoned land.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Planning Comment: While the proposal will not provide facilities or services to the surrounding residents, the facility will continue the existing non-residential use, which

provides a service to religious groups in the greater Lake Macquarie and Sydney/Newcastle/ Central Coast catchments.

- To encourage development that is sympathetic to the scenic, aesthetic and cultural heritage qualities of the built and natural environment.

Planning Comment: The site is separated sufficiently from neighbouring residential development / subdivision patterns that the redevelopment of the site will not be incongruous with the neighbouring residential precincts.

The objectives for the E2 Environmental Conservation zone are as follows:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.

Planning Comment: The development will require the undeveloped area of the site to be managed per a pre-prepared Biodiversity Management Plan, which will help protect the ecological and aesthetic values of the site.

- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

Planning Comment: The development will not have an adverse impact on the ecological and aesthetic values of the site.

- To conserve, enhance and manage corridors to facilitate species movement, dispersal and interchange of genetic material.

Planning Comment: The development will not adversely affect ecological corridors based on the assessment of Council's Flora / Fauna Planner.

- To encourage activities that meet conservation objectives.

Planning Comment: Permitted Uses in the E2 zone are limited. The development of the boatshed (lakefront area) and camping area (100 acre wood site) will not adversely affect the conservation objectives given the area of the site retained in its existing natural state.

- To enhance and manage areas affected by coastal processes.

Planning Comment: The site is not affected by coastal processes. (LMCC owns lakefront land.)

The use is a permissible use. The proposed works are generally consistent with the overall zone objectives.

Clauses 2.5– 4.2C

Not applicable.

Clause 4.3 Building heights

The maximum heights prescribed for the site by the height of buildings maps are 5.5 metres and 8.5 metres, aligning with E2 and R2 zones respectively.

A number of proposed buildings and structures will exceed these height controls. These include:

- Boathouse – 8.51m high in a 5.5m zone
- Dining hall – 10.5m (max) in an 8.5m zone
- Multi-purpose hall 9.51m in an 8.5m zone

The lodge – 11.5m (max) in an 8.5m zone

Cabins (not all) – 8.62m in an 8.5m zone

Climbing structures – 14.95m in an 8.5m zone

See clause 4.6 below for discussion and consideration of these non-compliances.



Figure 9: Height controls (5.5m - blue and 8.5m – green)

Clauses 4.4 – 4.5

Not Applicable

Clause 4.6 Exceptions to Development Standards

The proposal includes a number of buildings/structures that will exceed the height limits applicable to the lake site, as noted above. The applicant has lodged a Request to vary a Development Standard under clause 4.6 of LEP 2014. The request in full can be found at Attachment 1.

Under Clause 4.3 of LMLEP 2014 and the Height of Building Map the site has a maximum height of 5.5m and 8.5m as shown in Figure 9. The objectives of clause 4.3 are as follows:

- (a) to ensure the height of buildings are appropriate for their location,
- (b) to permit building heights that encourage high quality urban form.

As noted above a number of buildings and structures exceed the height control applicable. Clause 4.6 provides the following objectives:

1 (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
1 (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Subclause (3) states:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The development seeks flexibility with regard the maximum height of building limit by arguing particular constraints inhibit the development's ability to achieve strict compliance. The main arguments being put forth by the applicant are the unique use and site constraints.

The submission states the site has operated for over 70 years and pre-dates the establishment of local residential areas. The new buildings and structures are intended to bring the facility up to date in terms of the provision of services to the communities it serves.

The development of the site is constrained by slope, Aboriginal heritage, significant trees and biodiversity, foreshore building line and required bushfire asses protection zones. The use of pier instead of slab on ground has reduced the extent of excavation and fill, but caused a number of buildings to exceed the height limit. Providing a similar level of services in buildings with complying heights could lead to greater loss of vegetation and encroachment into ecological corridors.

Having regard to the above it is considered compliance with the development standard is unreasonable and unnecessary noting the context of the site and the proposed built form/outcome. In particular, the development is permissible within the R2 and E2 zones, meets the zone objectives, is generally compliant with DCP 2014, particularly in related areas such as view loss and overshadowing.

Clause 4.6 further states under subclause (4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

The applicant's Clause 4.6 submission adequately addresses the matters under subclause 4.6(3), as noted above in the discussion on site constraints and the limited impacts the non-compliances will have on neighbouring and public amenity.

The proposed development is deemed to satisfy the objectives of the development standard, is identified as being consistent with the zone objectives (refer to Section 79C(1)(a)) and is therefore in the public interest.

Assumed concurrence is provided by Planning Circular PS 08-003 dated 9 May 2008.

Clause 5.1 – 5.8

Not Applicable

Clause 5.9 Preservation of Trees or vegetation

Repealed

Clause 5.9AA Trees or vegetation not prescribed by development control plan

Repealed

Clause 5.10 Heritage conservation

There are no items of European or Natural heritage identified pursuant to Schedule 5 Environmental heritage.

The lake front area of the site contains a Sensitive Aboriginal Landscape. Further consideration of this matter is provided in Section 2.15 Aboriginal Heritage of DCP 2014. It is noted four Aboriginal Local Land Groups were notified of the proposal, with no response being received from any group. An integrated referral was made to the Office of Environment and Heritage under the *National Parks and Wildlife Services Act 1974* and GTAs received.

Clauses 5.11 – 6.5

Not applicable.

Clause 7.1 Acid sulfate soils

The majority of the site has Class 5 Acid Sulphate Soils (ASS). This is lowest ranked ASS zone. An ASS assessment has been carried out and this matter is discussed below in Section 2.6 DCP 2014.

Clause 7.2 Earthworks

Council's Development Engineer raised no objection to the extent of earthworks to be undertaken on this site. The extensive use of pier construction is noted and supported.

Clause 7.3 Flood Planning

Part of the lake front area of the site is identified as containing land that is located in a flood affected zone. As such, the proposal was considered by Council's Sustainability Department who raised no objection to the proposal. Council's Flood Planning Officer noted the proposed development has been assessed against Council's flood planning levels and is well above Council's site-specific minimum requirements for the area.

Any approval will ensure the floor levels comply with flood planning levels.



Figure 10 – Flood affected land

Clauses 7.4 – 7.5

Not applicable.

Clause 7.6 Limited development on foreshore area

This clause generally prohibits work forward of the Foreshore Building Line (FBL), with a number of exclusions, including:

- (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,
- (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,
- (c) boat sheds, coastal protection works, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities, recreation areas or water recreation structures.

The applicant proposes the following within the FBL area:

Volleyball court

Boathouse

Boatyard

Outdoor chapel with tiered (natural contoured) seating and stage

Upgrade to existing ‘honeymooners’ cottage.

Council has specific controls for domestic boatsheds. The proposed boatshed has not been considered as a domestic boatshed and reflects a design for a suitable community/sporting club type use.

Clause 7.7 Development on sensitive Aboriginal landscape areas

It is noted NSW OEH have given approval for various archaeological expeditions and GTAs under provisions of Section 90 of the *National Park and Wildlife Services Act 1974*. On this basis Council did not seek its own Aboriginal Heritage Impact Statement. Additional comments from Council's Heritage Planner and response from local Aboriginal groups are detailed below under cl 2.15 of the DCP 2014.

Clause 7.8 – 7.20

Not applicable.

Clause 7.21 Essential services

Power, water and other services are available in the locality.

Clause 7.22 – 7.23

Not applicable.

79C(1)(a)(ii) the provisions of any draft EPI

There are no draft local instruments which affect the development proposal.

The NSW Department of Planning has advertised the following draft SEPPs that may be relevant to the proposal:

Draft SEPP 64 Advertising and Signage

The draft amendment to SEPP 64 was exhibited from 5 May 2017 – 30 June 2017. The draft amendment will make minor alterations to Clauses 6, 9, 16 and 27 (in addition to replacing references to the RTA with RMS). This will not have any implications for the proposal.

Draft SEPP Coastal Management

The draft SEPP was exhibited from 11 November 2016 – 20 January 2017. The amendments will omit Clause 5.5 Development within Coastal Zone in the Standard Instrument. The draft SEPP will require the consent authority to consider a coast zone management plan for development in the coastal zone generally. Council's Section 79C assessment has considered the Lake Macquarie Coastal Zone Management Plan.

Clause 22 of the draft SEPP allows for the JRPP to exercise a number of consent authority functions, however this relates to coastal protection works and has no implication for this application.

Draft SEPP Infrastructure

Amendments to SEPP Infrastructure were exhibited from 3 February 2017 – 7 April 2017. The amendments relate to Sydney Areas and regional Sports and Recreation Land, and do not have any implications for the proposal.

79C(1)(a)(iii) the provisions of any Development Control Plan (DCP)

Lake Macquarie Development Control Plan 2014

Part 1 Introduction Section 1.15 –Notification Requirements

As required by the *EP&A Regulation 2000*, relevant government departments/bodies were notified, being:

Roads and Maritime;
Hunter Water Corporation;
NSW Police; and
Ausgrid.

The RMS responded on 20 January 2017 raising no objection to the proposal. No other bodies responded.

Notification occurred in accordance with the Lake Macquarie Development Control Plan 2014 – Part 1 Section 1.15 Notification, which required notification for a minimum 30 day period for Advertised Development. Some additional time was provided due to the Christmas/New Year break.

One submission was received. The submission raised three concerns with the proposal. The submission is addressed within section 79C(1)(d) of this report.

The development is located in two zones. This report has considered Part 3 and Part 7 of DCP 2014. Where considerations of clauses from both sections are identical this is noted and only discussed once where applicable.

Part 3 Development in Residential Zones – Section 2 Context & Setting

2.1 Site Analysis

The development has considered and addressed all relevant constraints of the site within the plans and supporting documentation.

2.2 – Scenic Values

Additional information was sought given the proposed height, siting and lake front location. This was provided and has been assessed by Council's Landscape Architect.

No issue is raised in terms of impacts on local scenic values. Sites are separated from residential areas and will retain significant areas of vegetation to protect existing scenic values.

2.3 Geotechnical

The sites have small areas of T2A, which indicate steep slopes.

The application is supported by a geotechnical by JK Geotechnics. The comments included within the report support the proposal, but offer some recommendations. Council's Engineers have reviewed the report and support the recommendations.

A condition of consent will require compliance with this geotechnical report.



Figure 12: Geotechnical zoning

2.4 Mine Subsidence

Subsidence Advisory NSW, (previously known as Mine Subsidence Board), provided General Terms of Approval on 7 August 2017, which will be included in any consent.

2.5 Contaminated Land

The sites have historically not been used by any potentially contaminating use.

2.6 Acid Sulfate Soils

An Acid Sulphate Soil Assessment has been undertaken by EIS and provided in support of the application. The report concludes that Acid Sulphate soils should not impact the development.

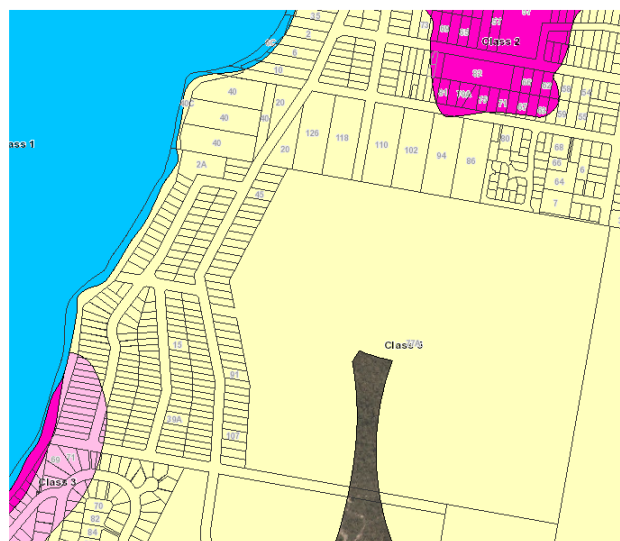


Figure 13: Acid Sulphate Soils (ASS) – Class 5 (500m buffer zone)

2.7 Stormwater Management

A revised Stormwater Management plan for the development was submitted.

Council's Development Engineers advised:

The geotechnical report highlights that the infiltration rates of the site soil are very low and recommends that alternative systems of disposing of the stormwater should be considered as the strategy for the utilisation of absorption trenches is not appropriate.

Conditions of consent are recommended to ensure compliance with Council's stormwater management controls.

2.8 Catchment Flood Management

Not applicable.

2.9 Lake Flooding & Tidal Inundation

The area along the lake front is susceptible to lake flooding. Development of such buildings as boatsheds is not opposed in this location. All habitable spaces are well above predicted flood levels.

2.10 Natural Water System

See discussion in Part 7 Development in Environmental Zones.

2.11 - Bushfire Risk

The application has been considered by the NSW Rural Fire Service, as integrated development. GTAs have been included in the draft conditions.

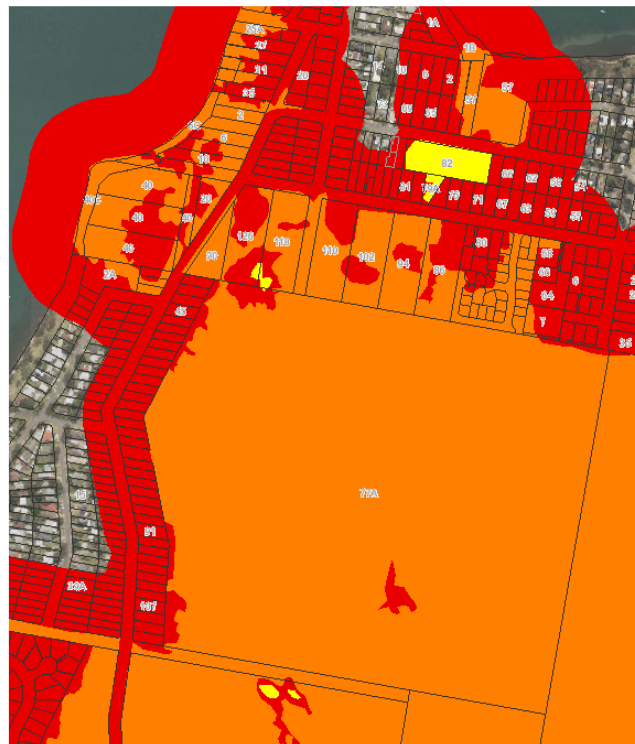


Figure 14 Bushfire prone land on the site and the surrounding locality

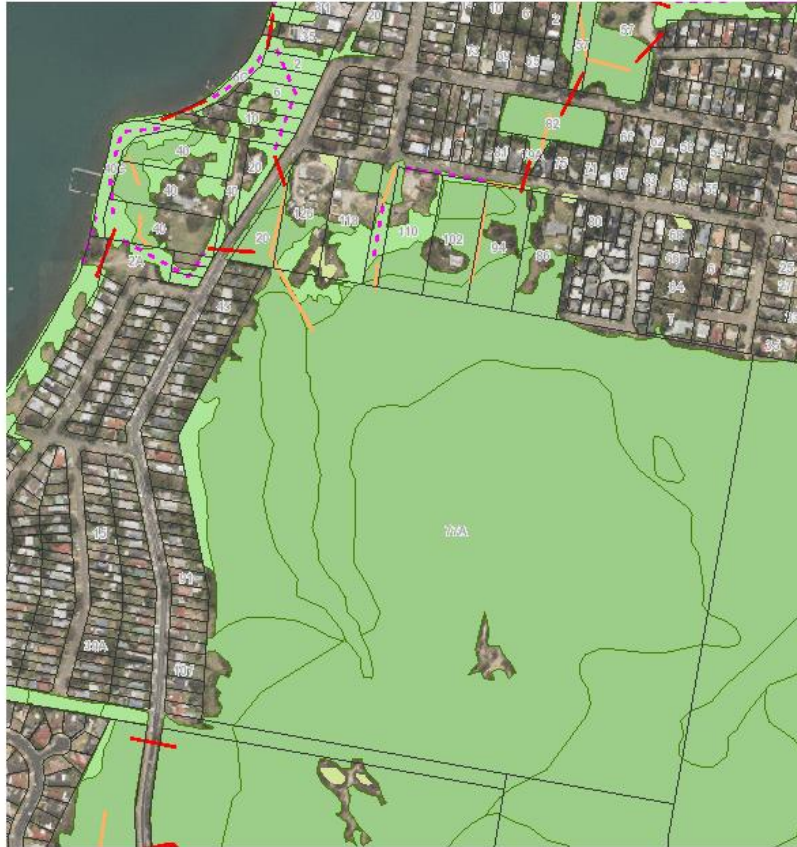


Figure 15 and 15A: Ecological Corridors

(KEY: blue = riparian corridor / red = fauna crossing point / purple = rehabilitation corridor / orange = corridor less than 200m wide)

2.12 Flora & Fauna

The application has been assessed by Council's ecological experts. They noted the application is considered to reasonably address flora and fauna requirements and no objection is raised subject to recommended conditions.

Consent conditions relating to Retention of Trees and Native Vegetation and Hollow-bearing Tree Removal have been included in the draft conditions. A condition relating to Biodiversity Management Plans, also included in the draft conditions is detailed in full below:

Biodiversity Management Plan

A person qualified in natural vegetation management, ecology or bush regeneration shall be retained to prepare a Biodiversity Management Plan (BMP) in consultation with Council's Development Planner Flora and Fauna. The BMP shall be prepared in accordance with the *Lake Macquarie City Council Guideline for Vegetation Management Plans*. The BMP shall be submitted, to and approved by Council's Development Planner Flora and Fauna prior to the issue of the first construction certificate. The BMP shall include:

- Fencing and conservation signage on site boundaries,
- Blocking vehicle access and clean-up of dumping areas,
- Weed removal and revegetation as required including along the residential interfaces and illegal access areas. Revegetation shall include a minimum of 390 preferred squirrel glider feed trees including swamp mahogany *Eucalyptus robusta*, forest red gum *Eucalyptus tereticornis*, red bloodwood *Corymbia gummifera* and scribbly gum *Eucalyptus haemastoma*.
- Establishment of regular monitoring and response program which protects and enhances habitat for wallum froglet, squirrel glider, forest owls and *Tetratheca juncea* across the 100 Acre Wood site in perpetuity.

Implementation of the BMP shall commence immediately upon commencement of works including demolition works on site and shall be carried out in accordance with the BMP approved schedule of works.

Annual monitoring statements shall be provided to Council's Development Planner Flora and Fauna verifying compliance with the BMP. Implementation of the BMP may cease once outcomes of the BMP have been met, the works schedule completed and approval for the completion of works has been obtained from Council's Development Planner Flora and Fauna.

Squirrel Glider Poles

Within one month of vegetation clearing commencing in the Transfer Area, an assessment shall be undertaken to determine if squirrel gliders can continue to move through the area without going to ground, using the principles in Council's Squirrel Glider Planning and Management Guidelines. The results of this assessment shall be confirmed by Council's Development Planner Flora Fauna. If required, structures (glider poles) shall be provided to establish a functioning corridor to enable fauna movement (in particular squirrel gliders) between the Lakeside precinct and 100 Acre Wood through the Transfer Area (Lot 1 DP 1089567 20 Yarrawonga Park Road Balcolyn). Input from a squirrel glider expert shall be obtained and included in the design, placement and to confirm the number of structures required. The structures must be designed in consultation with Council and with consideration to site constraints including power lines and traffic/public safety requirements, have regard to any requirement of Roads and Maritime Services, and be certified by a practicing structural engineer. If required,

the poles shall be installed within three months of vegetation clearing commencing, and monitored for a minimum of ten years with an annual monitoring statement provided to Council. Confirmation is required from Council's Development Planner Flora Fauna that revegetation works through the Transfer Area have re-established canopy connectivity prior to removal of the poles.

88B Instrument

The Registered Proprietor of the land shall provide an instrument under Section 88B of the Conveyancing Act setting out terms of easements and/or restrictions as to user as may be required by conditions of this consent. Council shall be the party empowered to release, vary or modify those (and only those) easements and/or restrictions required by conditions of this development consent.

The Section 88B Instrument shall identify trees nominated for retention through the Lakeside precinct and Transfer Area (Tree Management No 1 and Tree Management Plan No 2, Xeriscapes 26/07/2017) as vegetation that shall be retained, protected and enhanced in perpetuity.

The Section 88B Instrument is to identify trees nominated for retention the development area in the 100 Acre Wood (100 Acre Woods Refuge & Camping Area Plan Demolition Plan, Glendenning Szoboszlay Architects Revision B 01/08/2017) as vegetation that shall be retained, protected and enhanced in perpetuity.

The Section 88B Instrument shall identify the development area in the 100 Acre Wood (100 Acre Woods Refuge & Camping Area Plan Demolition Plan, Glendenning Szoboszlay Architects Revision B 01/08/2017). The remainder of the site shall to be retained, protected, managed and enhanced in accordance with the 100 Acre Wood Biodiversity Management Plan.

It is noted that the applicant does not support all of these conditions and may seek modifications to the conditions. At this stage, Council officers strongly support the implementation of the suite of conditions relative to flora and fauna considerations.

2.13 Preservation of Trees & Vegetation

Council's Arborist has advised, an Arboricultural Impact Assessment and Tree Protection Plan should be provided to accompany the initial Arborist Report and Tree Removal Schedule, which is to reference *AS4970-2009 – Protection of Tree on Development Sites*, and be formatted in a way that can be conditioned for future development of the site/s. The following condition has been recommended:

Protection Measures for Trees and Native Vegetation

All native trees and vegetation both on the site and on adjoining properties shall be retained and protected in accordance with DCP 2014 – *Tree Preservation and Native Vegetation Management Guidelines* (Section 6) and the Australian Standard *AS4970-2009 – Protection of Trees on Development Sites* unless they have been specifically identified for removal on the approved plans or documentation.

All underground utilities and other required excavations shall be routed away from any tree identified for retention, in accordance with the Tree Protection Zone dimensions as outlined in the *Existing Tree Schedule* component of approved Arborist Report (Hawkeswood, 02/02/2016).

Specific Tree Protection Measures shall include (but not be limited to):

- Tree Protection Zones (TPZ) shall be established around trees identified to be retained in accordance with Australian Standard *AS4970-2009 – Protection of Trees on Development Sites*
- A 1.8 metre high chain mesh fence shall be erected around each TPZ prior to works (within site) and must remain intact until construction is completed.
- Any excavation within the vicinity of identified TPZs shall be carried out by hand, with all care taken not to damage tree roots. If tree roots greater than 30mm are found during works that need to be severed, they shall be cut with a saw (not ripped).
- A suitably qualified Project Arborist (AQF Level 5) shall be in attendance to supervise tree works on site during critical stages of construction, particularly when or if excavations are carried out within the identified TPZ of any tree nominated for retention.
- TPZs shall be mulched to a minimum depth of 100mm using organic mulch.
- Fences around Tree Protection Zones shall be sign posted to warn of its purpose.
- Storage of materials, building waste, excavated spoil, cement or any harmful materials is not permitted within TPZs.
- Any minor pruning of trees shall be carried out in accordance with Australian Standard *AS 4373-2007 - Pruning of Amenity Trees*, by a suitably qualified Arborist.

The above condition and other conditions proposed by Council's ecologists are included in the draft conditions. It is noted the applicant does not support all of these conditions and may seek modifications to these proposed conditions.

2.14 European Heritage

The site is not identified as containing any items or location of European heritage, pursuant to schedule 5 of LEP 2014.

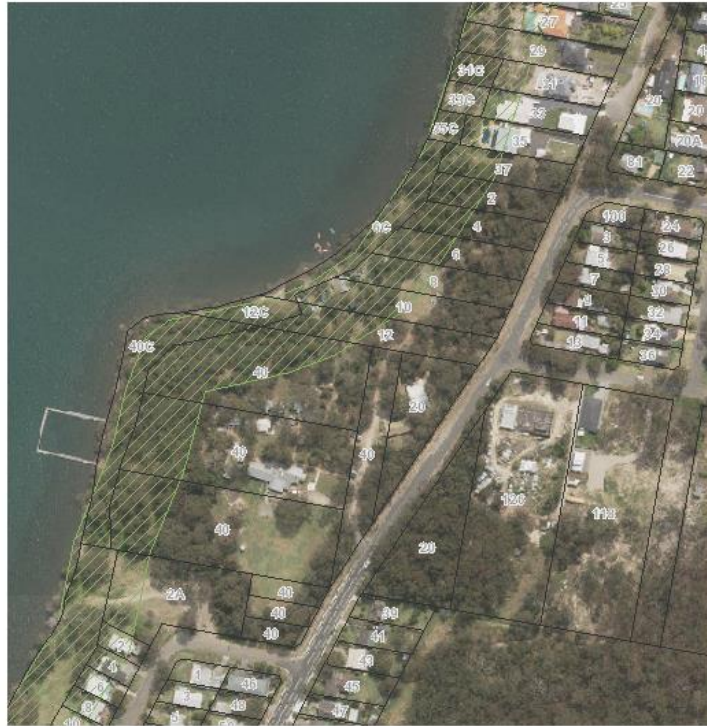


Figure 16 - Sensitive Aboriginal Landscape

2.15 Aboriginal Heritage

Parts of the sites are identified as Sensitive Aboriginal Landscape. The following groups were notified:

- Biraban Local Aboriginal Land Council;
- Awabakal Aboriginal Owners Corporation;
- Guriggai Tribal Link Aboriginal Corporation; and
- Bahtabah Local Aboriginal Land Council.

None provided a response in relation to the proposal.

An integrated referral was made to the NSW OEH due to location of middens on the site. This has resulted in GTAs being issued by the OEH in relation to Aboriginal heritage. These can be found at Attachment 6. Additionally, Council's Heritage Officer has recommended the following conditions:

Excavation – Aboriginal Relics

Should any Aboriginal relics be discovered all excavations or disturbance to the area shall cease immediately and the NSW Office of Environment and Heritage, shall be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*.

All necessary approvals from the NSW Office of Environment and Heritage shall be obtained and a copy provided to Council prior to works recommencing.

Aboriginal Heritage

The person having the benefit of the consent, must notify any contractors and persons involved in undertaking subsurface disturbance works, it is an offence under Section 86 of the *National Parks and Wildlife Act 1974* to harm or desecrate

an Aboriginal object unless that harm or desecration is subject of an approved Aboriginal Heritage Impact Permit (AHIP).

Aboriginal Heritage Impact Permit (AHIPs)

The person having the benefit of the consent must apply for an Aboriginal Heritage Impact Permit (AHIP) prior to any development impact on M3 Crusader Camp #45-7-0163 and LMRC SM2 #45-7-0361.

The required AHIPs shall be obtained prior to the commencement of any works.

Conservation Management Plan

A conservation management plan for the 'no harm' areas, identified in Figure 21 of the Amended Aboriginal Cultural Heritage Assessment (version 4, dated 5/6/2017), shall be developed to provide measures and protocols to ensure the deposits are protected during development works and provided with long term care and protection after completion of the development.

The person having the benefit of the consent shall submit the CMP for approval by Lake Macquarie City Council's Development Planner - Heritage Focus prior to the issue of the first Construction Certificate for the development.

No-harm zones

The two 'no-harm' areas, as identified in Figure 21 of the Amended Aboriginal Cultural Heritage Assessment (version 4, dated 5/6/2017), shall remain unaffected by the proposed development.

The person having the benefit of the consent shall engage a qualified professional to ensure appropriate measures are in place to avoid impacts on the 'no harm' areas deposit during construction. These measures shall be in accordance with the Conservation Management Plan.

Cultural heritage awareness

The person having the benefit of the consent shall ensure contractors and workers are made aware of the Aboriginal heritage resource of the site and the extents of the 'no-harm areas', prior to undertaking work on site.

Heritage Interpretation Plan

A Heritage Interpretation Plan shall be prepared to integrate the cultural heritage values and information about past Awabakal use and occupation identified during the archaeological investigation. The Heritage Interpretation Plan shall consider integration of aspects of Aboriginal heritage into design elements, art features, building names and, where possible, establishment of dedicated interpretive nodes that tell the stories of the site's Aboriginal past.

The person having the benefit of the consent shall submit the Heritage Interpretation Plan for approval by Lake Macquarie City Council's Development Planner - Heritage Focus prior to the issue of the first Construction Certificate for the development.

Prior to release of the Interim or Final Occupation Certificate, whichever occurs first the approved heritage interpretation plan must be implemented to the satisfaction of Lake Macquarie City Council's Development Planner – Heritage Focus.

2.16 Natural Heritage

The site is not identified as containing any item or location of Natural heritage, pursuant to schedule 5 of LEP 2014.

2.17 Social Impact

The development was reviewed by Council's Coordinator of Social and Community Planning who advises that they do not believe the development will result in any significant social impacts. They also noted:

With regards to the 'Lake Site', I note that this site has been used by the Crusaders as a campsite for over 40 years. The redevelopment of this site will have a positive social outcome through the provision of new high quality community facility. However, there will be negative impacts associated with the redevelopment and expansion of this site, including those associated with noise, traffic and safety (due to the increased capacity of this site).

As long as these impacts are assessed as being within acceptable limits (by others with the relevant expertise), then I do not have any issues with the proposed development on this site. However, if any of these impacts are assessed as being unacceptable or in excess of the relevant standards, then I would need to review my position.

With regards to the proposed development on the 'Triangle Site' and '100 Acre Woods Site' this will result in a change of use for these sites. However, due to the scale of the proposed development, and the nature of the proposed activities (that it is in keeping with those that are already occurring at the 'Lake Site', then I also believe that this will not result in any significant social impacts, other than those identified above for the 'Lake Site'. Therefore, my comments above are also relevant for these sites.

All measures identified to address impacts associated with noise, traffic and safety, as well as those regarding disability access (to ensure that the site is accessible to all) should be implemented to limit any negative social impacts.

It is noted that the concerns raised by the Social Planner (traffic/noise/access) have been considered by relevant referral officers and found to have acceptable impacts, or conditioned to reduce impacts.

2.18 Economic Impact

There are a number of youth orientated camps around the Lake. The proposal will not result in any unreasonable adverse economic impacts to the operation of those facilities.

2.19 Lot Amalgamation in the R3 Zone

The land is not zoned R3. However, it is noted amalgamation of the lots within the Lake Site (zoned R2) will be required via condition in any approval. The amalgamation is not supported by the applicant.

They have noted that, "The value of the site will significantly decrease if it is consolidated and limit the ability to access different financing options." Concerns are raised by the applicant as to the commercial viability of its long-term operations at the site.

Amalgamation is a standard Council condition for developments over multiple sites, in particular where buildings are existing or proposed over lot boundaries.

2.20 Utilities

All standard services and utilities are available in this locality.

3.1 Streetscape

The development is sufficiently setback, with the retention of existing trees/vegetation to protect the existing character of this part of the street, which acts as a large non-residential use between the main residential areas of Yarrawonga Park and Balcolyn.

3.2 Street Setback

The development provides sufficient setback to Manowie and Yarrawonga Park Roads. (3.6m for site office/ 10.5m Multi-purpose hall and 3.9m for house style accommodation addressing Manowie Road).

3.3 Side Setback

The development is setback more than the required distance from side and rear boundaries desired in a residential zone.

3.4 Rear Setback

N/A

3.5 Site Coverage

The control seeks a site coverage of 50% in the R2 zone. This application achieves a site coverage well below 50%.

3.6 Building Bulk

The development is not within the height limit applicable to the development area. This non-compliance is discussed above in relation to LEP 2014 CI 4.6 exception request.

3.7 Garages, Carports, and Sheds

The three staff dwellings present to the street (Manowie Road) as individual dwellings. Council was concerned with the domination of garages. Modified plans were received that present the buildings as individual forms, though the garages are still rather dominant. The 14m setback and retention of trees within this setback will reduce this impact and is considered an acceptable outcome in this locality.

3.8 Roofs

The three staff dwellings present to the street as individual dwellings. Council has raised no objection to the proposed roof form. Other roof forms are not standard residential forms given the institutional nature of the development; nevertheless are supported given the vegetative cover, setbacks to other development & ongoing nature of development on the site.

3.9 Views

The development will not have an adverse impact on local views. While a number of new buildings will exceed existing building heights and building height controls, they will not affect existing view lines from neighbouring residential properties or the public domain.

3.10 Solar Access & Orientation

The development will not have overshadowing impacts on neighbouring sites, given the standalone nature of the site and setbacks to residential precincts.

3.11 Energy Efficiency & Generation

The development does not require a BASIX certificate. The development will need to comply with Part J of the BCA. An energy efficiency report was submitted with the application.

Part 3 – Development in Residential Zones – Section 4

4 Visual Privacy

Given setbacks to residential neighbours no issues are raised in relation to visual privacy.

4.1 Acoustic Privacy

An acoustic report has been submitted for consideration. This matter has been considered by Council's Environmental Health officers who advise:

A site inspection and subsequent discussion with the applicant has confirmed a number of points relating to potential noise impacts from the proposed development.

- Outdoor Chapel: It was advised that there will be minimal use of amplified sound at this location. While Council does not generally support the use of amplification in an open gathering place, an assessment of the location of the chapel and nature of the use of the chapel has deemed the use to be acceptable. Notwithstanding, the noise conditions attached shall be complied with at all times.
- Hours of Operation: Outdoor activities, use of the pool and functions in the main hall will all have strict time frames to ensure that the site complies with the attached noise conditions. Environmental Management supports all sound proofing requirements as outlined in the Acoustic Impact Assessment and acoustic testing shall be carried out as per Condition DEV505.
- There is no mechanical plant room planned for this proposal.

Environmental Management supports the preparation of a noise management plan and requires a copy of the plan to be submitted to Council prior to the issue of an Occupation Certificate.

Conditions of consent require compliance with the recommendations of the acoustic report.

4.2 Landscape Area and 4.3 Landscape Design

Council's Landscape Architect concluded issues raised with the original proposal have been addressed in the additional information package. Council are now satisfied with the resolved outcomes.

4.4 Principal Private Open Spaces

N/A

4.5 Front Fences and 4.6 Side and Rear Fences

Palisade type security fencing is proposed along most of the site boundaries including the elevations to the street. Provided the fencing is recessive (generally black) no objection is raised to this type of fencing. Rural type fencing will be retained

along the non-residential boundaries of the 100 acre wood site. Conditions of consent are recommended.

4.7 Traffic and Transport

A traffic and parking assessment was provided to support the development application. Council's Assets team and Development Engineers concluded the proposed access and sight distances to the proposed development from Yarrawonga Park Road are considered adequate, and with a weekend day peak of 15 vehicle trips, the proposal would not have any adverse impacts on the local road network. They also made the following recommendations:

Road Design

Kerb and Gutter is required for the full length of the development along Yarrawonga Park Road and Manowie Street. This work will also include drainage improvements to existing street drainage. Road width in Yarrawonga Park Road will need to be 11m between kerb faces as this road is a collector road. Road width of Manowie Street will need to be a minimum of 6m in pavement width.

Pedestrians and Cyclists

Yarrawonga Park Road is a collector road with a high volume of traffic, it is recommended that a 1.2 metre wide concrete footpath and a pedestrian refuge be installed on Yarrawonga Park Road to provide connectivity for pedestrians between the Lakeside and Triangular sites. This is primarily to provide a safe crossing point for users of the facility to access both sites, although outside the site it is for the benefit of the proposal.

Public Transport

A minimum provision of a bus seat and pad to Council requirements is required.

Conditions in relation to roadwork are recommended.

4.8 Design of Parking and Service areas

Council's Engineers advise the design of parking areas must comply with AS2890 Parking Facilities and the internal driveway and car parking area (including turning movements) for the development appear adequate for the development and comply with DCP 2014 requirements and AS 2890.1 Parking Facilities – Off Street Parking & AS 2890.6 Parking Facilities – Off-street parking for people with disabilities.

In relation to service vehicles it is noted that adequate facilities for service vehicles have been provided.

4.9 Design of Driveways

Council's Traffic Engineer has advised signage shall be provided to indicate entry and exit only for the Lake Side site. Conditions of consent are recommended.

The access and egress of the Lake Side site is considered adequate and the access to the Triangular site of 12.5 metres is adequate.

4.10 Motor Bike Parking and Bicycle Storage

Adequate space is available on site for motor bike and bicycle storage

4.11 Car Parking Rates

While the DCP 2014 has various parking requirements for tourist type accommodation, sporting facilities and places of worship, the use has been defined as a Community Facility, which is identified as requiring 5 spaces + 1 space per 40m².

Over 9,000m² of floor area is proposed (not including ovals/sporting structures/ pool/ outdoor chapel and structures on Triangle and 100 Acre Wood sites.) This floor area would require in excess of 230 car parking spaces.

The development provides 70 spaces; 58 on the Lake Site and 12 at the Triangle site, with an additional six at the staff dwellings located fronting Manowie Street. The proposal also includes three bus parking bays.

The traffic report lodged by the applicant identifies the staff numbers will increase from 14 to 36, including kitchen staff, grounds and maintenance staff and office administration.

In terms of operations, the traffic report identified the following:

Summit camps during school terms – 105 per year

Holiday camps – 36 per year

Weekend Groups – 60 per year

In terms of deliveries, it is expected up to 45 deliveries will be made to the site every week.

Based on these figures, with site staff driving themselves, summit and holiday camp attendees arriving via bus and weekend groups arriving in family vehicles the projected peak on-site parking demand is 50 vehicles.

Council's Traffic Engineer has noted the proposal does not relate to parking provisions under DCP2014 and the proposed parking provision is in excess of the projected parking rate provided.

On the basis the vast majority of visitors to the site will be transported to the site via bus and the provision of adequate bus parking facilities, no objection to the proposed number of parking spaces is raised.

4.12 Non-Discriminatory Access

Council's Aging and Disability Planner supports the recommendations of the access report lodged with the application.

The access report recommends preparation of a Management Plan to address accessibility. Additionally, details of how access to the pool gate for wheelchair users will be managed must be included in the plan.

Access between buildings is provided as far as practicable given the topography of the site. Access to the pool has been addressed by way of a sling style lift.

Provision has been made for wheelchair spaces in the outdoor chapel area. Standard seating should be incorporated in this area to promote inclusiveness.

A proposed condition will require compliance with the recommendations of the access report and additional requirements as noted above

4.13 Safety and Security

Crime Prevention Through Environmental Design (CPTED) is based upon the principle of designing out crime by making the chances of being caught in the act of crime, outweigh the benefits of the criminal activity. Council's CPTED officer advised:

The CPTED Statement prepared by Ethos Urban (August 2017) for the proposal identifies and addresses areas of crime risk associated with the development. The report identifies a number of strategies to mitigate risk and to ensure that the proposal is designed / constructed in accordance with CPTED principles. I concur with the measures identified in the report (Section 8.0 CPTED – Recommendations pp 20-21) regarding surveillance, access control, territorial reinforcement, activity and space management, building design, lighting, access, car parking, fencing, landscaping and recommend they be included as conditions of consent.

Given the complexity and scale of the proposed development I also recommend that formal lighting design to be prepared by a suitably qualified professional be a condition of consent. In addition, I recommend that a condition of consent is that graffiti is removed within 24 hours of its appearance and that broken or damaged lighting is repaired within 48 hours.

A condition is proposed relating to crime prevention and compliance with the recommendations of the CPTED lodged.

4.14 Cut and Fill

Council's Development Engineer has noted the development does not appear to include any significant cut or filling as the development is utilising pier construction.

Given neighbouring properties will not be affected by the minor cut and fill proposed, the proposal is not opposed in relation to this matter.

Part 3 – Development in Residential Zones – Section 5 Operational Requirements

5 Operational Requirements

5.1 Demolition and Construction Waste Management

Based on the additional information lodged, Council's Waste Officer raised no additional concerns. A Demolition and Construction Waste Management Plan is conditioned in the draft conditions.

5.2 Waste Management

Council's Waste Officer raised no concerns with the amended proposal.

5.3 On-site Sewage Management

The sites will be required to be connected to the Hunter Water. (The Triangle and 100 Acre Wood site are presently not connected.)

5.4 Liquid Trade Waste and Chemical Storage

A new pool is proposed. Council's Environmental Management officers have noted the swimming pool will be used by patrons who do not permanently reside on the property and therefore deemed to be a public pool. The applicant will be required to complete a Notification form after the pool's installation, so that the pool is registered with Council for annual inspections by Council's Environmental Management section. A copy of the notification form has been provided to the applicant.

Standard conditions regarding pools are proposed.

5.5 Erosion and Sediment Control

Council's Erosion and Sediment Control Officer has noted the revised SWMP prepared by Northrop Consulting Engineers Pty Ltd satisfactorily addressed requirements of DCP 2014.

5.6 Air Quality

The development will not have an adverse impact on air quality. Standard conditions in relation to the fitout of the food preparation area will be imposed.

5.7 Noise and Vibration

The issue of noise is discussed earlier in this report. Standard conditions in relation to noise and vibration generated by construction activities have been recommended in the draft conditions.

Part 7 Development in Environment Protection Zones – Section 2 Context & Setting

2.1 Site Analysis

The development has considered and addressed all relevant constraints of the site within the plans and supporting documentation.

2.2 – Scenic Values

The application has been assessed by Council's Landscape Architect who raised no issues in terms of impacts on local scenic values. The sites are separated from residential areas and will retain significant areas of vegetation to protect existing scenic values. When viewed from the Lake the development will not have an unsatisfactory visual impact.

2.3 Geotechnical

See comments in relation to Part 3 above.

2.4 Mine Subsidence

Subsidence Advisory NSW provided General Terms of Approval on 7 August 2017.

2.5 Contaminated Land

The sites have historically not be used by any use they would raise concerns under SEPP 55. Reports submitted with the application and reviewed by Council's Environmental Health Officers state there is no evidence of significant (illegal) refuse dumping on the 100 Acre Woods site.

2.6 Acid Sulfate Soils

See comments in relation to Part 3 above.

2.7 Stormwater Management

See comments in relation to Part 3 above.

2.8 Catchment Flood Management

Not Applicable.

2.9 Lake Flooding & Tidal Inundation

See comments in relation to Part 3 above.

2.10 Natural Water System

The development of a permanent path to the proposed camp site will pass over one of the ephemeral waterways located on the site. As this waterway is identified in Council's GIS system as a waterway an integrated referral to NSW Primary Industries – Water was made. No response was received from them. Council has sent a reminder letter, to which no response has been received. Given the statutory period under the *EP&A Act 1979* and Regulations has lapsed, the JRPP are in a position to determine the application without the referral response.



Figure 17: Location of Creek / Identified waterways on 100 Acre Wood site.

Comments from Council's Sustainability Unit have also been considered. The application has been assessed for compliance with LEP 2014, DCP 2014 and Council's Protection of Watercourses and Drainage Channels Policy in relation to the potential impacts of the development on natural water systems.

There are no watercourses present on the Lake Site or the Triangle Site. There are a number of watercourses present on the 100 Acre Wood Site, ranging from 1st, 2nd

and 3rd order watercourses as classified under the Strahler System of classifying watercourses. In accordance with Council's DCP 1 Part 7: Development in Environmental Zones Section 2.10 development should be avoided within the designated Vegetated Riparian Zone widths outlined in Figure 1 (of the DCP).

The Overall Site Plan for the 100 Acre Wood Site demonstrates no major development is proposed within the Vegetated Riparian Zones of each of the watercourses located on site. It is anticipated potential impacts on water quality, aquatic habitat and riparian vegetation will be negligible.

No objections to the proposal are raised by the Sustainability Department.

Council's Development Engineers have also noted the development is located within the vicinity of Lake Macquarie. The proposed development has provided a stormwater management strategy that should mean that there is little impact to the Lake or other receiving waters.

2.11 - Bushfire Risk

The application has been considered by NSW Rural Fire Service, as integrated development. GTAs as conditions of approval have been included in the draft consent.

2.12 – 2.18

The sections have been considered earlier in this report in Part 3 above.

Part 7 – Development in Environmental Protection Zones – Section 3 Development Design

3.1 Street Setback

The development in the E2 zones does not address any streets in the traditional sense.

3.2 Side and Rear Setback

The development is setback more than the required distance from side and rear boundaries desired in environmental zones.

3.3 Building Bulk

See comments in relation to Part 3 above.

3.4 Solar Access & Orientation

The development will not have adverse impacts either within the site or on adjoining land.

3.5 Energy Efficiency & Generation

The development will need to comply with Part J of the BCA.

3.6 Landscape Design

See comments in relation to Part 3 above.

3.7 Landscaping and Tree Planting in Car Parks

Car parking is not proposed on land zoned E2. There is sufficient planting around the car parks to provide shade and reduce heat loading.

3.8 Fencing

Existing boundary fencing will be retained around the 100 Acre Wood site.

3.9 Traffic & Transport

See comments in relation to Part 3.

3.10 Design of Parking & Service Areas

There are no parking areas within the E2 zone.

3.11 – 3.14

These matters have been considered in Part 3 above.

Part 7 – Development in Environmental Protection Zones – Section 4 Operational Requirements

These matters have been considered in Part 3 above. It is noted the development will be connected to the reticulated sewer.

Part 9 Specific Land Uses

As the development is defined as a Community Facility, consideration of clauses 9.7 Foreshore and Waterway Development, 9.11 Multi Dwelling Housing (three staff dwellings to Manowie Street), and 9.18 Tourist and Visitor Accommodation have not been considered in this report.

However, it is noted that this proposal would satisfy the intent of the controls, after considering Part 3 and Part 7 of DCP 2014.

79C(1)(a)(iiia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into

There is no planning agreement that has been entered into under section 93F, and no draft planning agreement that a developer has offered to enter into under section 93F of the Act that relates to this development.

79C(1)(a)(iv) any matters prescribed by the regulations

The Regulation 2000 provides:

(1) *For the purposes of section 79C (1)(a)(iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:*

(a) *in the case of a development application for the carrying out of development:*

(i) *in a local government area referred to in the Table to this clause,*
and

(ii) *on land to which the Government Coastal Policy applies,*

the provisions of that Policy,

Planning Comment: The Government Coastal Policy does not apply to this site.

- (b) *in the case of a development application for the demolition of a building, the provisions of AS 2601.*

Planning Comment: The development includes demolition of the existing buildings. Council's standard condition in relation to demolition is proposed.

Section 79C(1)(a)(v) - Coastal Zone Management Plans

Section 79C(v) requires consideration of any coastal zone management plan. Council has given consideration to Lake Macquarie Coastal Zone Management Plan (CZMP) as part of its assessment. The Plan contains a four year action plan, and identified coastal, estuary and Swansea Channel Area, and states its aim as being to deliver the objectives of the Lake Macquarie Community Strategic Plan.

It is noted that the site is located within the Estuary Area (Part B of the Management Plan). The proposed development will provide appropriate measures for stormwater management and is not located within areas subject to flooding/sea level rise, complying with the relevant controls in DCP 2014 in this regard, and is not likely to have any impact on the coastal zone or processes and does not raise any concern with regard the aims and objectives of the Coastal Zone Management Plan.

79C(1)(b) the likely impacts of the development

The following matters were considered and, where applicable, have been addressed elsewhere in this report.

Context & Setting	Waste
Access, transport & traffic	Energy
Public domain	Noise & vibration
Utilities	Natural hazards
Heritage	Technological hazards
Other land resources	Safety, security & crime prevention
Water	Social impact on the locality
Soils	Economic impact on the locality
Air & microclimate	Site design & internal design
Flora & fauna	Construction

79C(1)(c) the suitability of the site for development

Does the proposal fit the locality?

The proposal has been designed and can be managed to limit impacts on neighbouring sites and reduce amenity impacts to surrounding residential developments.

Are the site attributes conducive to development?

The site attributes are conducive to development of this nature subject to conditions of consent.

79C(1)(d) any submissions made in accordance with this Act or the Regulations?

Public submissions:

One submission was received during the notification period, raising three general issues with the proposal. The matters raised in the submission are summarised below.

Fencing of common boundaries

Planning Comment:

The submission has requested the construction of a boundary fence (no details of desired materials/ height). The landscape plans show a 2.1m high palisade fence along the boundary between these neighbours. This will provide sufficient security between these sites.

Drainage of the Triangle Block

Planning Comment:

This has been considered by Council's Development Engineer who has raised no objection to the proposal in relation to stormwater drainage.

Noise from increased number of students on site.

Planning Comment:

It is noted the number of students at the site will more than double. 120 visitors will also traverse from the triangle block to the camp site on the 100 acres wood site, which will generate noise on sites that are presently generally unused, (apart from illegal motor bike use). Council's Environmental Health Officer has considered acoustic issues and raised no objection to the proposal, subject to the imposition of a number of conditions, included in the draft consent.

The submission has been considered and assessed against the relevant Council's controls and it is concluded satisfactory amenity outcomes have been achieved and/or conditions of consent can be imposed to provide an appropriate outcome that respects the subject and surrounding land, whilst providing a land use that is permissible and provides a public benefit.

Submissions from public authorities:

Submissions were received from OEH, RFS and Subsidence Advisory NSW as integrated referral submissions, details of which are provided below.

RMS commented on the application, details of these submissions have been provided throughout this report.

No other submissions from public authorities were received.

79C(1)(e) the public interest

It is considered the public interest issues have been adequately considered. The proposed development is considered to be in the greater public interest.

INTEGRATED DEVELOPMENT

The application is integrated development in accordance with clause 91 of the Act, for the purpose of:

- Section 91 of the Water Management Act 2000;
- Section 100B of the Rural Fires Act 1997;
- Section 90 of the National Parks and Wildlife Act 1974; and
- Section 15 of the Mine Subsidence Compensation Act 1961.

The general terms of approval as nominated below are included in the proposed conditions of any consent granted for the development.

Water Management Act 2000

No comments have been received from the NSW Office of Water within the designated time period. As such, no GTAs are included in the draft conditions.

RFS Act 1997

The NSW Rural Fire Service provided comments on 16 January 2017. A copy of their GTAs can be found at Attachment 4.

National Parks and Wildlife Services Act 1974

The NP&WS General Terms of Approval were received on 18 October 2017. A copy of their GTAs can be found at Attachment 5.

Mine Subsidence Compensation Act 1961

The Mine Subsidence Board General Terms of Approval were received on 7 August 2017. A copy of their GTAs can be found at Attachment 6.

CONCLUSION

Based on the above assessment it is concluded the construction and operation of the revitalised Community Facility, will result in an appropriate development with no unreasonable environmental impacts.

Acknowledging there is a public submission in response to the proposal, of which detailed consideration has determined appropriate conditions to be imposed to ameliorate any unreasonable impact to residents.

Approval of the development, subject to conditions of consent, is considered to be in the broader public interest and meet the objectives of the Act, which will provide benefit to the residents of Lake Macquarie, the Hunter and the broader NSW community.

RECOMMENDATION

It is recommended the application be approved, subject to conditions contained in Attachment 2 to this report.

ENDORSEMENT

The staff responsible for the preparation of the report, recommendation or advice to any person with delegated authority to deal with the application has no pecuniary interest to disclose in respect of the application.

The staff responsible authorised to assess and review the application have no pecuniary interest to disclose in respect of the application. The report is enclosed and the recommendation therein adopted.

Andrew Leese
Senior Development Planner
Lake Macquarie City Council

I have reviewed this report and concur with the recommendation.

Elizabeth Lambert
Chief Development Planner
Development Assessment and Compliance

Attachment 1: Clause 4.6 Exception

Attachment 2: Proposed Conditions of Consent

Attachment 3: Plans of Development

Attachment 4: RFS GTAs

Attachment 5: OEH GTAs

Attachment 6: Subsidence GTAs