

## Attachment H: Summary of Submissions

### Recreation Facility – Outdoor – BlackRock Motor Park - DA/1556/2017

The following table provides an overview of the main issues raised in response to the notification of the additional information resulting from the deferral resolution of the regional planning panel meeting of 6 December 2018. Issues have been summarised into the main issues and grouped into the table. To provide further detail common themes have been listed within each grouping.

#### Submissions Against

Issue	Comment
<b>Noise</b>  The noise monitoring has been skewed to suit the developer who obviously knows he cannot get the noise levels below 43dB so the magic number for rural properties had to be found at 38dB.  The noise modelling was based on cars travelling at 130km/h however the application refers to unlimited speeds.  The acoustic reports average exposure over hourly periods without due consideration to the repetitive oscillation, as vehicles approach, reach their peak noise level and exit any point on the track.  Village of Wakefield is a natural sound amphitheatre with the northern ridge and Watagan Mountains to the west, which cause noise to reflect and amplify.  The number of vehicles for each activity in each session and operational scenario should be determined by the acoustic restrictions in accordance with the Noise Management Plan.  To achieve sound emissions, he will need to reduce car	  Noise Impact Assessments (RAPT Consulting, July 2018 and October 2018), have been submitted for the proposed development and report on assessment of potential acoustic impacts from the use of the motor track circuit.  The reporting demonstrates that noise generated from activities on the track are able to achieve compliance with the Noise Policy for Industry 2017 (NPI) operational noise criteria, on the basis a cumulative sound power level of the track operating at one time stays within acceptable limits. Noise measurements were carried out in accordance with the procedures set out in the Noise Policy for Industry for determining existing background noise levels and subsequent operational noise criteria for the specific development in the specific location.  The NPI provides noise impact assessment guidelines for both intrusive and amenity criteria, designed to protect receivers from noise significantly louder than the background level and to limit the total noise level from all sources to a receiver. In the acoustic assessment, the rating background level LA90 (period) for NL2 (with nearest residential receptors considered rural) is identified to be 38 dB(A) from the results of noise monitoring carried out by the Acoustic Consultant. The acoustic data from the

<p>numbers dramatically also reducing profits.</p> <p>Inappropriate use of industry noise policy when it specifically excludes motor sport facilities.</p> <p>Application should be assessed against offensive noise guidelines.</p> <p>Measuring noise generation of cars on a rolling road is irrelevant to actual sound production and carry to neighbours as it does not account for screeching tyres or squealing brakes, only engine noise.</p> <p>The noise assessment by acoustic consultants is misleading and lacking in appropriate assessment. It is wrong to focus on mid-frequencies as low frequency noise effectively carries further and has greater impact on the receiver.</p> <p>The noise modelling is based on the original shorter track design, with the extended new track at 5.58km and shifted in various areas the track will be closer to the receiver.</p> <p>The 43 L Aeq (15min) is an average of the sound power levels produced over a 15 minute period. The highs and lows are not identified. The highest sound power level dB(A) reached over that 15 minute period needs to be known so the full extent of noise exposure to receivers is known.</p> <p>Annoying noise characteristics such as tonality, intermittency, irregularity or dominant low frequency content have not been taken into account in acoustic assessment.</p> <p>High performance and racing coaching on the track has not been addressed in the Noise Management Plan.</p> <p>Residents who follow rural pursuits, where they are outside</p>	<p>modelling relates to vehicles travelling around the track averaging 130km/h (not 130km top speed) and therefore allowing for speeds at various parts of the track exceeding 130km/h.</p> <p>Numbers of vehicles on the track for each activity will be limited (and would vary by activity and types of vehicles participating), in order for the facility operation to be carried out in accordance with the identified operational noise criteria, as set out in the Noise Management Plan for the development.</p> <p>Further review of the appropriateness of the NPI for assessment of the development has been undertaken in response to submitters concerns, which is discussed in the Council Supplementary Report under "Acoustic further review". The NPI states that the policy does not apply to "noise from sporting facilities, including motor sport facilities". Although there is no definition for Motor Sport Facility under the NPI, definitions under other legislation indicate that a motor sport involves competition between drivers involved in racing activities, with the premises generally approved or recognised by a motor sport organisation. Additionally, similar to other "sports", motor sport generally comprises an activity where spectators would watch the "competition" taking place.</p> <p>As discussed in the original Council Assessment Report, the development as proposed is classified as a Recreation Facility (outdoor) as it does not propose motor racing as a large scale spectator sport attended by large numbers of people, as would be the case with a "motor sport". The Operational Management Plan for the development specifies that the facility will <u>not</u> be utilised as a motorsport "racetrack" for organised competitive motor racing or spectator events or championships.</p> <p>The NPI is considered to be the most appropriate policy to use for assessment, having regard to the type of development proposed.</p> <p>The primary noise source from track (and track related) activities being</p>
--	--

<p>during daylight hours, will be exposed to noise from the facility, including activities on track, skid pan, crowd noise and noise from 24hr accommodation.</p> <p>Noise concerns with guests at facility drinking alcohol into the late hours of the night and partying with 24 hour operation of accommodation</p> <p>The DA fails the requirements under clause 5.10(10) as it must not “have any significant adverse effect on the amenity of the surrounding area”.</p> <p>There are references in documentation to building requirements for accommodation on site to comply with noise standards. There is no consideration in this regard to noise impacts on closest residences or how BlackRock would assist people to get their property up to the relevant standards.</p> <p>Compensation is required for residents from unbearable noise impacts.</p> <p>Suggest condition of consent to include a clear process for voluntary acquisition as noted in the NPfI being applicable to rural areas.</p> <p>A 1m high sound barrier is still referenced in the diagram of the site in the Conservation Management Plan (CMP). It is not clear if this sound barrier is to be included or not.</p> <p>Under the Operational Management Plan the Venue Activity Log will be submitted to Council every six months. The community should not have to wait (possibly 180 days) to find out that the development has exceeded operational noise</p>	<p>vehicle engine noise would be measured (by utilisation of the rolling road) for each vehicle participating in each activity. Additional noise from such things as use of the skid pan and screeching tyres etc would be included in the readings at the ongoing noise monitoring locations (ie. Included in the cumulative sound power level), however, would be more intermittent and may be less than and will not increase the overall sound power level.</p> <p>The RAPT Consulting report (July 2018) is in reference to the amended proposal (increased track length and amended track layout). Although RAPT Consulting relied upon noise monitoring of the ambient noise environment carried out by VIPAC from 24 July 2017 to 29 July 2017, their assessment includes 3 modelled operational scenarios of the “current track design” using Modelled Receiver Locations as shown in Figure 3 of the report. The modelled scenarios in the RAPT (July 2018) report are identified as being “worst case” where the vehicles being modelled were operating at their specified sound power level simultaneously for an entire 15-minute period.</p> <p>Although the potential for either low frequency or tonal noise has not been included in acoustic reporting, based on the testing results in the two consultant’s reports from various performance vehicles, the low frequency (10-160 hertz) range is not the dominant frequency for the majority of vehicles tested with no specific dominant tonal component across the range of vehicles. Therefore, given the diverse range of vehicles, various speeds around the track at differing times, rev changes, and the differing frequency spectrums, tonal or dominant low frequency noise may be hard to distinguish.</p> <p>High performance and racing coaching on the track is one of the operating scenarios listed within the schedule of the Operational Management Plan as part of track day activities, and is included as part of track usage in part 3 of the Noise Management Plan, and will also be monitored as part of the outlined processes and procedures.</p>
---	--

criteria for that length of time.

When neighbourhood sounds intrude on a persons lifestyle the usual response is to contact the EPA not the facility making the noise. It is unacceptable to expect reporting to be to the facility making the unacceptable noise.

The Noise Impact Assessment (RAPT, October 2018) which assessed potential acoustic impacts from track activities also identifies that additional noise modelling was undertaken for the use of the skid pan, the function centre (including live music taking place indoors and 200 persons conversing outside), the 4-wheel driving course and the public address system. The additional activities were modelled in combination with the 1 car maximum sound power level scenario and it was concluded that operational compliance could be expected with all the modelled additional items operating simultaneously with the track circuit operation.

The facility is not designed for crowds of spectators to watch activities. It is identified in the documentation that it is most likely that a participant in an activity would be accompanied by one other person. Accommodation on site being identified as 24hr operation is intrinsic to the use of the accommodation buildings, where guests would remain on site "overnight" with a portion of the night time period having a notably reduced operation (although staff working) whilst guests are sleeping.

Assessment of the development application has given thorough consideration to the proposals compliance with the preconditions of the Conservation Incentives clause 5.10(10) under LMLEP 2014. The potential acoustic impacts (to be managed in accordance with the OPM and NMP) are not considered to result in significant adverse effect on the amenity of the surrounding area, such that the clause cannot be satisfied and subsequently consent granted.

Potential acoustic impacts to the accommodation buildings on site have been assessed in accordance with the NSW Road Noise Policy which specifies that developments meet internal noise goals (LAeq levels with windows closed) under State Environmental Planning Policy (Infrastructure) 2007 for sensitive developments near busy roads (not exceed 35 dB(A) at any time between 10pm and 7am and anywhere else in the accommodation 40 dB(A) at any time. Construction comprising

	<p>generally conventional material options are recommended for accommodation on site. It is noted that the accommodation buildings on site are located approximately 25-100m from the track circuit, with the closest existing dwelling outside of the site being over 650m in a direct line from the track.</p> <p>With operation of the facility in accordance with the requirements of the Operational Management Plan and the Noise Management Plan, in compliance with the identified project specific noise criteria, significant acoustic impacts would not result.</p> <p>As identified in the Noise Impact Assessment (RAPT, October 2018), the 1m high acoustic barrier illustrated on the plans is an additional passive acoustic management solution that works in conjunction with a comprehensive active management solution (managing noise of vehicles at the source) which is the preferred option in the hierarchy of noise control. When undertaking modelling, the barrier was implemented as it was required for safety, although is not a mitigation measure considered to have the greatest impact on noise management. In response to queries raised in this regard, a modelling scenario was run with no barrier, a 1m high barrier and a 2m high barrier for comparison. The results of the modelling illustrate that a track barrier has negligible effect on attenuation, with noise compliance for the development to be achieved by actively managing the total sound level output through multiple mechanisms as detailed in the Noise Management Plan.</p> <p>A final Noise Management Plan has been submitted for the development (and referenced in the recommended conditions of consent) which includes operational measures for noise management to comply with criteria, including measures such as sound testing procedures for vehicles prior to participating in activities on the track; a noise monitoring network and program, and record keeping of vehicle tests.</p> <p>The Operational Management Plan includes processes and procedures</p>
--	--

	<p>for complaints management and reporting and compliance. The OMP sets out that the Venue Activity Log will be submitted to Council for six-monthly review. However, the data from the real-time noise monitoring and attended noise monitoring will be sent directly to the track manager who will be immediately notified of any sound power level exceedance to tack action to rectify the issue.</p> <p>The OMP outlines a complaints register and a dedicated resource for the investigation and resolution of complaints arising from the daily operations of the facility, with direct contact details to be available on the BlackRock website. Members of the public can utilise this most direct point of contact for complaint or could also contact other authorities in regards to operation of the facility as they see fit and in order to seek resolution.</p>
<p><b>Traffic</b></p> <p>Large increases in traffic and noise on Wakefield Road will impinge on quality of life for residents</p> <p>More accidents and deaths on Wakefield Road resulting from increased traffic.</p> <p>Capability of local roads to accommodate additional traffic.</p>	<p>A Traffic Impact Assessment prepared by SECA Solution, dated August 2017 was submitted with the application. The report concludes existing intersections and the local road network in proximity of the site have the capacity to absorb additional traffic generated by the development.</p> <p>The application has been referred to the Roads and Maritime Services (RMS) on two occasions during assessment of the application, on 24 July 2018 and 14 December 2018. The referral dated 14 December 2018 as requested by the Regional Planning Panel, sought comment specifically regarding Clause 104 Traffic-generating development, under State Environmental Planning Policy (Infrastructure) 2007.</p> <p>The application was not originally referred to RMS, as parking was identified to be less than the “200” spaces trigger for traffic generating development and access was not proposed from an RMS road.</p> <p>Council referred the application to RMS (24 July 2018) within seven days of receipt of the amended information, determining the application was</p>

	<p>traffic generating development. RMS provided a response on 8 August 2018.</p> <p>RMS advise they have reviewed the information provided and raise no objection to, or requirements for, the development. RMS recommends Council satisfy itself that the proposal will not have a significant impact on the safety and efficiency of the classified road network in the assessment of the application.</p> <p>Additionally, Council has considered Clause 104 of State Environmental Planning Policy (Infrastructure) 2007, in particular, the accessibility of the site concerned, including:</p> <ul style="list-style-type: none"> <li>a) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and</li> <li>b) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and</li> <li>c) any potential traffic safety, road congestion or parking implications of the development.</li> </ul> <p>Council's Traffic Engineers have provided comment on three occasions during assessment of the application (including in response to the most recent advice requested from RMS), and have not raised any concerns with the proposal from a perspective of potential impact on the safety or efficiency of the road network in proximity to the site.</p> <p>Council's Traffic Engineers main considerations have been the functioning of the main access off Rhondda road for the development, where intersection upgrade works and provision of a channelised right turn lane for vehicles are proposed (details included in the Traffic Impact Statement (SECA Solutions, 23 August 2017) for the development. Requirements in regards to these works are also set out in Condition No.40 of the recommended conditions.</p>
--	---

<p><b>Flora and Fauna</b></p> <p>Development should be required to conform to zoning limitations to preserve threatened flora and fauna species as identified by environmental surveys.</p> <p>The developer should be required to set aside preservation areas for the endangered flora species on the site</p> <p>Noise impact on sleeping nocturnal animals has not been considered.</p> <p>Grazing macropods have not been considered.</p> <p>Measures are being required for the endangered species as specified by law no measures are required for all other species.</p> <p>The environmental surveys for flora and fauna were all completed in 2017 and have not been upgraded.</p>	<p>An Ecological Assessment was submitted for the original assessment, with additional reporting submitted throughout the assessment process as the proposal has been amended to address concerns regarding the extent of clearing of native vegetation.</p> <p>The report includes an ecological impact assessment and seven-part test to ascertain whether the development would constitute a significant impact on known threatened species, populations and ecological communities on site and the wider locality.</p> <p>A supplementary ecological review was also undertaken by Forest Fauna Surveys Pty Ltd, which includes a literature review on impact of acoustic noise on wildlife.</p> <p>Council's Flora and Fauna Planner has reviewed the reports and determined they have appropriately considered the impact of the development in accordance with legislation.</p> <p>The reports identify that the proposal is unlikely to have significant impact on the threatened species assessed, with track activities restricted to daylight hours.</p> <p>Clearing of the site has been reduced under the amended proposal to retain acceptable widths of mapped native vegetation corridors, with the components of the development relocated to take advantage of already cleared areas and minimise encroachment into E2 Environmental Conservation zoned areas of the site.</p> <p>An offset area (Squirrel Glider habitat) will be provided in the north-western portion of the site as required and illustrated in the documentation.</p>
<p><b>Lower Hunter Freight Corridor (LHFC)</b></p>	



<p>The current expanded plans impinge upon the potential LHFC and are not supported by Transport for NSW.</p> <p>Information has been deliberately withheld from TfNSW regarding expansion of the proposal .</p>	<p>Transport for NSW (TfNSW) is currently undertaking preliminary investigations to assess options for the Lower Hunter Freight Corridor (LHFC) rail line. The site of the proposed development is within a broad area under investigation for the LHFC between Fassifern and Hexham.</p> <p>Council referred the development application to Transport for NSW, 16 February 2018, for comment.</p> <p>A response provided by Transport for NSW, dated 12 March 2018, advised: “The <i>Draft Future Transport Strategy 2056</i> has been released to the public for comment. This strategy includes the <i>Draft Greater Newcastle Future Transport Plan</i> and the <i>Draft NSW Freight and Ports Plan 2017</i>, which forms a vision for how transport can support growth and the economy of Greater Newcastle and New South Wales over the next 40 years.”</p> <p>“The draft strategy specifies a number of initiatives in Greater Newcastle to support the efficient movement of freight, including a task for the identification and preservation of the Lower Hunter Freight Corridor (LHFC) over the next 0-10 years; and, development of the corridor in the following 10-20 years. The LHFC is a ‘high priority initiative’ in Infrastructure Australia’s – <i>Infrastructure Priority List</i>.”</p> <p>Council sought more detail regarding the LHFC and likely future location of the corridor in response to the Panel’s request, with a response from Transport for NSW, which is discussed in the body of the Supplementary Report.</p> <p>The specific alignment of the future Lower Hunter Freight Corridor (LHFC) has not been finalised, with only an Investigation Area identified on the plan.</p> <p>As recommended in the letter from TfNSW, Council advised the applicant of the content and the request to consult. As advised in the most recent</p>
--	--

	<p>response from TfNSW, dated 8 February 2019, at a meeting on 5 April 2018 advice was provided to the applicant that long-term structures and critical infrastructure associated with the development should avoid the eastern edge of the site and the future LHFC.</p> <p>The amended proposal has resulted in additional structures (accommodation and parking) and a section of the track being located along the eastern edge of the site, with the intent of the amendments to utilise existing cleared areas and reduce potential flora/fauna impacts from the development. The applicant has taken into account the advice of Transport for NSW and the current status of the investigation area, in the proposed amendment.</p> <p>It is considered the development will not compromise, restrict or otherwise prevent the future use of the land for infrastructure, having regard to the type of development proposed, the status of the investigation area (location of corridor not finalised) and anticipated timing of the LHFC initiative, with identification and preservation over the next 0-10 years and development of the corridor in the following 10-20 years.</p>
<p><b>Permissibility</b></p> <p>The development should not be considered an outdoor recreation facility instead of the original classification of major recreation facility.</p> <p>Council officers have recommended the change to the description to enable the development.</p> <p>Breach of zoning rules as motor sport facility is not permitted in areas zoned environmental conservation or rural.</p> <p>Development has a non-compliant building height.</p> <p>The development does not comply with the objectives of both</p>	<p>The development application was lodged with Council for assessment on 25 August 2017 proposing a Recreation Facility (Major) at the site, which followed from preliminary Council advice based on information available at pre-lodgement stage.</p> <p>Further assessment of the development application, once lodged, revealed the correct classification of the development type as Recreation Facility (Outdoor), based on detailed consideration of the definitions and having regard to recent Caselaw (as detailed in the original assessment report to the Panel). The applicant was advised by Council at this point that the future validity of any consent, should approval be granted, would be dependent upon the correct classification of the development being</p>

<p>the zonings.</p> <p>Short-term accommodation does not fit with the definition of a recreation facility (outdoor).</p> <p>There is potential for people to live permanently in the units.</p> <p>The development does not comply with the requirements of the Heritage Conservation Clause.</p> <p>The development must comply with Council controls regarding building height, heritage values and zoning.</p>	<p>assessed.</p> <p>Subsequently, the amended proposal was lodged with an amended description of the development of “Recreation Facility (Outdoor)”. Council is in agreement, having regard to the likely attendance numbers and nature of the facility; the applicant’s legal advice; and Council’s legal advice, that “Recreation Facility (Outdoor)” is the most appropriate land use definition of the proposed development and the application has been assessed accordingly.</p> <p>The Recreation Facility (Outdoor) is the primary land use proposed, with the tourist and visitor accommodation elements of the development considered ancillary and subservient to the recreational use of the land as proposed.</p> <p>The accommodation proposed is to be utilised directly in relation to the recreational activities on site, which is also stipulated in a recommended consent condition and would not operate independently of the primary land use. Taking into account the scope of the overall development and the ratio/sizes of buildings that are exclusively for accommodation (not car related activities), this element of the development is considered to be limited and subservient to the motor track, being the dominant use of the site.</p> <p>The site comprises three different land use zones, under LMLEP 2014, as follows:</p> <ul style="list-style-type: none"> <li>• RU2 Rural Landscape</li> <li>• SP1 Special Activities (Mine)</li> <li>• E2 Environmental Conservation</li> </ul> <p>The “Recreation Facility (Outdoor)” use is permissible with consent, pursuant to the Land Use Table under LMLEP 2014 <i>Part 2 - Permitted or prohibited development</i>, within the RU2 Rural Landscape zone.</p>
---	---

	<p>Permissibility for the “Recreation Facility (Outdoor)” use over the other lots (zoned SP1 and E2) is sought under LMLEP 2014, <i>Clause 5.10.(10) Conservation incentives</i>. The site contains two Heritage Items of local significance with the heritage affectation extending over the lots of the site that contain these items. Heritage conservation matters including the requirements of Clause 5.10 (10) are discussed in detail under the Local Environmental Plan 2014 (LMLEP) section of the reports to the RPP.</p> <p>The accommodation provided in various forms over the site has been assessed as being ancillary to the dominant use proposed of the Recreation Facility (Outdoor) as discussed in the report. A condition of consent is recommended the accommodation on site be used only in conjunction with activities on the site.</p> <p>The BlackRock Village provides “loft” level accommodation above garaging to provide for members to stay for short periods of time. The double garage at ground level provides for storage of one track vehicle and one private vehicle. A condition of consent (Condition 15) is recommended to stipulate the village structures shall only be utilised for short stay accommodation and not permanent residency or any other business or commercial use.</p> <p>Permissibility for the development is provided either through the various zones over the site and the clause 5.10 (10) Conservation Incentives of LEP 2014, as discussed in detail in the assessment report.</p> <p>Council’s legal advice states consent may be granted under the clause “for any purpose” and therefore the consideration of whether the type of development is “the right type” is not required, but rather whether the application meets the criteria indicated in (a) to (e) of the clause 5.10(10).</p> <p>Council assessment of the proposal against the requirements under clause 5.10(10) of LEP 2014 has been undertaken and the development considered to satisfy the requirements and, in accordance with the legal</p>
--	---

	<p>advice, the clause can be relied upon to grant consent.</p> <p>Under Clause 4.3 of LMLEP 2014 and the Height of Building Maps the site has a maximum height of 5.5m (over the E2 zoned land) and 8.5m (over the RU2 and SP1 zoned land).</p> <p>A number of the buildings proposed for the development exceed the maximum building heights applicable to the site, as detailed in the original assessment report. The applicant has provided a written exception to the development standard in accordance with clause 4.6, the Department of Planning's Circular and relevant caselaw.</p> <p>The height non-compliances proposed have been assessed and are considered acceptable on merit and having regard to the circumstances of the case and the justification put forward by the applicant. Compliance with the development standard is unreasonable or unnecessary for the subject buildings within the development and sufficient environmental planning grounds have been put forward to justify the contravention of the development standard in this particular case.</p>
<p><b>Heritage</b></p> <p>The development fails to comply with the requirements of the heritage protection.</p> <p>Contact has not been made with the Biraban People to conduct an onsite inspection for aboriginal artefacts and advice of any areas of Aboriginal significance.</p> <p>The Aboriginal Community have not been consulted regarding the amended plans.</p> <p>The track and other features of the site plan encroach on what is shown by an agency engaged by the developer to be an area of "Aboriginal Archaeological Sensitivity".</p>	<p>An assessment of potential impacts on both the Aboriginal and European heritage significance of the site has been undertaken.</p> <p>Sufficient documentation has been provided, in accordance Lake Macquarie Local Environmental Plan 2014 (clause 5.10) and the Lake Macquarie Aboriginal Heritage Management Strategy 2011, to undertake assessment of potential heritage impacts from the proposed development.</p> <p>A heritage management document, being the Conservation Management Plan as amended and associated Heritage Impact Statement, has been submitted for the development, which assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage items (No.167 Rhondda Colliery and No.170</p>

<p>The proposal fails Section 5.10(10) Conservation Incentive, due to Aboriginal heritage constraints on site.</p> <p>The pony stable will be considerably changed in order to provide for its new purpose, negating the heritage value of the building.</p> <p>The general public will not have access to the heritage items. The only people who will have access to the buildings will be those people who purchase a ticket to partake in site activities.</p>	<p>Rhondda Colliery Railway) concerned.</p> <p>A Due Diligence Assessment (which has now been separated from the CMP) has been submitted which considers the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the site by means of an adequate investigation and assessment.</p> <p>The due diligence assessment includes detail of an archaeological survey carried out on 16 February 2017 by the consultants to record all (or a representative sample of all) material traces of Aboriginal land use visible on the ground surface or as landscape features to assess Aboriginal archaeological sensitivity at the site.</p> <p>The archaeological survey identified an artefact distribution that included two quartz artefacts in association with the swamp to the west of an access road associated with Rhondda Colliery. Past activities on the site has left the site highly disturbed.</p> <p>The Due Diligence Assessment document also contains detail of contact by the consultants with the Aboriginal community in relation to the proposed development as part of the assessment which included notification of preparation of the Due Diligence Assessment on 19 April 2017, and notification of the assessment and proposed development on 14 July 2017, to Biraban Local Aboriginal Land Council; Awabakal Traditional Owners Aboriginal Corporation; and Awabakal Descendants Traditional Owners Aboriginal Corporation.</p> <p>These heritage documents have been prepared by appropriately qualified consultants and have taken into consideration the requirements of applicable legislation including the Environmental Planning and Assessment Act 1979; the National Parks and Wildlife Act 1974 (NPW Act) 1974; the Aboriginal Land Rights Act 1983 and the Native Title Act</p>
--	---

1993; the NSW Heritage Act 1977; and the Burra Charter.

The documents and proposed development have also been reviewed by Councils *Development Planner –Heritage Focus* and notification of the application to the local Aboriginal communities in writing for 28 days (from 17 September 2017), carried out in accordance with the requirements under LMLEP2014, which included:

- Lower Hunter Aboriginal Incorporated
- Awabakal Descendants Traditional Owners Aboriginal Corporation
- Awabakal Traditional Owners Aboriginal Corporation
- Biraban Local Aboriginal Land Council

It is not common practice (and there are no requirements under LEP2014 or LMAHMS 2011) for Council to re-refer an amended proposal back to Aboriginal community groups for further comment, during the development assessment process. This would only likely occur if the proposed development had been significantly amended in nature. The development has not been significantly amended in its nature.

It is noted the revised track layout under the amended proposal has been extended and results in a greater encroachment into an area of the site identified under the report as being an area of Aboriginal sensitivity within the south-eastern portion. There are no works proposed under the application within the other area identified as an area of Aboriginal sensitivity, adjacent to the swamp on the north-western side, where two quartz artefacts were located on inspection of the project area.

In response to the further submissions, it is reiterated that the heritage items concerned are No.167 Rhondda Colliery and No.170 Rhondda Colliery Railway), the individual buildings remaining on site being the

	<p>munitions store and pony stable building do not in themselves constitute the heritage item(s) but includes the whole former colliery site. While the existing buildings are relevant reminders of the former use of the site (above ground), the setting of the heritage item relates to the whole colliery, as it was when operational, and not the current buildings in isolation. The significance also includes the underground works, which are only visible through interpretation.</p> <p>In response to concerns raised regarding modification proposed to the pony stables building, the following clarification is provided of the proposed works as identified by the submitters:</p> <ul style="list-style-type: none"> <li>• <u>Removal of existing concrete pavements</u> - Removal of existing ramp and pavement around the stables is proposed, internal pavement to remain.</li> <li>• <u>Removal of existing windows including sections of wall below</u> – the removal of a small part of fabric proposed will not impact the overall significance, while allowing its adaptive reuse.</li> <li>• <u>Installing opaque film to existing windows</u> – This would be reversible at any stage.</li> <li>• <u>Change in pavement type along the pony path</u> - The change in pavement does not affect the overall significance of the site, as it will allow for the use and also interpretation of the former path of the pit pony.</li> <li>• <u>Condition of roof sheeting to be investigated</u> - This type of detail is usually only required at construction certificate (CC) stage.</li> <li>• <u>Addition of rainwater tank and therefore guttering</u> - The addition of guttering will allow for the diversion of the rain water from the buildings foundations and provide further protection. New gutters</li> </ul>
--	---



	<p>will be clearly identifiable as new and can be removed at any time, without compromising fabric.</p> <p>The site is currently under private ownership and not accessible to the general public. The development would provide for greater levels of access to the site, with public track days available as a scheduled activity and the go-karts, playground and café will be able to be utilised by the public.</p>
<p><b>Other Issues</b></p> <p>Developers have a different set of rules to residents when it comes to development proposals.</p> <p>Actions of council staff show a significant bias towards the development and willingness to breach the laws.</p> <p>Duplication of existing facilities such as go-kart tracks, bike riding tracks and there is already a race track under construction at East Seaham, less than an hour away.</p> <p>A summary of submissions is not adequate for this development.</p> <p>The application has not been appropriately referred by the developer to all agencies.</p> <p>Concern with amount of lighting that will emanate from the proposed development into the night sky causing light pollution.</p> <p>The Operational Management Plan states security will include 24/7 surveillance with CCTV coverage, but there is no mention of security lighting, which could have an adverse effect on nocturnal animals.</p>	<p>There is a strategic framework, set out by the Environmental Planning and Assessment Act 1979, for assessment of development applications, which is adhered to by Council, regardless of whether the applicant is a single resident or development company.</p> <p>Assessment of the application has been carried out against relevant State, Regional and Local Environmental Planning Instruments and Policies, in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act, 1979. Specifically, the development has been assessed against the matters for consideration that apply to the land to which the development application relates, as outlined in Section 4.15 of the Act. Council staff have undertaken a professional assessment of the proposal and have not breached laws in the carrying out of the development assessment.</p> <p>The development as proposed is not a replication of other facilities, rather this facility is a unique state of the art facility, purpose built to cater for a section of the motoring community. This type of facility not available anywhere else in Australia. The presence of similar facilities at other venues is not a consideration under EP&amp;A Act</p> <p>The Regional Planning Panel, the consent authority for the application, is provided with full copies of all submissions to the development.</p>

<p>Wakefield residents do not have mains water supply and concern with air pollution impact on water supply in water tanks. Air quality monitoring is required.</p> <p>With 20,000 litres of fuel stored on the site being consumed every week, 46 tonnes of CO<sup>2</sup> will be released into the atmosphere each week contributing to global warming as well as the toxic contribution to the atmosphere at Wakefield and surrounding areas.</p> <p>The proposed procedures for dealing with noise complaints via the contact phone number is inadequate, with no stated response time to complaints set out.</p> <p>It is unclear what constitutes a “dedicated resource” under the Operational Management Plan, it implies that a staff member is to be paid to stand-by during facility hours, every day in case of a complaint, a role which is unlikely to be provided for within a small-to-medium business model.</p> <p>If DA is approved a Community Consultative Committee needs to be formed so local residents have a direct link to the Site Manager and regular meetings to voice concerns.</p> <p>Decrease in property in Wakefield resulting from the development.</p> <p>The estimated cost of works has varied for the development from \$29 million to \$77 million.</p> <p>The Department of Education and schools have not been adequately advised of the development.</p> <p>The development is not to encourage tourists to spend money by patronising local businesses, to stay in local</p>	<p>The Environmental Planning and Assessment Act 1979 stipulates requirements for referral of Integrated Development, being development that, in order for it to be carried out, requires approval of other NSW State Government agencies. In regards to the subject development, Integrated referrals were required, and carried out to, NSW Rural Fire Service, Subsidence Advisory NSW and the NSW Department of Industry (Natural Resources Access Regulator).</p> <p>As the State Government agencies are required to provide General Terms of Approval for the development, the amended proposal was also required to be referred to them for comment.</p> <p>The track is not proposed to operate at night at all and therefore there is no track lighting proposed. There would be security lighting at various points around the facility that would be designed and located to not be visible from outside the site.</p> <p>Council’s Sustainability Department has reviewed the proposal, having regard to the <i>National Environment Protection (Ambient Air Quality) Measure, Protection of the Environment Operations Act</i> (and regulations). The main pollutants of concern for car tracks are deposited dust (from unsealed roads and car wear and tear); and particulate and gaseous exhaust emissions, which would be limited to residential sensitive receptors, given the particular development and site conditions.</p> <ul style="list-style-type: none"> <li>• Deposited dust – would be limited by the use of sealed roads, a heavily vegetated site, and from a cumulative perspective being within the Teralba mining cluster.</li> <li>• Exhaust emissions – would be limited given vehicle use will be sporadic, the site is heavily vegetated and elevated, and the high likelihood that emissions will be rapidly diluted in the airshed.</li> </ul> <p>The complaints management procedure outlined in the Operational</p>
---	--

<p>accommodation or provide multiple local jobs. This enterprise is for the sole financial benefit of the developer and the entertainment of the overflow private members from Eastern Creek Race Track.</p> <p>This facility is bound to introduce an undesirable element of behaviour onto our local roads, with intoxicated customers ejected from the premises taking aggression out on Wakefield residents or become a nuisance/fatality on local roads.</p>	<p>Management Plan is not restricted to noise complaints. This mechanism will be available to also address any complaints that may be received in regards to emissions, pollution or air quality.</p> <p>Potential impact of the development on property values in the locality is not a planning consideration under section 4.15 of the Environmental Planning and Assessment Act 1979.</p> <p>The “Estimated Cost of Works” of the development, as required by Council for lodgement purposes was advised to be \$29 Million, which has not changed. Council sought a “Capital Investment Value” from the applicant for the development as required for a development being reported to the Regional Planning Panel for determination. The CIV amount includes all costs necessary to establish and operate the project, including the design and construction of buildings, structures, associated infrastructure and any plant/equipment and therefore is considerably higher than the cost of works. The cost of works and capital investment value are two separate figures.</p> <p>The Department of Education (Wakefield Public School) was notified of the application as a property owner (sent to registered post office box address at Gateshead), on all occasions that the application was notified. During the assessment of the application the Assessing Officer was contacted by phone from a representative of the Department enquiring about the application and was advised that the documentation could be viewed via Council’s website and that any concerns should be detailed in writing to Council. No written submission from the Department of Education has been received.</p> <p>The development will encourage tourist development in the area as well as increasing jobs within the locality.</p> <p>The development provides accommodation options for guests using the facilities. Intoxicated people are not permitted to drive a vehicle, in</p>
---	---

	accordance with NSW Road Rules. The facility cannot be held solely responsible for driver behaviour.
--	--

Notification of the additional information for the application has resulted in one additional submission in support of the proposal and one submitter requesting retraction of an earlier submission in objection to the proposal as they had mistaken it for the Newcastle race track (Supercars).

The letter in support of the proposal has been received from Lake Macquarie Airport, siting that the development has potential to enhance the unique adventure tourism space within the Lake Macquarie region and create direct benefit in regards to employment and attraction of other high-quality developments to the region.