

DATE OF DETERMINATION	8 February 2018
PANEL MEMBERS	Jason Perica (Chair), Cr. John Gilbert, Michael Leavey, Sandra Hutton,
APOLOGIES	Kara Krason
DECLARATIONS OF INTEREST	Lake Macquarie Council, 126-133 Main St, Speers Point

Public meeting held at Lake Macquarie Council, 126-133 Main St, Speers Point on 8 February 2018, opened at 4:00 pm and closed at 4.55 pm.

MATTER DETERMINED

2017HCC001 – Lake Macquarie – DA/2011/2016 at 20-40 and 77a Yarrawonga Park Road (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

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

The decision was unanimous.

REASONS FOR THE DECISION

The Panel generally agreed with the environmental assessment and balance of considerations within the Council staff assessment report. The site was suited to the proposed use, which has operated from the (main) site for over 60 years, providing an important community service for school children.

The site planning was sound, seeking to provide increased capacity and activities while mitigating overall impacts. The main impacts were tree removal and potential ecological impacts, although these had been closely considered by Council's experts, and while the resulting tree loss while high numerically (390), this was offset by tree replacement in an important corridor and was far less than may be expected if the residential portion of the site was developed for other uses permissible in the zone.

The Panel had regard to the applicant's Clause 4.6 variation request regarding the maximum height limit within Clause 4.3 of the Lake Macquarie Local Environmental Plan 2014 ('the LEP'). Given the location of buildings, the slope of the land in certain locations, the localised degree of non-compliance over a very large site, the vegetated setting, the lack of negative impacts associated with the proposed height, the scale being generally consistent with that allowed by the controls (and well below the FSR), the particular design features needed by certain communal uses, the appropriate site planning, the consistency with the zoning objectives and height objectives, and some public benefits, the Panel was satisfied regarding the proposed height. The Panel formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6 of the LEP (with height details being outlined in the assessment report) and it was considered compliance with the height limit was unnecessary and unreasonable in this case. There were no matters of Regional or State significance arising from the non-compliance(s) and the proposal was considered in the public interest.

Some additional conditions were imposed, for reasons provided with those conditions, as below.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report, as updated by memo dated 6 February 2018 ("Memo 1") with the following amendments.

- Condition 22 being amended to be the same as in the Council assessment report (not the memo of 6 February 2018), requiring the overall site to be consolidated.
Reason: The dwellings were ancillary to the community use and their subdivision did not form part of the development proposal. Matters relevant to separate lots for the dwellings had not been considered or addressed (which could be addressed by a separate appropriate application if desired).
- The insertion of the following additional Conditions:

2A Netball Retaining Wall and Landscaping

The retaining wall to the south and west of the proposed netball court shall be detailed to ensure the visual impacts on the adjoining reserve are minimised (through colour, materials, design and landscaping), with details to be approved by the Council prior to the issue of a Construction Certificate.

Reason: To ensure an acceptable visual impact on the adjoining reserve given its proximity to the boundary.

2B Driveway to 20 Yarrawonga Park Road and adjoining landscaping

The driveway and manoeuvring area to 20 Yarrawonga Park Road (the triangular site) shall be minimised noting its expected infrequent use, and to provide opportunity for landscaping to provide a visual screen to the adjoining dwelling to the south, while respecting legal rights to any easements. Details are to be approved by the Council prior to the issue of a Construction Certificate.

Reason: To ensure an acceptable visual impact on the adjoining reserve given its proximity to the boundary.

90 Septic Tank Decommissioning





The Septic tanks on the site shall be decommissioned as soon as sewer connections make them redundant (which may occur in a staged way), prior to the issue of the relevant Occupation Certificate and not later than the issue of the final Occupation Certificate which allows the full student occupation of the site.

Reason: To ensure there is a requirement for the intended septic decommissioning, to realise the associated environmental benefit

91 Water Management Act 2000

The applicant shall obtain any relevant and required approval under the Water Management Act 2000.

Reason: To meet statutory responsibilities.

PANEL MEMBERS	
 Jason Perica (Chair)	 Cr. John Gilbert
 Sandra Hutton	 Michael Leavey

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017HCC001 – Lake Macquarie – DA/2011/2016
2	PROPOSED DEVELOPMENT	Community Facility
3	STREET ADDRESS	Yarrawonga Park Road, Balcolyn
4	APPLICANT/OWNER	Matthew Seidl – Director of Properties, The Crusader Union of Australia / The Crusader Union of Australia
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No 19 – Bushland in Urban Areas State Environmental Planning Policy No 44 – Koala Habitat Protection State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy No 71 – Coastal Protection Lake Macquarie Local Environment Plan 2014 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Lake Macquarie Development Control Plan 2014 Provisions of the <i>Environmental Planning and Assessment Act 1979 and Regulation 2000</i> The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council memo 1, 2 and 3 dated 6 February 2018 relating to updated conditions and matters of clarification Council assessment report: recieved 26 January 2018, dated 85 December 2017 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – Nil Object – Nil On behalf of the applicant – Garry Hill, Matthew Seidl, Michael Rowe, Bill Lovelock and Mark Glendenning
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing meeting 23 November 2017 Site inspection 8 February 2018 Final briefing meeting to discuss council's recommendation, 8 February 2018 at 3:30 pm. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Jason Perica (Chair), Michael Leavey, Sandra Hutton, Cr. John Gilbert <u>Council assessment staff</u>: : Andrew Leese
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report