

DATE OF DETERMINATION	13 November 2023
DATE OF PANEL DECISION	13 November 2023
PANEL MEMBERS	Roberta Ryan (Acting Chair), Tony McNamara, Jason Pauling and Christine Buckley
APOLOGIES	Alison McCabe
DECLARATIONS OF INTEREST	Nil

Papers circulated electronically on 1 November 2023.

MATTER DETERMINED

PPSHCC-166 – Lake Macquarie – DA/2614/2022 at 6 Harrisons Lane, Cardiff Heights 2285 – Educational Establishment. Earthworks; Construction of a new school comprising; A two-storey building, comprising general learning areas, a library / hall and administrative spaces for staff; A 30-space staff car park, nine visitor spaces and four minibus spaces; and Outdoor play areas. Vehicular access from Harrison Lane; Business Identification Signage; and Landscaping. (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel has had the benefit of two briefings on this matter and notes that revisions have been made to the play design area to address visual privacy and amenity to adjacent residential development. Noise, stormwater, flooding and traffic issues have been taken into consideration.

The assessment report has considered and referenced the relevant provisions of:

- EPA Act 1979 and EPA Regulation 2021
- SEPP (Transport & Infrastructure) 2021
- SEPP (Resilience & Hazards) 2021
- Lake Macquarie LEP and DCP 2014

The Panel in its determination has considered the relevant provisions of the EPA Act 1979 and the relevant SEPPs and LEP applicable to the development as assessed in the Council report. The Panel considers that the proposal is suitable for the site and appropriately responds to its context. The Panel considers that the impacts arising from the development can be appropriately managed and mitigated.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Lake Macquarie Local Environmental Plan 2014 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 Height of Buildings is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (height of buildings) of the LEP and the objectives for development in the RU4 and R2 zones; and

- c) the concurrence of the Secretary has been assumed.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined in the council assessment report.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report and amended as follows:

Condition 18 being amended to add the following sentence:

"An approval for the vehicle access crossing and kerb layback including associated cut or fill works under s138 of the Roads Act 1993 shall be obtained from Council."





The Panel notes the applicant's request to delete condition 3 which restricts the facility to operate as a specialised school for primary aged children on the autism spectrum. The Panel considered this request in their deliberations however were not supportive of the condition being removed.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The Panel notes that issues of concern included:

- Revised play area design
- Amenity and property values

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
 Roberta Ryan (Acting Chair)	 Jason Pauling
 Christine Buckley	 Tony McNamara

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-166 – Lake Macquarie – DA/2614/2022
2	PROPOSED DEVELOPMENT	Educational Establishment - Earthworks; Construction of a new school comprising; A two-storey building, comprising general learning areas, a library / hall and administrative spaces for staff; A 30-space staff car park, nine visitor spaces and four minibus spaces; and Outdoor play areas. Vehicular access from Harrison Lane; Business Identification Signage; and Landscaping
3	STREET ADDRESS	6 Harrisons Lane, Cardiff Heights 2285
4	APPLICANT/OWNER	Autism Spectrum Australia (Aspect)
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value over \$20M (DA lodged before 1 March 2019)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Lake Macquarie Local Environmental Plan 2014 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Lake Macquarie Development Control Plan 2014 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: [Nil] 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 assessment report: 27 October 2023 Clause 4.6 variation request 17 November 2022 / 3 August 2023 Written submissions during public exhibition: 2 Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 21 February 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Jason Pauling and Alison Burrows <u>Council assessment staff</u>: Leena Sebastian, Glen Mathews and Scott Fatches Site inspection: <ul style="list-style-type: none"> Roberta Ryan (Acting Chair): 19 August 2023 Tony McNamara: 22 June 2023 Jason Pauling: 12 September 2023 Council Briefing: 27 June 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Jason Pauling <u>Council assessment staff</u>: Leena Sebastian, Glen Mathews

		<ul style="list-style-type: none"> ○ <u>DPE</u>: Tim Mahoney, Lisa Foley • Final briefing to discuss council's recommendation: 8 November 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Roberta Ryan (Acting Chair), Tony McNamara, Jason Pauling, Christine Buckley ○ <u>Council assessment staff</u>: Leena Sebastian, Glen Mathews, Emma Sabovic ○ <u>Applicant representatives</u>: Katherine Wilson, Henry Burnett, Catherine Mavay and Scott Brown ○ <u>DPE</u>: Leanne Harris
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report