

RECORD OF DEFERRAL

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Thursday 6 December 2018
PANEL MEMBERS	Michael Leavey (Chair), Kara Krason, Clare Brown, Scott Anson & Cr Jason Pauling
APOLOGIES	Jason Perica & Justin Hamilton
DECLARATIONS OF INTEREST	None

Public meeting held at Lake Macquarie City Council on 6 December 2018, opened at 4:00pm and closed at 7.45pm.

MATTER DEFERRED

2017HCC030 – Lake Macquarie City Council – DA/1556/2017 at 282 Rhondda Road, WAKEFIELD (Lot 101 DP 1073163) 284 Rhondda Road, WAKEFIELD (Lot 76 DP 755262), 286 Rhondda Road, WAKEFIELD (Lot 75 DP 755262), 236 Rhondda Road, WAKEFIELD (Lot 1 DP 963356), 288 Rhondda Road, WAKEFIELD (Lot B DP 339863), 102 Miller Road, WAKEFIELD (Lot 391 DP 1064199) (as described in Schedule 1)

PANEL CONSIDERATION AND DEFERRAL

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

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






The Panel sees the merits of the proposal but has some concerns in relation to permissibility and the ability for it to operate in a manner that does not result in adverse impacts on the amenity of surrounding areas. Before the Panel can make a final determination there are some legal and operational requirements which need to be made clearer and more certain, including ability to satisfy the requirements of clause 5.10 of the LEP and specific details of the noise management and operational arrangements, in order to be satisfied there will be no significant adverse effect on the amenity of the surrounding area, as is a relevant consideration under both section 4.15 of the Environmental Planning and Assessment Act 1979 and clause 5.10(10) of Lake Macquarie LEP 2014.

The Panel determined to defer consideration of the development application, and to request:

1. the Council to:
 - (a) obtain legal advice on the requirements and timing of clause 5.10(10)(b) of Lake Macquarie LEP 2014 in relation to approval of a heritage management document by the consent authority and whether the Panel has the power to approve such a document;
 - (b) confirm with Roads and Maritime Services (RMS) whether a formal submission is required from RMS under clause 104 of the Infrastructure SEPP 2017, having regard to the total number of car parking spaces proposed; and
 - (c) review any application of future rail or freight corridors to the subject land.
2. the applicant to prepare and submit to Council:
 - (a) a final Noise Management Plan and final Operational Management Plan consistent with the requirements set out in Schedule 2;
 - (b) a revised Conservation Management Plan (CMP) which separates the impact assessment from the CMP and the related conservation framework and schedule of work and commitments, in order to address the requirements of clause 5.10(10) of Lake Macquarie LEP 2014; and

- (c) further information and documentation on the maximum potential use of the development in terms of patron/ visitor numbers and vehicle trips, and including concurrent use of different facilities.
3. that:
- (a) Council re-exhibit any additional information provided for the application prior to reporting to a Panel Meeting; and
 - (b) any future report to the Panel review the recommended conditions, including but not limited to references to interim occupation certificates which are no longer available, hours of operation (to apply for the whole year, and for all relevant activities) and any changes required as a result of the revised Conservation Management Plan, the Noise Management Plan or Operational Management Plan.

The decision to defer was unanimous.

PANEL MEMBERS	
 Michael Leavey (Chair)	 Kara Krason
 Clare Brown	 Scott Anson
 Cr Jason Pauling	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017HCC030 – Lake Macquarie City Council – DA/1556/2017
2	PROPOSED DEVELOPMENT	Recreation Facility (Outdoor)
3	STREET ADDRESS	282 Rhondda Road, WAKEFIELD (Lot 101 DP 1073163) 284 Rhondda Road, WAKEFIELD (Lot 76 DP 755262) 286 Rhondda Road, WAKEFIELD (Lot 75 DP 755262) 236 Rhondda Road, WAKEFIELD (Lot 1 DP 963356) 288 Rhondda Road, WAKEFIELD (Lot B DP 339863) 102 Miller Road, WAKEFIELD (Lot 391 DP 1064199)
4	APPLICANT/OWNER	Applicant: Elemenop Pty Ltd Owner: Mount Thorley Operations Pty Ltd (Owner's consent)
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million (DA lodged prior to 1 March 2018)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Lake Macquarie Local Environmental Plan 2014 State Environmental Planning Policy 33 – Hazardous and Offensive Development State Environmental Planning Policy 44 – Koala Habitat Protection State Environmental Planning Policy 55 – Remediation of Land State Environmental Planning Policy 64 – Advertising and Signage State Environmental Planning Policy 71 – Coastal Protection State environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 Draft environmental planning instrument: Nil Development control plan: Lake Macquarie DCP 2014 Planning agreements Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> Coastal zone management plan 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 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 assessment report: 22 November 2018 Written submissions during public exhibition: 99 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – Peter Francis Object – Peter Coughlan, Anna Cusack, Margaret Gibbs, Maclean Greedy, Warren Donnelly, Christine Hocking, Karen Miller, Simon Miller, Rod Donnelly, Peter Quist, Tim Cusack, Tony Melrose, Wayne Aurisch, Margaret Walmsley, Dane Mate. On behalf of the applicant – Tony Palmer (Elemenop Pty Ltd), Stephen Barr (Planning Consultant), Greg Collins (Acoustic Consultant)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection and briefing Thursday 6 December 2018 Final briefing to discuss council's recommendation, Thursday 6 December 2018, 3:15pm. Attendees: <ul style="list-style-type: none"> Panel members: Michael Leavey (Chair), Kara Krasen, Clare Brown, Scott Anson, Cr Jason Pauling

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Fiona Stewart, Elizabeth Lambert
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

SCHEDULE 2

Noise Management Plan

The plan shall detail noise management, mitigation and minimisation measures and strategies for the operation of the noise generating activities on site, specifically track activities, in accordance with the Acoustic Assessment Report (RAPT Consulting), in order to ensure that compliance is achieved for all operating scenarios.

The plan shall include, but not be limited to, the following:

- Detail of the composition of vehicles and noise levels for various activities on the track;
- Procedures for on-site testing regime for vehicles prior to participation in track activities and “muffling” of vehicles proposed. This should include details of procedure calibration to specific site conditions and rely on total track sound power rather than individual sound powers of individual cars.
- The applicable cumulative sound power shall be calculated in order to meet the operational noise criteria under weather conditions present at the time (would require provision of a site-based weather station) or alternatively, parameters shall be determined based on noise enhancing conditions.
- Ongoing noise monitoring (attended and unattended), to monitor and also inform calibration of the noise management system.
- Complaints handling procedures.
- Record keeping of vehicle tests.
- Details of hours of operation for noise generating activities on site

Operational Management Plan

The plan shall detail operation of the various components of the development, including track activities and be utilised as an ongoing operational plan for the use. The plan shall include, but not be limited to, the following:

- Detail of the use of the various facilities on site;
- Detail operational procedures for activities on site, including various track activity scenarios;
- Set out hours of operation of the track, skid-pan and function centre, in accordance with those specified in the determination.
- Set out parameters for use of the go-cart track and 4WD trails.
- Detail the frequency and capacity of activities on site and management procedures.
- Log of daily activities and events on site.
- Detail of a complaints management and handling procedure, to include a register of complaints in regards to operation of the facility, particularly regarding noise and air quality (emissions, pollution). The register to include, complainant details, nature of complaint and actions to rectify the issue. The register shall be retained on site and presented to Council compliance officer (or other appropriate regulatory authorities) upon request. The processes should be in accordance with the current Australian Standards for complaints management and handling.
- Detail access arrangements for users of the site and traffic management procedures for particular activities.
- Security Management details in accordance with recommendations of the Crime Risk Assessment Report (Barr Property & Planning, July 2017).
- Regular reporting (minimum 6 monthly) to Council on compliance with the Noise Management Plan and any complaints received.
- Opportunities for ongoing liaison with the Wakefield community.