

## JOINT REGIONAL PLANNING PANEL

### Hunter and Central Coast

Panel Reference	<b>2015HCC019</b>
DA Number	<b>DA/1006/2015</b>
Local Government Area	<b>Lake Macquarie</b>
Proposed Development	<b>Highway Service Centre</b>
Street Address	<b>264 and 266 Newport Road, Cooranbong and 106 Hawke Mount Road, Dora Creek</b>
Applicant/Owners:	<b>GIC Sydney HSC (North) Pty Ltd / F3 Development Fund No 2 Pty Ltd, F3 Development Fund Pty Ltd and RMS</b>
Number of Submissions	<b>43 submissions representing 55 people, businesses and resident's associations, and a Change.org petition with 128 signatories</b>
Recommendation	<b>Approval, subject to conditions</b>
Regional Development Criteria	<b>Private Infrastructure that has a capital investment value of more than \$20 million.</b>
List of all relevant s79C(1)(a) matters	<b>State Environmental Planning Policy (Infrastructure) 2007</b>  <b>State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</b>  <b>State Environmental Planning Policy No. 55 – Remediation of Land</b>  <b>Lake Macquarie Local Environmental Plan 2014</b>  <b>Lake Macquarie Development Control Plan 2014</b>
List all documents submitted with this report	<b>Attachment 1 – Proposed Conditions</b> <b>Attachment 2 – Plans of Development</b> <b>Attachment 3 – RMS GTAs</b> <b>Attachment 4 – OEH GTAs</b> <b>Attachment 5 – Office of Water GTAs</b> <b>Attachment 6 – MSB GTAs (southbound only)</b> <b>Attachment 7 - Letter from Sparke Helmore</b>
Report by	<b>Andrew Leese, Senior Development Planner, Lake Macquarie City Council</b>

## Executive Summary

**Date Lodged:** Original Plans: 16 June 2015  
Council Information request: 16 September 2015  
Amended Plans: 02 May 2016  
Council Information request: 27 June 2016  
Amended Plans: 11 November 2016

**Submission Period:** First Notification: 3 July 2015 to 3 August 2015  
Second Notification: 10 August 2015 to 10 September 2015  
Third Notification (with SIS): 28 November 2016 to 06 January 2017

**Zoning:** RU2 Rural Landscape and E2 Environmental Conservation, with a site specific additional permitted use, (for Highway Service Centre), under Schedule 1 of the LMLEP 2014, as follows:

7. Use of certain land at Cooranbong

- (1) This clause applies to land identified as "Cooranbong Area 2" on the [Additional Permitted Uses Map](#).
- (2) Development for the following purposes is permitted with development consent:
  - (a) a highway service centre,
  - (b) a shop with a floor area not exceeding 250m<sup>2</sup>,
  - (c) a subdivision into no more than [sic] 2 lots of any size that separate the site of the highway service centre and its access ramps from adjoining rural and environmental land and is not for the purposes of the erection of a dwelling.

8. Use of certain land at Cooranbong

- (1) This clause applies to land identified as "Cooranbong Area 3" on the [Additional Permitted Uses Map](#).
- (2) Development for the following purposes is permitted with development consent:
  - (a) a highway service centre,
  - (b) a shop with a floor area not exceeding 250m<sup>2</sup>,
  - (c) a subdivision into no more than [sic] 2 lots of any size that separate the site of the highway service centre and its access ramps from adjoining rural and environmental land and is not for the purposes of the erection of a dwelling.



**Figure 1 – Additional Permitted Use Map LMLEP 2014**

<b>Approval Bodies:</b>	Mine Subsidence Board
	NSW Office Water
	NSW OEH – SIS
	Roads and Maritime Services (RMS)
<b>Referral Agencies:</b>	Hunter Water Corporation
	Ausgrid
	Transgrid
	NSW Police
	NSW Rural Fire Service
	Jemena Ltd (Gas)
<b>CIV:</b>	\$33,100,000

## Précis

The two sites are located to the north of the Newport Road - M1 underpass, with the northbound centre located on the western side of the M1 at 266 Newport Road, Cooranbong. (The development site also includes a small parcel of land identified as 264 Newport road, Cooranbong). The southbound centre is located a little further north (approx. 200m) on the eastern side of the M1 at 106 Hawke Mount Road, Dora Creek. The northbound site is presently occupied by natural vegetation and rural/agricultural uses. The majority of the southbound site to be developed is a disused quarry/works site, with some remnant vegetation.



Figure 2 – Locality Plan

The northbound site, which is approximately 26 hectares in size, has rural residential neighbours, with an industrial precinct and two residential estates to the south of the site along Newport Road. There is an existing residence and outbuildings located on the property. The southbound site, which is approximately 13.3 hectares is surrounded by bushland. It is noted that the highway service centres will not occupy the entire lots and only those areas of the lots with RU2 Rural Landscape zoning, (which is overlapped by the additional permissible use).

A number of transmission/power lines and gas easements run through the sites.

A Highway Service Centre is defined by the LMLEP 2014 as follows:

highway service centre means a building or place used to provide refreshments and vehicle services to highway users. It may include any one or more of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) service stations and facilities for emergency vehicle towing and repairs,
- (d) parking for vehicles,
- (e) rest areas and public amenities.



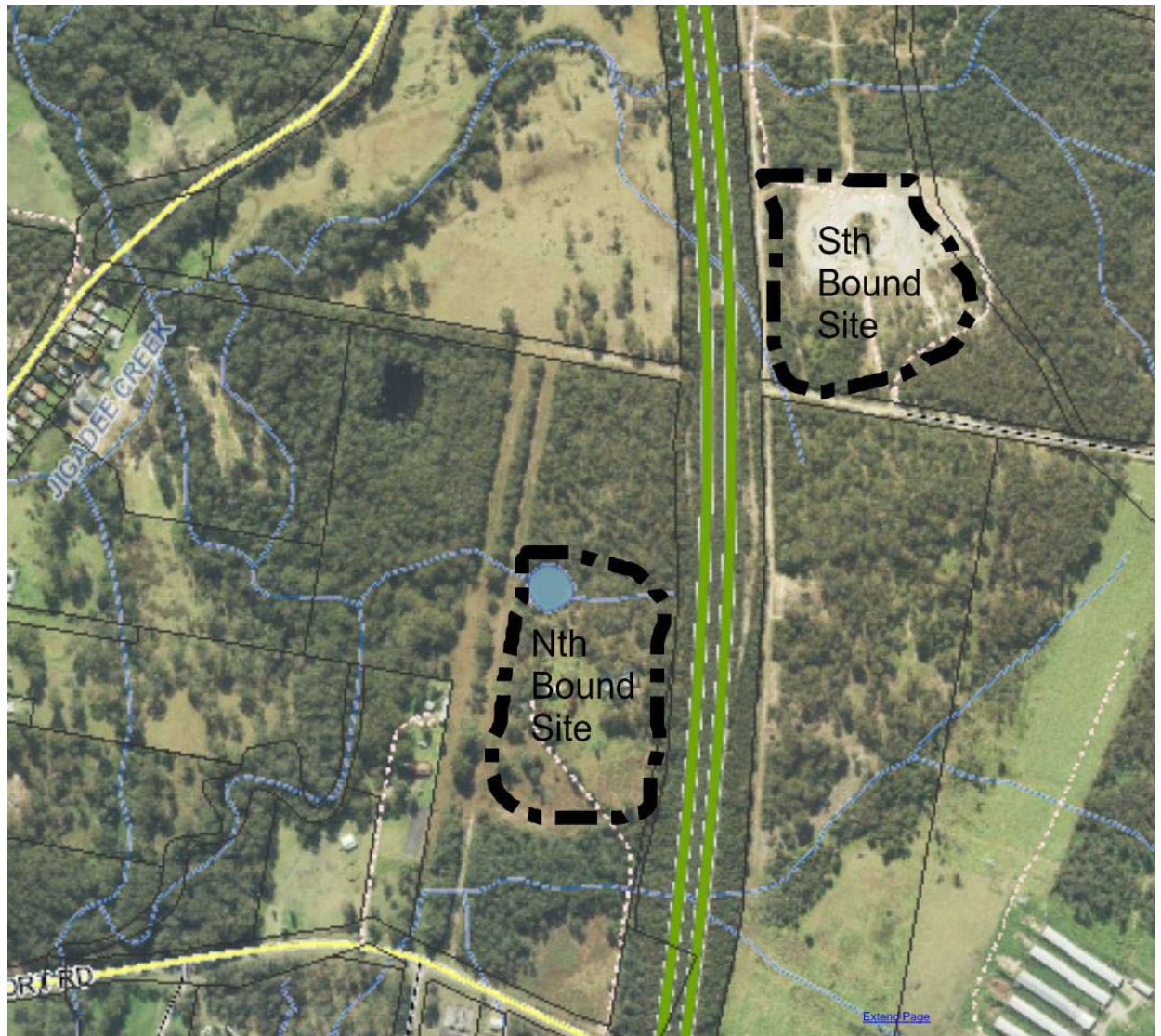


Figure 3 – Aerial photo of sites and direct neighbours

## **PROJECT DESCRIPTION**

The application was lodged by GC Sydney HSC (North Pty Ltd) application. The development has a capital investment value of \$33,100,00.

The application, as amended, seeks approval for the following -

Highway Service Centre (Northbound) comprising:

- Petrol station with truck and auto fuel canopies (6.3m high);
- Service centre supporting an 142m<sup>2</sup> shop and five tenancies (90m<sup>2</sup>, 165m<sup>2</sup> 80m<sup>2</sup>, 175m<sup>2</sup> and 40m<sup>2</sup>) that will operate as restaurant/café or takeaway food and drink premises, of which two will have drive-through facilities; with 24hours operation;
- Food court type eating area and separate truckers' lounge;
- Children's play area and bathroom/toilet facilities;
- Tourist info booth;

- Customer car parking for 101 vehicles;
- Staff car parking for 31 vehicles;
- Coach and caravan parking for 9 vehicles;
- B double heavy vehicle/truck parking for 15 vehicles;
- A double heavy vehicle/truck parking for 10 vehicles;
- Associated excavation and landscaping works;
- Acoustic fencing; and
- New on and off ramps from the M1.

Highway Service Centre (Southbound) comprising:

- Petrol station with truck and auto fuel canopies (6.3m high);
- Service centre, with an 145m<sup>2</sup> shop and five tenancies (77m<sup>2</sup>, 165m<sup>2</sup>, 80m<sup>2</sup>, 175m<sup>2</sup> and 40m<sup>2</sup>) that will operate as restaurant/café or takeaway food and drink premises, of which two will have drive-through facilities, with 24hrs operation;
- Food court type eating area and separate truckers' lounge;
- Children's play area and bathroom/toilet facilities;
- Tourist info booth;
- Customer car parking for 127 vehicles;
- Staff car parking for 21 vehicles;
- Coach and caravan parking for 9 vehicles;
- B double heavy vehicle/truck parking for 15 vehicles;
- A double heavy vehicle/truck parking for 10 vehicles;
- Associated excavation and landscaping works; and
- New on and off ramps from the M1.





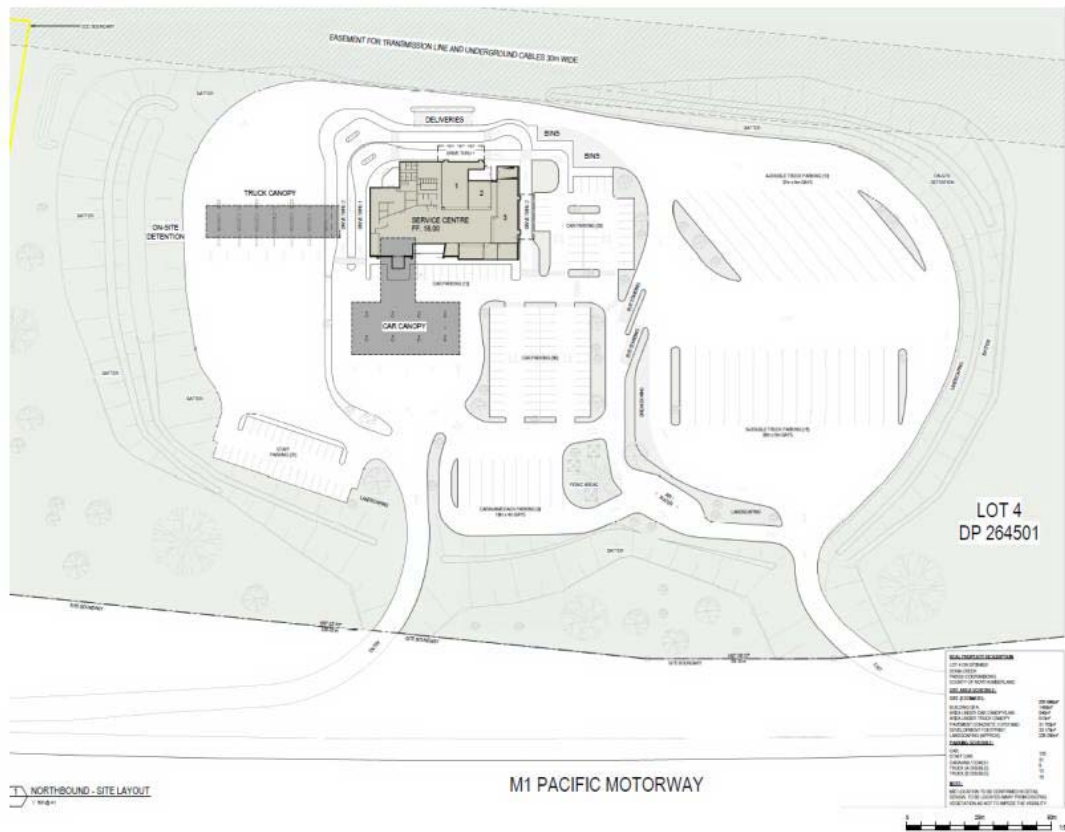


Figure 5 – Northbound Highway Service Centre

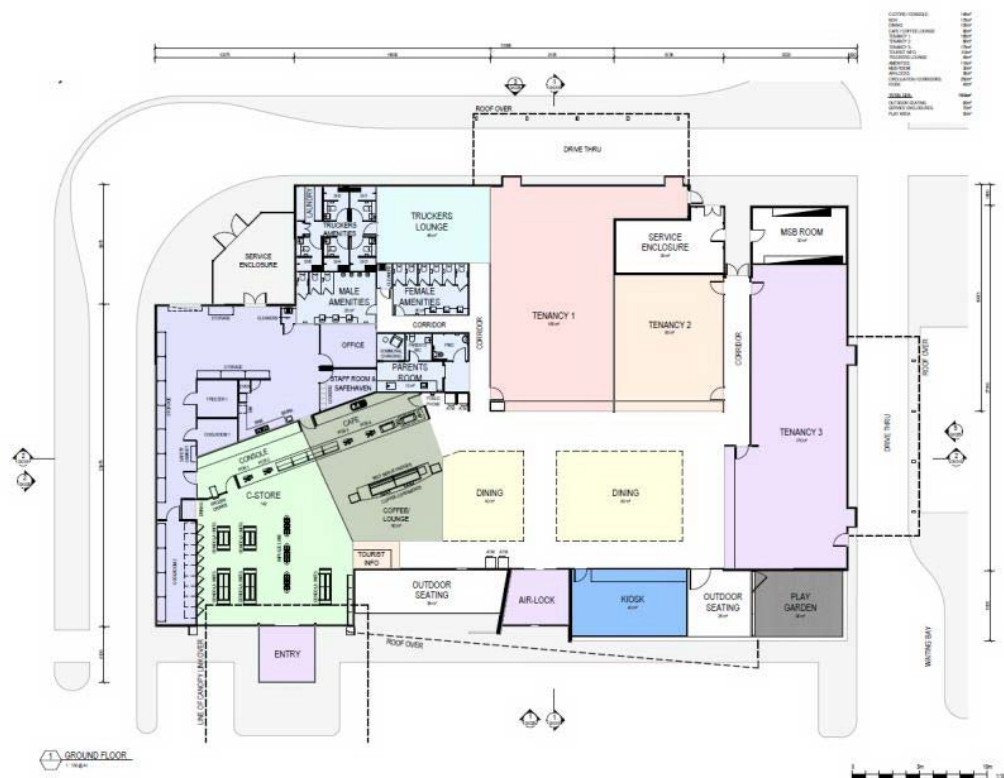
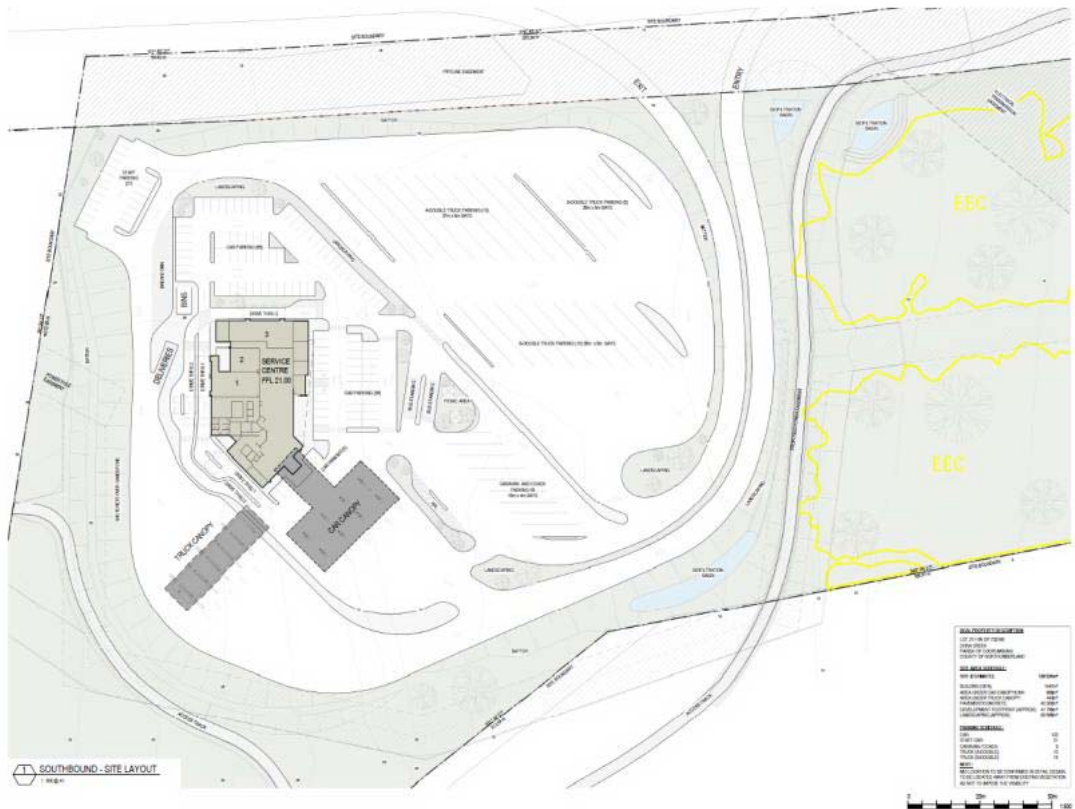


Figure 6 – Northbound Centre – detailed floor plan





## 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 (Infrastructure) 2007**

The development is on land that is considered to be – *Development with frontage to classified road* (clause 101) of the Policy. In this regard, the matters for consideration at clause 101(1) & (2) have been taken into consideration. Council is satisfied that the proposal does not conflict with these clauses of the Policy and this has been supported by the RMS.

Clause 102 – *Impact of road noise or vibration on non-road development* is not applicable as a service centre is not a development type listed in the clause.

Under clause 104, the scale of proposal triggers Traffic Generating Development as defined at Schedule 3 of the Policy. (The site has access to a classified road and will include a drive-through facility, service station facility and parking for more than 50 vehicles.) The application was referred to the RMS for comment under this clause.

The RMS response/GTAs was received on 7 April 2017 and can be found at Attachment 3. Their ownership consent of 264 Newport road was received on 1 June 2017.

The proposal is deemed consistent with the Policy and the considerations of Clause 104 given the response of the RMS.

##### **State Environmental Planning Policy 33 – Hazardous and Offensive Development**

A Preliminary Hazard Analysis has been prepared in accordance with this SEPP. 39kl of LPG and 530,000 litres of fuel are to be stored on each site, (the fuel in five underground tanks). Clause 13 of SEPP 33 requires the consent authority to consider:

- (a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and
- (b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and
- (c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and
- (d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and
- (e) any likely future use of the land surrounding the development.

Planning comment:

- a) Relevant publications published by NSW authorities were considered in the preparation of the Preliminary Hazard Analysis (PHA) prepared by the applicant.
- b) The RMS, NSW Office of Water, MSB, OEH, NSW Police and RFS were contacted regarding this application under various Regulations and provisions. Conditions of approval or GTAs have been included in the draft conditions for approval.
- c) A preliminary hazardous analysis (PHA) has been prepared by the applicant. The proposal is not defined as a 'potentially hazardous industry'.
- d) The sites have a site specific zoning, which required consideration by various bodies at the rezoning, (Council reference RZ/5/2012).
- e) The land around the site is likely to retain the existing zonings.

The PHA identifies thresholds in relation to storage, separation and delivery. The proposal is within the permitted thresholds as identified by the applicant.

It is noted that 'petroleum works' with storage of more than 2,000 tonnes of any petroleum products is identified as Designated Development, (Schedule 3 of the EP&A Regs 2000.) In *Gunning Sustainable Development Association Inc v Upper Lachlan Council and Another* (40498 of 2004), the NSW Land and Environment Court determined that, while a proposed highway service centre, (on the Hume Highway at Gunning, NSW), had fuel storage in excess of 2,000 tonnes, as does both of these sites presently under consideration, the proposed use is defined as a 'Highway Service Centre', and as such, is not designated development. The Court's (Talbot) decision on this matter is noted as follows:

- 51 Despite argument between the parties in relation to the correctness of the approach taken in *Levenstrath* and *Barooga*, my conclusion that the highway service centre is not characterised as **petroleum works** means the applicant's argument that the consent simultaneously authorises development that is not designated development and development that is designated development cannot be sustained. The proposal will not be designated development irrespective of the storage capacity ultimately installed.

***State Environmental Planning Policy No 44—Koala Habitat Protection***

This SEPP aims to protect Koala Habitat. The subject site was assessed for activity by Koalas using the following methods:

- i. A search of the BioNet Atlas of NSW Wildlife (NSW OEH 2015) was undertaken to identify records of Koalas in the area;
- ii. The site was surveyed on foot with any species of Koala food trees being inspected for signs of Koala usage. Trees were inspected and identified for presence of Koalas, scratch and claw marks on the trunk and scats around the base of each tree. The proportion of any trees showing signs of Koala use was calculated for the whole of the site. Additionally the location and density of droppings if found were documented;
- iii. Koalas were also targeted during spotlight surveys;

- iv. Identification and assessment of the density of tree species listed as Koala food trees in

The applicant's SEE noted:

The Koala food tree species, *Eucalyptus haemastoma* and *Eucalyptus robusta* as listed on Schedule 2 of State Environmental Planning Policy No. 44 - Koala Habitat Protection (SEPP 44) were observed within the subject site. The site contains areas of vegetation where these trees constitute at least 15% of the total number of trees in the upper or lower strata of the tree component. Therefore the site does contain potential koala habitat as defined by SEPP 44.

No Koalas were observed during the fauna survey and no evidence of Koala habitation, such as scats, claw and scratch marks, were located on the site.

Planning comment:

Council's ecologist confirms the subject site is considered to not form core koala habitat as defined by SEPP 44.

**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.

A Preliminary Contamination Assessment has been carried out on both sites. This report has been considered by Council's Environmental Management Staff, who have made the following comments:

**Contamination**

*I have reviewed the Supplementary Contamination Assessments carried out by Douglas Partners, project number 49989.01 and 49989.02 and dated March 2013. Both the Northbound and Southbound sites are considered suitable for the proposed development in relation to contamination subject to the following:*

- Appropriate removal and validation of minor surface stains observed within the shed (Northbound site)*
- Appropriate assessment/classification and removal (if required) of localised imported fill*
- Preparation of a site specific management plan in relation to the assessment, handling and disposal of soils/materials during construction activities due to the potential for opportunistic dumping at the site.*

*The application can be conditioned to comply with the requirements of the contamination assessments.*

Planning Comment:

Appropriate conditions are included in the draft conditions of approval.



### **State Environmental Planning Policy No. 64 – Advertising and Signage**

As no signage is proposed with this application this SEPP was not considered. (If an approval is granted it is expected that a future application for signage at these sites will be lodged.)

### **Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)**

#### Clause 2.2 Zoning of land to which Plan applies

The subject sites are zoned RU2 Rural Landscape and E2 Environmental Conservation. All works are within the area of the site with the RU2 Rural Landscape zoning, (which overlays/matches the area identified in Schedule 1, as permitting Highway Service Centres.) Neighbouring sites have the following zoning:

- SP2 Infrastructure;
- IN2 Light Industrial;
- E2 Environmental Conservation; and
- RU2 Rural Landscape.

No portion of the site has been identified for acquisition by Council.

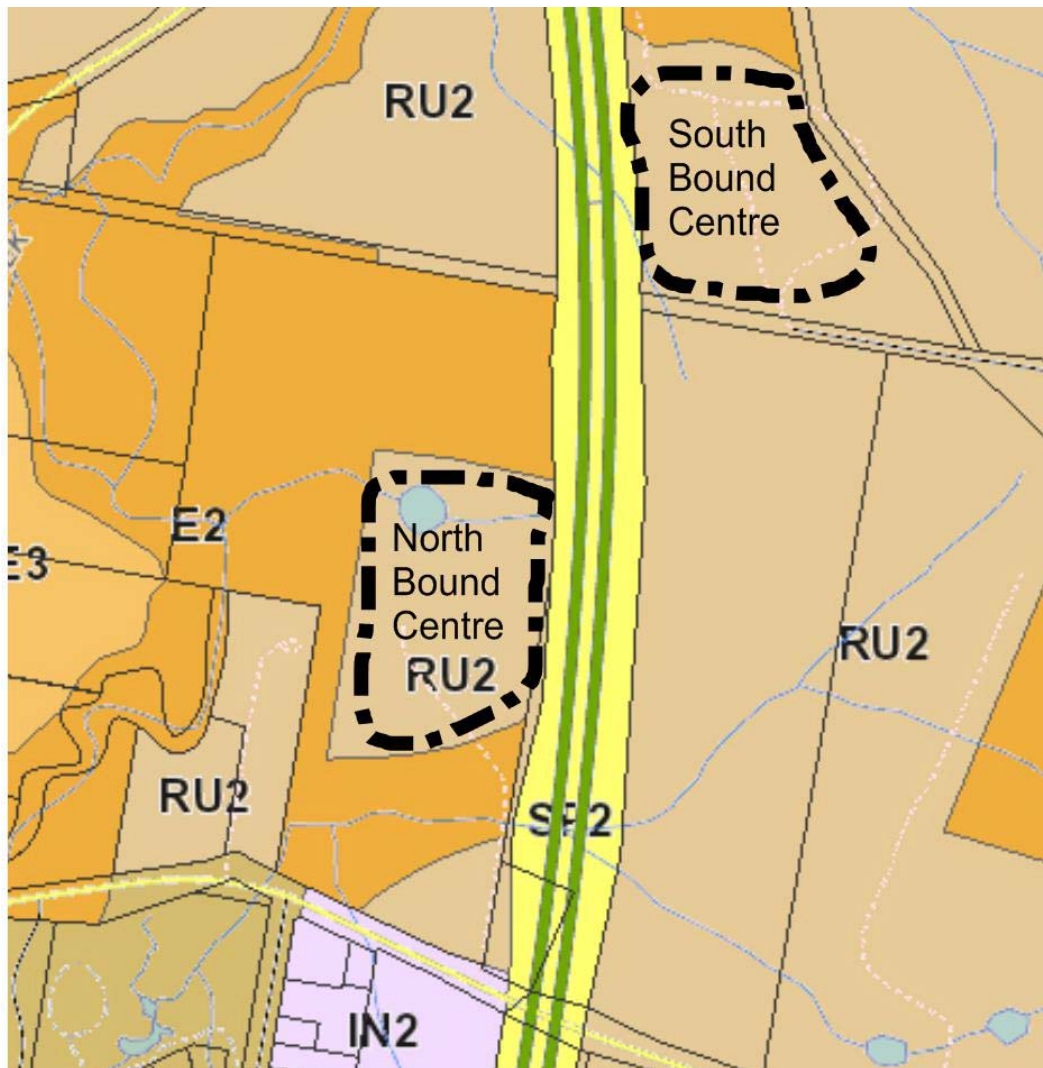


Figure 9 - Extract from Lake Macquarie Local Environmental Plan 2014 Zoning Map

### Clause 2.3 Zone objectives and Land Use Table

As discussed above, permissibility is conferred under Additional Permitted Uses. Notwithstanding this, the proposal has been considered with regard to the relevant objectives of the RU2 Rural Landscape Zone, (as all works are within this zone).

These objectives are as follows:

To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.

Planning Comment:

The proposal will not fully satisfy this condition, as it will result in the loss of land used for rural activities (the western side). However, the proposal is a permitted additional use, and the approval of this use will not adversely affect surrounding rural / agricultural uses.

- To maintain the rural landscape character of the land.

Planning Comment:

The proposal will not fully satisfy this condition over the area of the sites to be developed. However, it will not adversely affect neighbouring rural zones due to the setbacks and retention of vegetation on each site.

- To provide for a range of compatible land uses, including extensive agriculture.

Planning Comment:

The proposal has been identified as an additional permissible use at these sites. There is a 400m distance to closest residential precinct. The benefits to the local community include employment opportunities. There are also benefits to the wider community, with a service provided to users of the M1.

- To maintain and enhance the natural amenity and the ecological values of the land.

Planning Comment:

The proposed development will retain and protect areas of the sites that have an environmental zoning. The NSW Office of Environment and Heritage has provided conditions for approval after consideration of the Species Impact Statement (SIS).

- To provide for sustainable land management and forestry practices.

Planning Comment:

The proposal does not fully satisfy this objective as the development proposal does not relate to forestry or agricultural uses/processes. The sites' location will not be highly visible from the public domain, thus the existing character presented to the streetscape will be maintained.

While this proposal fails to fully satisfy a number of zone objectives, the sites have been provided with an additional permitted use after a rezoning process. This proposal does not adversely affect any of these objectives.

It is noted that during construction vehicles will travel through RU2 and E2 zoned land that does not have the additional permitted use. These activities will be limited in time (cease once operations commence) and will use existing cleared paths/roads.

Clause 2.5 - Additional permitted uses for particular land

This clause identifies that Schedule 1 lists particular land on which additional permitted uses are applicable. These sites are listed properties and this application has been lodged under the provision of this clause, as noted above. Works must be carried out in accordance with the conditions specified in that Schedule in relation to that development.

Clauses 2.6– 4.2B

Not applicable.

Clause 4.3 Building heights

The maximum height prescribed for the subject site by the height of buildings map is 10m.

No building will exceed 10 metres in height from the existing ground level.

Light poles are proposed with a 12 metres height. The applicant has agreed to lower these to 10 metres to comply with the height control.



**Figure 10 - Visual representation of built works at the southbound centre**

Clauses 4.4 – 4.6

Not Applicable

Clause 5.1 – 5.8

Not Applicable

Clause 5.9 Preservation of Trees or vegetation

Refer to comment provided within Lake Macquarie Development Control Plan 2014 Consideration.

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

Not Applicable

Clause 5.10 Heritage conservation

There are no identified heritage items or locations associated with the subject site.

Parts of each site are identified as containing a sensitive Aboriginal Landscape. Further consideration of this matter is provided in Section 2.15 Aboriginal Heritage of the Lake Macquarie Development Control Plan (LMDCP) 2014. It is noted that four

Aboriginal Local Land Groups were notified of the proposal, with no response being received from any group.

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

Clauses 5.11 – 6.5

Not applicable.

Clause 7.1 Acid sulfate soils

None of the development site has been identified as being within the Acid Sulphate Soils Map.

Clause 7.2 Earthworks

Earthworks are required to provide a suitable building platform for the proposed development. Council's Chief Development Engineer made the following comments:

The proposed development includes cut and filling in the order of 3 metres on the northbound site and up to 7 metres of excavation ( but generally less than 3 metres of excavation) and up to 2 metres of filling on the southbound site.

The amount of cut and fill is considered acceptable on this site due to the size and scale of the development and the relatively isolated location.

Earthworks proposed as part of the development do not adversely affect adjoining properties amenity. Any excavated fill removal will be controlled, and a standard condition will be imposed in this regard. The development will not adversely impact nearby water catchments and it is unlikely that the proposed earth works will impact any aboriginal relics, items or locations of heritage significance. Further detailed consideration of these matters is provided throughout the report.

Clause 7.3 Flood Planning

The Newport Road site is identified as containing some land that is located below the flood planning level as identified in the flood planning maps. As such, the proposal was considered by Council's Flood Planning Officer. They noted:

The proposed development has been assessed against Council's flood planning levels.

Construct as per submitted plans.....

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



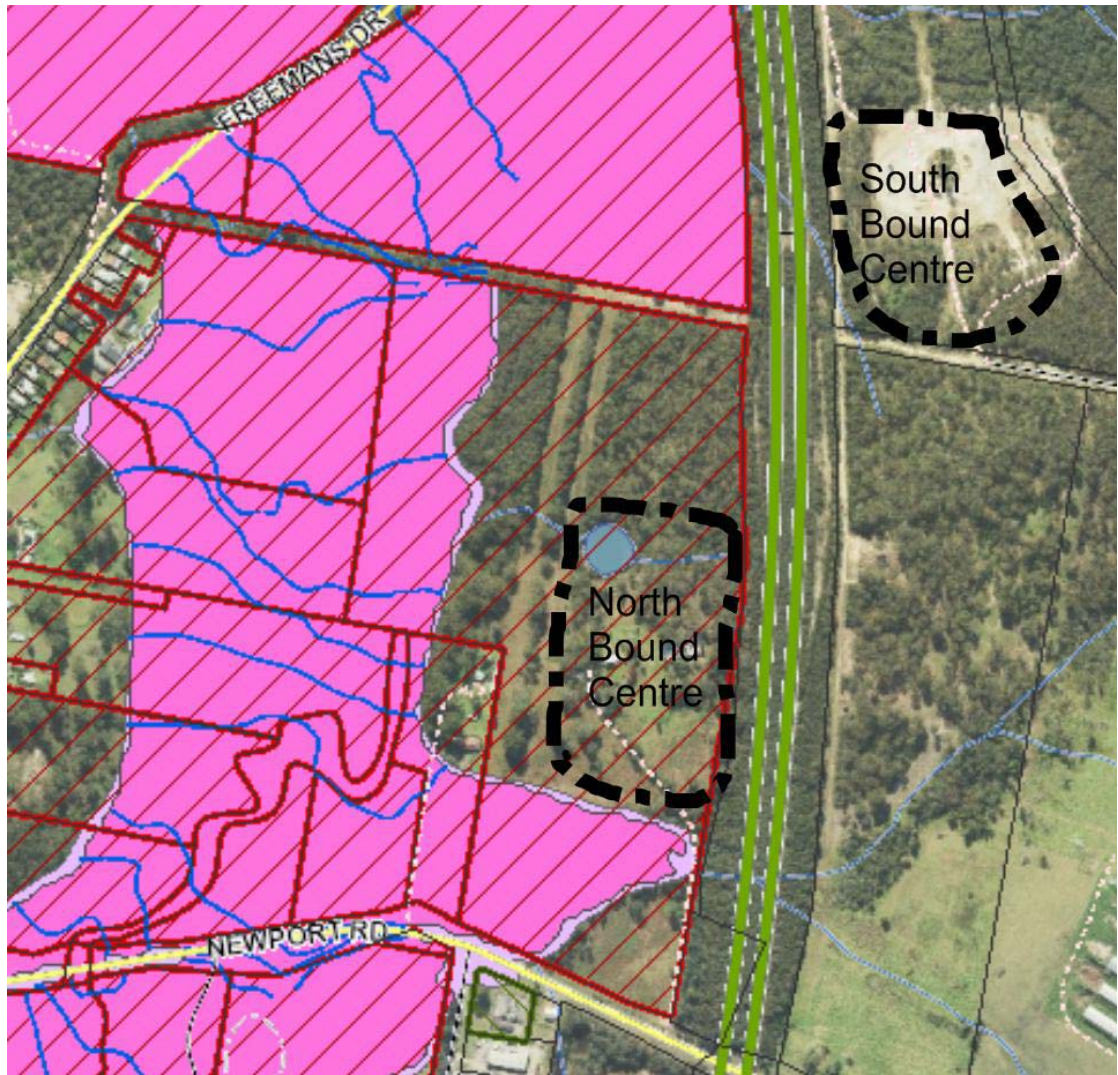


Figure 11 – Flood affected land

Clauses 7.4 – 7.20

Not applicable. (In relation to clause 7.5, none of the site is identified as Terrestrial Diversity and Clause 7.9 Service Stations in certain zones, does not apply to this zone.)

Clause 7.21 Essential services

Power is available in the locality. The proposal is required to connect to the Hunter Water sewer system.

Clause 7.22 – 7.23

Not applicable.

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

Draft State Environmental Planning Policy (Competition) 2010, was released by the Department of Planning for public exhibition between Tuesday 27 July and Thursday 26 August 2010. Though not yet adopted, the SEPP's aims are:

The aims of this Policy are:

- (a) to promote economic growth and competition, and
- (b) to remove anti-competitive barriers in environmental planning and assessment.

This proposal will comply with the aims of the draft SEPP.

There are no draft local instruments which affect the development 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:

Mine Subsidence Board;  
Roads and Maritime;  
NSW Rural Fire Service;  
Hunter Water Corporation;  
NSW Police;  
Jemena Ltd;  
Ausgrid; and  
Transgrid.

The Mine Subsidence Board General Terms of Approval were received on 27 August 2015. (It is noted that the northbound service centre is not located within a Mine Subsidence area, so these GTAs will only apply to the south-bound/eastern service centre.) A copy of their GTAs can be found at Attachment 6.

The NSW Rural Fire Service provided comments (not Integrated) on 23 July 2015. These are still recommended as conditions of consent in any approval.

Transgrid made the following comments:

TransGrid has reviewed this Development Application and determined that the proposed 'M1 – Twin Services Centres' are outside of TransGrid's easement corridor, therefore is acceptable subject to the following provisions:

1. TransGrid's easement corridor must remain unencumbered, and have no structures placed (temporary/ permanent) within this zone. We understand there is no physical transmission line currently in operation, however TransGrid still has a vested legal interest in the form of an easement over this site.
2. All works must be carried out in accordance with the *NSW WorkCover 'Work Near Overhead Power Lines' Code of Practice 2006* (link attached below) and *TransGrid's Easement Guidelines for Third Party*

*Development (V10) (Guidelines)* will also need to be adhered to. Please contact TransGrid in [the] event of any uncertainty.

<http://www.workcover.nsw.gov.au/health-and-safety/industry-safety/electrical-and-power/power-lines/publications/work-near-overhead-power-lines-code-of-practice-2006>

3. TransGrid requests formal notification of any amendments/modifications to the subject site.

Points 1 and 2 raised in the Transgrid letter have been included as conditions in the draft conditions of approval.

Ausgrid provided comments on 30 July 2015 that they do not oppose the proposal.

Notification and re-notification of amended plans 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.

Forty three (43) submissions were received. All submissions raised concerns with the proposal. The objections are addressed within section 79C(1)(d) of this report.

## Part 2 Development in Rural 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. Both sites are separated from residential areas and will retain significant areas of vegetation to protect existing scenic values.

### 2.3 Geotechnical

The sites are not located within a geotech zone. Council's Development Engineer made the following comments in relation to this consideration:

- A report prepared by Douglas Partners, reference 49989/1, dated November 2012 has been prepared for the southbound service centre site (Lot 211 DP 702166). The report identified that from a slope stability perspective the site was suitable for the proposed use.
- Likewise, a report prepared by Douglas Partners, reference 49989, dated November 2012 has been prepared for the northbound service centre site (Lot 4 DP 264501). The report identified that from a slope stability perspective the site was suitable for the proposed use.

The geotechnical reports will be included as approved documents in any approval.

### 2.4 Mine Subsidence

Mine Subsidence Board provided General Terms of Approval on 27 August 2015, (for the southbound centre), which will be included on any consent.

## 2.5 Contaminated Land

The subject sites have historically been utilised as farmland and a quarry/works depot. As noted above, under consideration of SEPP 55, Council's Environmental Health officers made the following comments in relation to contamination:

I have reviewed the Supplementary Contamination Assessments carried out by Douglas Partners, project number 49989.01 and 49989.02 and dated March 2013. Both the Northbound and Southbound sites are considered suitable for the proposed development in relation to contamination subject to the following:

- Appropriate removal and validation of minor surface stains observed within the shed (Northbound site)
- Appropriate assessment/classification and removal (if required) of localised imported fill
- Preparation of a site specific management plan in relation to the assessment, handling and disposal of soils/materials during construction activities due to the potential for opportunistic dumping at the site.

The application is conditioned to comply with the requirements of the contamination assessments.

## 2.6 Acid Sulfate Soils

Addressed under Clause 7.1 of the LM LEP 2014.

## 2.7 Stormwater Management

Council's Development Engineer made the following comments in relation to Stormwater Management:

- A suitable Stormwater Management Plan by Northrop Engineers, Reference NL140438, incorporating detention, water harvesting, water quality facilities and site discharge index requirements in accordance with the Lake Macquarie DCP 2014 has been provided. The plan is considered adequate for DA purposes.
- The water quality outcomes do not strictly meet Council's requirements for a greenfield site, but exceed Council's requirements for urban areas. It is considered that the proposed water quality outcomes are satisfactory for this site, which contains some highly disturbed areas in its current state.

Conditions of approval will require compliance with Council's stormwater management controls.

## 2.8 Catchment Flood Management

A small area of the northbound site is identified as being flood affected. Council's Flood Management Officer considered the proposal and made the following comments:

The proposed development has been assessed against Council's flood planning levels.

Construct as per submitted plans

The proposed floor levels comply with Council's Flood levels, so Council's standard condition approving any plans will satisfy this matter.



## 2.9 Lake Flooding & Tidal Inundation

Not Applicable.

## 2.10 Natural Water System

The proposed development is located within the vicinity of tributaries of Jigadee Creek, which is considered a natural water body. The proposed development contains stormwater detention and water quality controls, which will ensure that there is no detrimental impact to the water body.

NSW Primary Industries – Water have also provided GTAs in a response dated 31 May 2016. These have been included in the draft conditions of approval. See Attachment 5.

Comments from Council's Sustainability Unit have also been considered and have been included as proposed conditions of any consent, as outlined in Council's Flora / Fauna Planner's final referral comments.

Dewatering of the existing dam (northbound site) will require the further approval of the NSW Office of Water. Council officers noted that:

Further information on the zinc polluted dam is requested, specifically the ability to remediate this issue and the risk of water being released into local waterways.

This will be considered by the state authorities when a Controlled Activity Approval from the Office of Water is sought by the applicant. A proposed condition reads:

### **Dam Dewatering**

A Controlled Activity Approval from the Office of Water will be required prior to the dewatering taking place and this activity will be carried out in accordance with requirements to be set by the Office of Water, (NSW Department of Industries – Water).

## 2.11 - Bushfire Risk

The application has been considered by the NSW Rural Fire Service, but not as integrated development. However, recommended conditions of approval have been included in the draft consent.



**Figure 12 - Environmental (Flora and Fauna) constraints**

(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. A SIS has also been considered by the NSW OEH, who have provided GTAs. Post the issue of the OEH GTAs, Council's Flora and Fauna Planner made her final comments after considering the OEH GTAs and comments from Council's sustainability staff. These were:

I have inspected the site and reviewed the amended information, including:

- Species Impact Statement Addendum (Ecological 24/02/2017)
- Biodiversity Management Plan (Ecological 23/02/2017)
- Vegetation Management Plan (Ecological 23/02/2017)
- Office of Environment and Heritage concurrence with conditions (17/03/2017)

Where required the application has been assessed for compliance with ecological requirements / recommendations detailed in the EP&A Act 1979, TSC Act 1995, NV Act 2003, FM Act 1994, EPBC Act 1999, SEPP 14, 19, 26 & 44, LMCC LEP (2014), LMCC DCP 1 (2014), and LMCC Guidelines for Flora and Fauna Survey (2012), *Tetratheca juncea* (2014), *Grevillea parviflora* subsp. *Parviflora* (2013), Squirrel Glider (2015), Large Forest Owls (2014) and Coastal Management.

### **Prior to Consent**

#### **Property Vegetation Plan**

A Property Vegetation Plan (PVP) is the mechanism nominated to guide the management of vegetation within the biodiversity offset area in perpetuity. Given the importance of this document to the offset land, a draft PVP should be provided prior to consent for Council review. The PVP should include a description of ongoing management responsibilities and performance criteria for maintenance of fencing and signage, native vegetation cover and weed cover, and require maintenance of nest boxes and glider poles in perpetuity. Once a draft PVP is provided, these conditions can be adjusted accordingly and finalised.

The management of offset land will result in an ongoing financial commitment. Details should be provided to Council demonstrating that a mechanism is in place to ensure the biodiversity offset can be funded in perpetuity.

#### Dam Dewatering

The proposed dam dewatering within the northbound site requires further consultation with Council and NSW Office of Water.

#### **Recommended Conditions of Consent**

##### DEV200-14 Retention of Trees and Native Vegetation

##### DEV200B Native Vegetation Act (as amended below)

Clearing of native vegetation on this site shall be in accordance with the Native Vegetation Act and/or Biodiversity Conservation Act. Clearing of native vegetation on the site shall not commence until the Hunter Local Land Services has been contacted and all necessary approvals have been obtained.

##### DEV200A Vegetation Management Plan (as amended below)

Implementation of the Vegetation Management Plan (VMP) (Ecological 23/02/2017) shall commence immediately upon any construction work commencing and shall be carried out in accordance with the VMP Implementation Schedule (Table 6 of the VMP) with the following exceptions:

- Glider poles shall be installed within three months of vegetation clearing commencing.
- Establishment weed control for Zones 1 and 2 shall commence in Year 2 so that construction-based weed outbreaks can be monitored and treated, and continue until the end of Year 5.
- Infill planting for Zones 1 and 2 shall commence in Year 2 and continue until the end of Year 5.

The VMP Performance Criteria (Table 8 of the VMP) shall be met with the following exceptions:

- Noxious weeds shall be 100% eliminated from all zones by the end of Year 5.
- Zone 1: minimum 90% native groundcover by end of Year 5. Minimum 90% survivorship of native plantings.
- Zone 2: minimum 80% native groundcover by end of Year 5. Minimum 90% survivorship of native plantings.
- Zone 3: minimum 80% native groundcover by end of Year 5. Minimum 90% survivorship of native plantings.

Annual Monitoring statements shall be provided to Council's Development Planner Flora and Fauna verifying compliance with the VMP. Implementation of the VMP may cease once outcomes of the VMP 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.

DEV201 Hollow-bearing Tree Removal and Nest Box Installation (as amended below)

Biodiversity management guidelines within the Biodiversity Management Plan (Ecological 23/02/2017) shall be implemented. In addition:

A qualified ecologist or wildlife carer shall supervise installation of nest boxes and removal of any hollow bearing trees to ensure mitigation against any native animal welfare issues. Tree hollows shall be salvaged wherever possible and replaced onto suitable trees within the offset land.

*Removal of Trees with Habitat Hollows*

Removal of trees with habitat hollows shall be undertaken outside of hollow dependent fauna hibernating and breeding periods (i.e. preferred clearing times occur in March/April and October / November). Any hollow-bearing trees shall be felled in one to two metre sections, beginning at the top of the crown. Lengths cut from the tree(s) shall be in a manner that will preserve the hollow(s) with each section inspected and appropriately treated to minimise impact to fauna.

*Nest Box Installation*

Nest boxes are to be installed:

- At a ratio of 1:1 hollow ratio of loss: replacement. Based on the estimates within the Species Impact Statement (Ecological 24/02/2017), 29 hollows require replacement;
- At least 2 weeks prior to clearing;
- At least 4 metres above ground;
- Be of a design suitable for species that may be residing in trees marked for removal;
- Be of a design that is consistent with NSW Government 2011, "*Biodiversity Guidelines: Protecting and managing biodiversity on RTA projects - Guide 8: Nest boxes*", prepared by the Roads and Traffic Authority, September 2011 and NSW Government 2008, "*Guidelines for the design, construction and placement of nestboxes*", prepared by the Department of Environment, Climate Change and Water, Biodiversity Conservation Section.
- At an orientation that is suitable for the species that the nest box has been designed. Micro bat nest boxes should be orientated at a north to north westerly aspect. Bird and mammal boxes should be orientated at an east facing aspect;
- In a manner that minimises damage to the trees and surrounding vegetation; and
- With a unique number affixed that can be read from the ground.

*Nest Box Monitoring*

Nest boxes shall be monitored to determine their usage and repairs or replacement (as required on an annual basis and maintained within the offset site in perpetuity).

*Reporting*



Council's Development Planner Flora and Fauna is to be provided with a written report following:

- Installation of nest boxes;
- Removal of hollow bearing trees; and
- Each annual monitoring/maintenance inspection.

Reports are to include the nest box identification number, artificial nest box or salvaged tree hollow type, GPS location (including GIS map), species and diameter at breast height of the host tree, artificial nest box or salvaged tree hollow height, nest box orientation, species use and nest box condition.

If feral bees establish in the nest box during the monitoring phase, arrange for an appropriately qualified person is to be made to remove them. The box should be replaced with one that has carpet on the inside of the box roof, and if appropriate, surface insect spray to deter bees from establishing.

#### Biodiversity Offset Site

The Biodiversity Offset Site as shown in Figure 4 Revised Offset Area (Species Impact Statement Addendum, Ecological 24/02/2017) shall be established and maintained in perpetuity with a suitable conservation agreement over the site. The conservation agreement shall be legally binding and may include a property vegetation plan, a restrictive covenant, a VPA under the EP&A Act or VCA under the NPWS Act.

Native vegetation shall be retained and managed to achieve minimum 80% cover native groundcover, minimum 90% abundance of native understorey and minimum 90% abundance of native canopy vegetation in perpetuity.

Noxious weeds shall be 100% eradicated from the Biodiversity Offset Site.

A qualified ecologist shall undertake an annual inspection of the offset land and provide the landowner and Council with an annual report detailing the condition of the offset land. This report is to include any monitoring requirements and recommendations for changes to management practices.

#### S88B Instrument

Prior to the issue of an Occupation Certificate, a restriction as to user shall be registered over the Biodiversity Offset Site as shown in Figure 4 Revised Offset Area (Species Impact Statement Addendum, Ecological 24/02/2017) under Section 88B of the Conveyancing Act setting out the following:

"The area shown as Biodiversity Offset Site as shown in Figure 4 Revised Offset Area (Species Impact Statement Addendum, Ecological 24/02/2017) shall be established and maintained as a biodiversity offset area."

Council is to be the party empowered to release, vary or modify the restriction.

#### Habitat Augmentation

An alternative native vegetation corridor shall be provided away from the operational aspects of the development.

Twenty tubestock shall be planted between the two north-south powerlines west of the northbound development area. Species shall include smooth-barked apple *Angophora costata*, scribbly gum *Eucalyptus haemastoma*, red bloodwood *Corymbia maculata*, swamp mahogany *Eucalyptus robusta*, forest oak *Allocasuarina littoralis*, hairpin banksia *Banksia spinulosa*, fern-leaved banksia *Banksia oblongifolia*, paperbark tea-tree *Leptospermum trinervium*, sunshine wattle *Acacia terminalis*, Sydney golden, wattle *Acacia longifolia*.

The plantings must be grown to NATSPEC Guidelines for Specifying Trees to ensure quality trees and more successful establishment.

The planting must be undertaken in such a manner as to promote good health during the establishment period, and must be maintained to maturity in perpetuity.

Alternatively, squirrel glider poles shall be installed to maintain connectivity in this location.

#### Fencing of Offset Site

Barbed wire or similar shall not be used for temporary and permanent fencing of the Biodiversity Offset Site. Where adjacent stock requires exclusion from the offset site, rural-style post and plain wire, or post and rail, shall be used. Fencing of the Biodiversity Offset Site shall be maintained in perpetuity.

#### Litter Management Plan

A Council-approved Litter Management Plan shall be developed. The entire site including the offset site, development site and access ramps shall be regularly inspected for litter. Litter shall be regularly removed with appropriate recycling from the entire site. Regularly is considered to be weekly as a minimum.

#### Provision of Survey Plans and Files

Prior to commencement of construction the proponent must arrange for the production of a proper survey plan, prepared by a registered surveyor that clearly shows the location and boundary of the offset land, as shown schematically in the Species Impact Statement (24/2/2017). An electronic copy of each survey plan that can be clearly printed at A1 or A0 scale must be provided to Council within two weeks of these plans being produced. The electronic copy of the survey plan and GIS shapefiles of the offset land shall also be provided to Council within two weeks of these plans being produced. GIS shapefiles of the offset land shall also be provided to Council within two weeks of these plans being produced.

#### Squirrel Glider Poles

Measures to establish a functioning corridor to enable fauna movement (in particular squirrel gliders) to the north and south of the northbound site, shall be provided between native vegetation fronting the M1 Pacific Motorway. Structures (glider poles) shall be installed on Lot 4 DP 264501 266 Newport Road Cooranbong with the intent to facilitate movement of squirrel gliders between patches of native vegetation to the north and south of the northbound site (a minimum of four glider poles are required). Input from a squirrel glider expert shall be obtained and included in the design, placement and to confirm the number of these structures. They 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 the Roads and Maritime Services, and be certified by a practicing structural engineer. The poles shall be installed within three months of vegetation clearing commencing. A minimum ten years of monitoring fauna usage of the poles is required, with an annual monitoring statement provided to Council. The poles shall be maintained in perpetuity.

#### Planning Comment

Conditions/GTAS from the NSW OEH can be found at Attachment 4. The recommended conditions listed above have been included in the draft conditions of approval. A draft PVP has been prepared and Council has been in discussion with Local Land Services regarding its content.

## 2.13 Preservation of Trees & Vegetation

Comments from Council's Arborist have noted the following:

The outstanding issue under [the] previous layout was the establishment of a '15 metre wide defendable bushfire zone buffer around the perimeter of development', which has been removed under amended proposal.

The required APZ for the development is to be contained within the developable footprint (including created batters) which is supported, negating the requirement for trees to be nominated for retention, as the buffer is no longer required.

That stated, it is noted the batters created are quite large, particularly the on the northbound service centre, where many trees will require removal to facilitate excavation.

The impacts of the outer batter edge on existing trees and vegetation may be a concern, where recommended delineating protection measures (i.e. fencing and erosion/sediment control) be installed around perimeter of approved construction/battered areas.

These issues have been considered and conditions proposed by the OEH and Council's ecologists.

## 2.14 European Heritage

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



Figure 13 - Sensitive Aboriginal Landscape

## 2.15 Aboriginal Heritage

Parts of the subject sites are identified as a sensitive Aboriginal Landscape. An AHIMS search of the site with a 200m buffer was conducted. It did not identify any recorded sites or declared places in or near the location.

The following groups were notified. None provided a response in relation to the proposal:

Biraban Local Aboriginal Land Council;  
Awabakal Decedents Traditional /Owners;  
Awabakal Aboriginal Owners Corporation; and  
Guriggai Tribal Link Aboriginal Corporation.

Council's Heritage Planner has made the following recommendation:

The conclusion is concurred with that the requirements for consultation under the LMCC AHIMS have been met and that the area has been adequately assessed to be able to conclude that there is little to no potential to identify further Aboriginal objects and/or places in the area affected.

The proposal is unlikely to have adverse impact on Cultural Heritage significance subject to imposing the following conditions:

### **1. SITE INDUCTION**

All relevant staff and contractors must be made aware of their statutory obligations for heritage under the National Parks and Wildlife Act 1974 and the Heritage Act 1977, which must be implemented as a heritage induction.

### **2. EXCAVATION – ABORIGINAL RELICS**

Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area are to stop 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.

### **3. EXCAVATION - SKELETAL REMAINS**

In the unlikely event that skeletal remains are identified, work must cease immediately in the vicinity of the remains and the area must be cordoned off. The proponent must contact the local NSW Police who will make an initial assessment as to whether the remains are part of a crime scene or possible Aboriginal remains. If the remains are thought to be Aboriginal, OEH must be contacted. An OEH officer will determine if the remains are Aboriginal or not; and a management plan must be developed in consultation with the relevant Aboriginal stakeholders before works recommence.

These three conditions have been included in the draft conditions of consent.

## 2.16 Natural Heritage

The subject site is not identified as containing any items or location of Natural heritage, pursuant to schedule 5 of the LMLEP 2014.

## 2.17 Social Impact

The development was reviewed by Council's Coordinator of Social and Community Planning. Their comments were as follows:

I refer to the subject application and advise that I have reviewed the relevant documentation including the Overview of Social Effects (Appendix M) and concur with the findings of this report.

The report identifies that there will be a number of social benefits including the generation of employment (both during construction as well as operation), will provide access to service centre facilities for drivers using the M1, as well as a number of road safety benefits.

However, the report also identifies a number of negative social impacts including:

- Noise;
- Air quality;
- Light spill;
- Visual impacts; and
- Construction impacts.

However, measures have been incorporated into the proposal to minimise these impacts. As long as others (with the relevant expertise) assess these impacts to be within acceptable limits, then I would agree that the proposed development will provide an overall positive social benefit.

In order to mitigate or minimise any negative social impacts, and to enhance the positive social benefits, I recommend that the measures identified in the Overview of Social Effect are implemented. These include:

- The implementation of a management plan for the proposal – this should be developed and monitored in conjunction with the local community through the establishment of a community consultative committee. The Plan should clearly identify how residents/the community/customers are able to raise concerns or issues, and the process for addressing these;
- Measures to address noise, light spill, and pollution;
- A construction plan, which includes consultation with, and notifications to the neighbouring properties and local community; and
- Direct local advertising of jobs (can be included within the management plan for the development) to encourage local employment.

The first three measures listed above have been addressed in this report and or via conditions of consent. It is considered that the last point is outside the ability of the consent authority to condition, though it is considered that this is the most likely outcome when it comes to the notification of employment opportunities at this site in the future.

## 2.18 Economic Impact



Council's Strategic Planner was requested to comment on the proposal and made the following comments:

The proposal consists of two service centres, one on each side of the M1 Pacific Highway. Each site contains a shop, food and drink premises, café, tourist and visitor information centre, and a common dining area. The total retail floor space per service centre is 1,358m<sup>2</sup>, or 895m<sup>2</sup> GLFA.

The below comments are based on the Economic Impact Assessment (the EIA) undertaken by the AEC Group.

### **1. Retail Impact Assessment**

The EIA estimates that the target non-petrol turnover for each service centre would be approximately \$7.1m per annum, or \$14.2m in total. This revenue is derived by two market segments: passing trade (customers utilising the M1), and local residents.

The EIA argues that the service centres will draw the majority of its revenue through passing traffic and will have a negligible impact on existing retail floor space in the nearest centres of Cooranbong, and Morisset. In the opinion of IP, this is likely to be the case for the following reasons:

- The service centres are not easily accessible from the existing, or likely future population bases surrounding Cooranbong and Morisset.
- The primary trade catchments and markets for the existing and projected retail floor space for the nearby centres is predominately local in nature. While there may be some impact on the tertiary trade (those exiting the M1 to acquire goods) for the existing centres, the impact is likely to be negligible.
- Goods sold at the service centres are likely to be priced to reflect the level of competition for the primary market of passing traffic on the M1. As the existing population has substantial choice for such goods, it is like that this pricing indicator will result in minimal capture of the local trade from the centres.

### **2. Economic Impact (Construction)**

The EIA states that, based on a total capital investment of \$33.35m, the project is likely to generate \$16.6m in output within the Lake Macquarie LGA. This is based on a retention of approximately 50% of the total output within the LGA. Due to the nature of the construction and the accessibility of the site to other key areas, this is likely to be an over-estimation.

Nonetheless, the impact of the construction component on the wider economy should not be underestimated. Council's modelling indicates that the total output of the construction of the service centres is estimated at \$70.996 million. Furthermore, total employment (direct, industrial and consumption effects) for the project is estimated to be 152 jobs, with additional wages and salaries of \$12.199 million.

In summary, the proposed highway service centres are likely to have a negligible economic negative impact on the existing areas of Cooranbong and Morisset. While the economic benefits for the Lake Macquarie LGA are likely to be overstated in the EIA, the construction of the development is likely to create positive impacts on both total output and employment for the wider region.

Integrated Planning do not raise any objection to the proposed development on economic grounds.

Council also sought an independent opinion on the economic impacts from SGS - *Economics and Planning*. Their report concluded that:

### **Conclusion**

Overall, the concerns raised above regarding the assumptions and method provided by AEC make it difficult, at face value, to provide a recommendation regarding the revised proposal. Nevertheless, the report conclusion that the proposed development is unlikely to have any significant impact on the role or function of neighbouring centres – given the specific trade characteristics of highway service centres, their reliance on passing trade, in addition to the small scale of these components and likely competitive offer of surrounding centres – seems a reasonable premise.

The proposal will not result in any unreasonable adverse economic impacts.

## **Part 2 – Development in Rural Zones – Section 3 Development Design**

### **3.1 Street Setback**

The development does not address any streets in the traditional sense. The built structures are in excess of 100m from the M1 on both sites.

### **3.2 Side & Rear Setback**

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

### **3.3 Building Bulk**

The proposed development is within the height limit applicable to the development area.

The service centre has been designed so that lengths of walls are articulated to provide visual relief.

### **3.4 Solar Access & Orientation**

The proposed development will not have overshadowing impacts on neighbouring sites, including impacts from the 3.2m high acoustic fence proposed for part of the northbound site. Given the commercial nature of the use, no internal / external solar comfort has been deemed necessary, though it is noted that western elevation openings are minimised on both sites.

### **3.5 Energy Efficiency & Generation**

The development does not require a BASIX certificate. The development will need to comply with Part J of the BCA.

Council's Sustainability staff have recommended that provision be made for the installation, (or infrastructure be laid to provide in the future), of electrical vehicle power / recharge points. The applicant has been made aware of this request and this will be conditioned with a minimum of two spots per centre recommended.

### **3.6 Landscape Design**

A suitable level of landscape design has been resolved to support the application. This has been reviewed by Council's Landscape Architect who is satisfied with the resolved outcomes.

### 3.7 Landscaping and Tree Planting in Car Parks

While desirable, this is difficult to achieve within the track/heavy vehicle parking area given the size and nature of the vehicles. This will lead to a large area of exposed hard stand. The landscape plans have attempted to reduce this impact with islands of landscaping proposed at the border of traffic lanes and parking and between the different parking areas. This will reduce the visual impact of the hard stand areas, reduce heat loading and provide amenity for centre users.

### 3.8 Fencing

Security type (chain wire) fencing will be erected around centre sites, with existing rural type fencing being retained around the property boundary. An exception will be along a 160m long section of the northbound centre, where a 3.2m high acoustic fence will be erected, (as recommended in the Acoustic Assessment), along part of the western boundary of the northbound centre - not the property boundary. This fencing is positioned so it will not have any adverse visual or amenity impacts.

It is noted that a number of submissions received from the public sought to have a greater extent of acoustic fencing. However, the acoustic report has recommended only this length so that acoustic impacts are minimised on the local community and this has not been opposed by Council's Principal Environmental Officer - Environmental Management.

### 3.9 Traffic & Transport

A traffic and parking assessment was provided to support the development application. The development will not access local roads (post construction) and the approval of the RMS has been given in relation to accessing the sites from the M1.

### 3.10 Design of Parking & Service Areas

Council's Traffic Engineer has noted in their final comments that:

#### **Car Parking Areas and Structures**

Swept paths appear adequate.

The crossover for the drive through is adequate however priority should be given to drive through 1 on both sites in the form of Give Way restrictions.

#### **Vehicle Access**

The access to the drive through lanes appear to be obstructed by vehicles parked at the bowzers at both sites. A swept path must be shown to indicate vehicles can access drive through when vehicles are at bowser.

It had been noted earlier that:

The internal driveway and car parking area (including turning movements) are adequate for the development and comply with the DCP 2014 requirements and AS 2890.1 Parking Facilities – Off Street Parking & AS 2890.6 Parking Facilities – Off-street parking for people with disabilities.

The proposed development has included adequate facilities for service vehicles.

Issues relating to the vehicle movement, differentiated parking areas and priority at crossings and intersections can easily be resolved with line markings and appropriate

signage. A signage strategy to assist with safety and way finding is recommended via condition. It is also required by the RMS via GTA.

Council originally raised concerns with the crossing of the drive through lanes. The applicant responded that:

There are a number of examples of this design currently being utilised successfully across both NSW and QLD within highway service centre developments.

Appropriate line marking and signing will be in place to direct vehicles to give way and prevent queuing across the intersection of the two bays.

Examples of developments with crossed duel drive-thru's:

- In DA:
  - BP Marulan duel HSC, NSW.
- Under construction:
  - Nambucca, NSW.
- In operation:
  - Caltex Coomera (Rix), QLD.
  - Puma Kempsey South HSC, NSW.
  - Brisbane airport service centre

The Brisbane airport service centre can be viewed in aerial photos, showing extensive line markings. While not highly desirable, this type of operation has been shown to work in recent developments and with appropriate signage controls and speed control should not have adverse impacts.

The RMS will require the lodgement of a 'Pedestrian Safety Audit' prior to the issue of a CC. This is included as one of their GTAs.

### 3.11 Car Parking Rates

Highway Service Centres are not a listed in Council's car parking rates table. A referral was made to Council's Traffic Engineer, who made the following comments, (which has been amended to reflect the latest amended plans):

#### **Vehicle Parking Provision**

The car parking provision required in DCP 2014 is

- 1 space per 60m<sup>2</sup> of convenience store
- 1 space per 10m<sup>2</sup> food outlet

Site		Convenience Store	Food Outlet
Southbound	Area m <sup>2</sup>	145	77+165+ 80+175+40
	Requirement	2	54
	Provided	127 light vehicles 10 A Doubles 15 B Doubles	

		9 caravan and coaches	
<b>Site</b>		<b>Convenience Store</b>	<b>Food Outlet</b>
<b>Northbound</b>	Area m <sup>2</sup>	142	90 +165+80+175+40
	Requirement	2	55
	Provided	132 light vehicles 10 A Doubles 15 B Doubles 9 caravan and coaches	

The proposal meets the requirement for vehicle parking provision, as set out in DCP 2014.

No specific motorbike parking has been provided. Large travelling bike groups would use standard car parking, or are most likely to informally park in the heavy vehicle area.

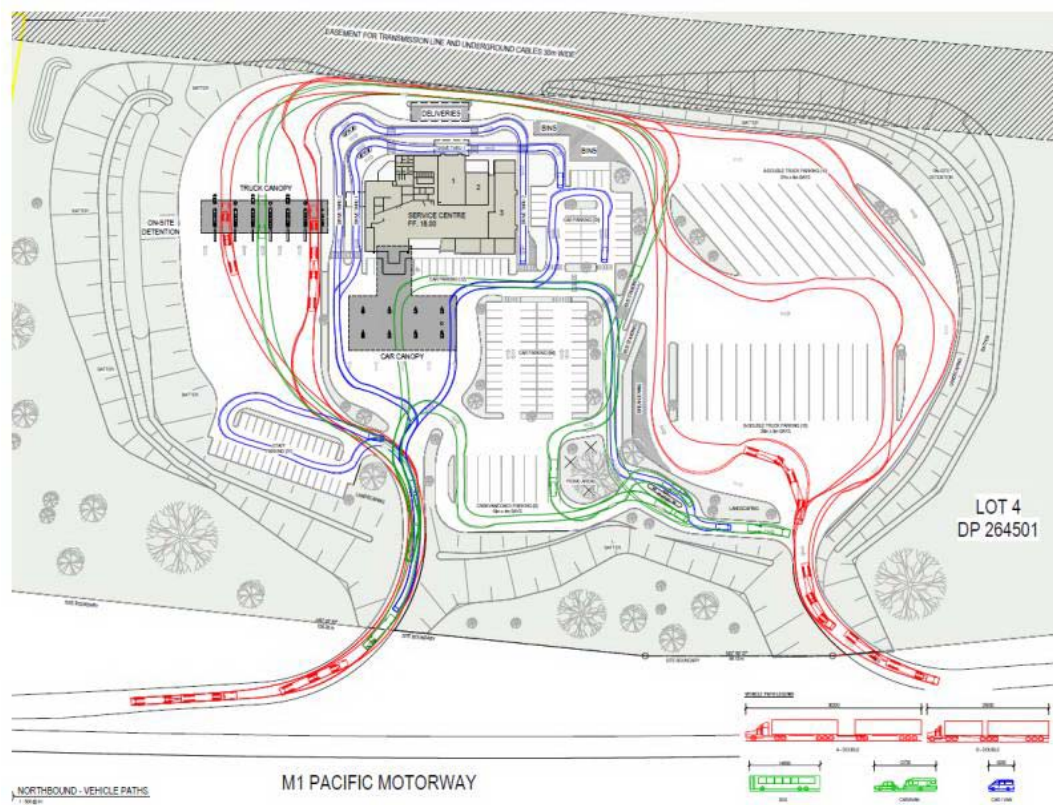
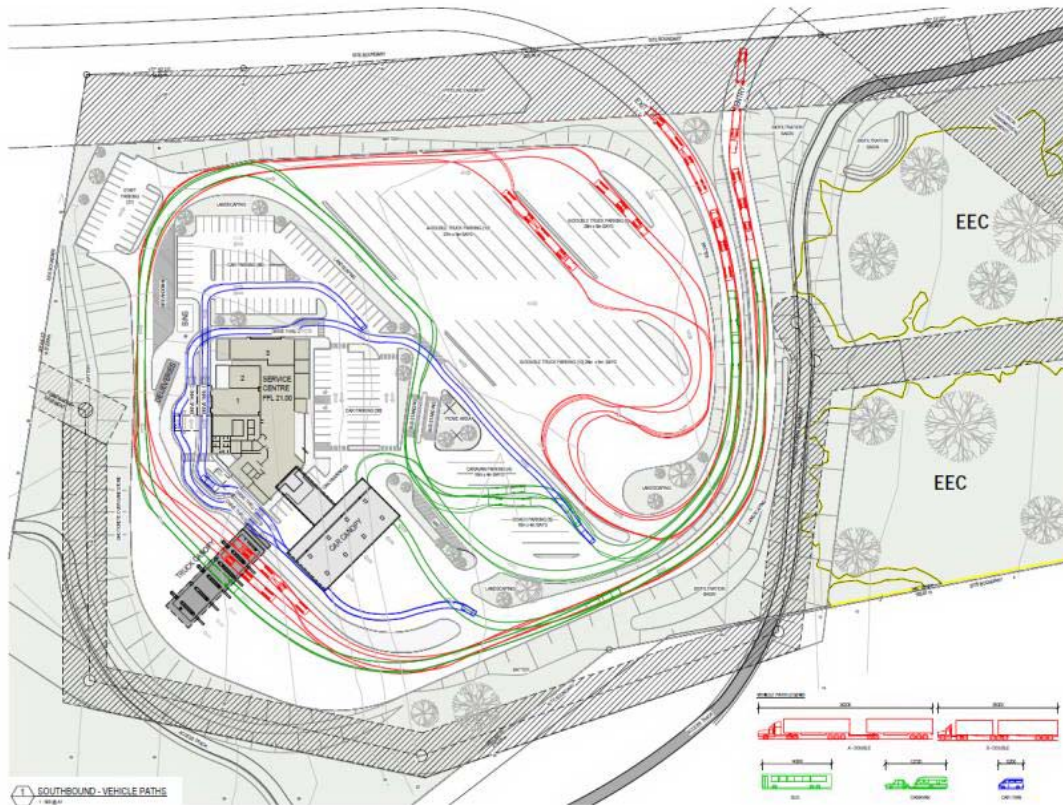


Figure 14 – Northbound traffic manoeuvring





**Figure 15 – Southbound traffic manoeuvring**

### 3.12 Non- Discriminatory Access

Council's Aging and Disability Planner has advised an access audit has been provided and they support the recommendations of the report lodged with the application to be demonstrated prior to the issue of a construction certificate.

### 3.13 Safety & 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 that:

The Crime Risk Assessment Report (Marshall, 2015) and Statement of Environmental Effects - CPTED Statement (Elton, 2015) prepared for the proposal adequately addresses the main crime risks. The reports identify a number of strategies to mitigate crime risks and to ensure that the proposal is designed/constructed in accordance with CPTED principles. I concur the recommendations identified in the report (Crime Risk Assessment, Section 5.1 – 5.4 p25-26; and Statement of Environmental Effects, Section 7.9 CPTED Statement p60-62) regarding surveillance, access control, territorial reinforcement, activity and space management, dwelling design, lighting, access, car parking, fencing, and landscaping which should be included as conditions of consent.

A condition is proposed relating to crime prevention and compliance with the recommendations of the CPTED lodged. (It is noted that it is highly desirable that

external light spill is minimised – hence a proposed condition seeks the creation of a lighting plan which will identify how this goal will be achieved.)

### 3.14 Cut & Fill

Development controls limit combined cut and fill to a maximum of 3m contained to the building footprint and 1m outside the building footprint. These controls are exceeded. Comments from Council's Development Engineer have been discussed above, where they noted that:

- The proposed development includes cut and filling in the order of 3 metres on the northbound site and up to 7 metres of excavation ( but generally less than 3 metres of excavation) and up to 2 metres of filling on the southbound site.  
The amount of cut and fill is considered acceptable on this site due to the size and scale of the development and the relatively isolated location.

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

## **Part 2 – Development in Rural Zones – Section 4 Operational Requirements**

### 4.1 Demolition & Construction Waste Management

A Building Waste Minimisation Management Plans must be prepared for a development of this size.

A satisfactory plan was lodged and will be included as an approved document in any consent.

### 4.2 Waste Management

Amended information was requested. Once received this was considered by Council's Waste Officer - Governance Audit and Waste who made the following comments:

- The information request response has indicated that: “the final design and configuration of the waste storage areas will be dependent on the final tenants for the sites. Consequently, it is proposed that this matter be considered in further detail as part of a future site management plan.”
- Hence, the following design issues remain unresolved:
  - The detailed design of the waste storage areas should allow for cardboard and plastic wrap bailing equipment as an option for tenants.
  - Regarding bin configuration and servicing for food waste generators, smaller bins with more regular servicing may be appropriate, or use of food dehydrator systems.
  - It may also be beneficial to add to the tenant's waste management guide to consider two further options:
    - donation of unsold foods where suitable to food charities; and
    - food dehydrator systems.

- As future tenants will be discharging their waste into receptacles provided by site management, sufficient space needs to be allocated in the shared waste receptacle area.

Given the lack of information on future tenants of the food related premises it is considered appropriate to condition the proposal so that a future Site Management Plan and Waste Minimisation Plan will determine the configuration of the waste storage area, recycling operations and food waste collection/management.

Given the proximity to local waterways and E2 Environmental Conservation zoned land this Plan will require the designation of a smoking area, with associated cigarette butt bins or the total prohibition of smoking on both sites. The plan should also include the prohibition of non-recyclable or non-biodegradable food packaging and carry bags. Council did consider a condition prohibiting the use of any plastics on the site, but did not resolve to condition this at the time this report was completed.

#### 4.3 On-Site Sewerage Management

Not Applicable. The sites will be required to be connected to the Hunter Water or a local sewerage system.

#### 4.4 Liquid Trade Waste & Chemical Storage

Council's Environmental Management staff have made the following comments:

##### **Fuel Dispensing Area Wastewater Disposal**

The NSW EPA requires that drainage from the fuel dispensing areas be appropriately treated and discharged to the sewer, or, where sewer is not available, to a holding vessel for collection and disposal. The EPA have not approved of any other treatment system to allow polluted waters from the dispensing area to be discharged to stormwater.....

The SPEL treatment system mentioned in Appendix B-3 (Northrop Civil Engineers) of **Elton Consulting's correspondence of the 2<sup>nd</sup> May 2016** has not been approved by the EPA as a stand-alone treatment device for forecourt treatment and discharge to stormwater, and the EPA will not issue a discharge license for that system.

The SPEL system is considered as being suitable for installation and treatment of all other stormwater run-off from the site.

Conditions of consent will require the applicant to provide appropriate treatment and discharge to sewer or a collection system for tanker pump out to an approved waste facility.....

A condition will require the facility to connect to Hunter Water's system and the fuel dispensing are to be treated (drained) appropriately .

#### 4.5 Erosion & Sediment Control

The submitted Erosion and Sediment Control Plan prepared by Northrop Consulting Engineers Pty Ltd satisfactorily addresses Council's requirements for erosion and sediment control, conditions of consent to further regulate this are recommended.

#### 4.6 Air Quality

The development was referred to Council's sustainability staff. The following comments were received in response to air quality:

I refer to the subject application and advise that I have reviewed the Statement of Environmental Effects (SEE), SEE-Appendix K Air Quality

Impact Assessment (AQIA), and SEE-Appendix T Environmental Management Plan (EMP) – prepared by SLR Consulting for the proponent F3 Development Fund Pty Ltd - in relation to air quality. The documents were reviewed with reference to the National Environment Protection (Ambient Air Quality) Measure (NEPM-Air), the Protection of the Environment Operations (Clean Air) Regulation (PoEO-Air Regulation), the Approved Methods for the Modelling and Assessment of Air Pollutants in NSW (Approved Methods), the National Pollutant Inventory Emissions Estimation Technique Manual for Fuel and Organic Liquid Storage (EETM-Fuel), and Council's Development Control Plan.

The application describes a twin service station centre, on either side of the M1 Pacific Motorway in Cooranbong NSW. The development will see two service stations, with the usual amenities befitting service stations, including Underground Petroleum Storage Systems (UPSS') at each site, including:

- Petrol - 220,000L;
- Diesel – 200,000L
- AutoGas – 30,000L
- Other ancillary storage systems.

PoEO-Air is the primary legislative tool to ensure that air pollution from service stations is effectively managed to prevent public health hazards. Under this regulation, the Service Station will require Stage 1 Vapour Recovery (VR-1, capture of vapours from storage tanks during delivery of fuel from tankers), and Stage 2 Vapour Recovery (VR-2, capture of vapours from the bowser during refuelling by motorists). It is noteworthy that the SEE-Appendix T (Environmental Management Plan) only details the installation of a VR-1. VR2 may also be a legal requirement for this site, depending on the anticipated annual supply volumes.

I note that the application is accompanied by an AQIA, that was undertaken, generally in accordance with the Approved Methods. The authors used reasonable measures to assess background pollution levels, and applied signature vehicle pollutant emissions, that were appropriate at the time of preparing the report, and were in general, conservative estimates. This assessment has revealed that sensitive receivers would NOT be adversely impacted, beyond impact assessment criteria defined in the Approved Methods. Nevertheless, given the nature of the development, I recommend the following Conditions of Consent:

- **Condition of Consent 1 - DEV425A – Dust Suppression,**
- **Condition of Consent 2 - DEV511 – Emissions**
  - *Regarding vapour emissions, your attention is further directed towards the requirements for Vapour Recover for new Service Stations in the PoEO-Air regulation.*
- **Condition of Consent 3 - Air Quality Management Plan**

*The person entitled to the benefit of this consent shall prepare an Air Quality Management Plan (AQMP, or variation thereof), for operations on-site. The AQMP shall be prepared prior to commissioning of the facility, to the satisfaction of Council officers. The AQMP shall be developed to ensure compliance with statutory provisions in the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations*

*(Clean Air) Regulation 2010, relevant standards and impact assessment guidelines. At a minimum, the plan shall detail:*

- 1- All potential emissions sources; and*
- 2- The nature of air quality control methodologies that will be used to ensure that operations do not exceed air quality guidelines as per statutory requirements; and*
- 3- Complaints handling and management in accordance with AS/NZS 10002:2014; and*
- 4- Other relevant matters.*

*Details of complaints (complainant details, nature of complaint, and actions to rectify the issue), shall be retained in company files and presented to Council compliance officers (or other appropriate regulatory authorities) upon request.*

These proposed conditions have been included in the draft conditions of approval.

#### 4.7 Noise & Vibration

A Noise and Vibration Impact Assessment was lodged with the application. Additional information was sought from Council's Environmental Management officers. They responded to the additional information as follows:

##### **Acoustic Report**

I have reviewed the amended Noise and Vibration Impact Assessment, project number 630.10453, dated the 2<sup>nd</sup> May 2016, prepared by SLR.

SLR have maintained the bulk of the initial report and have re-assessed the vehicle movements and associated activities to the Northbound Service Centre.

In order to control noise more effectively, a 3.2 metre high, 160-metre long acoustic wall has been proposed to the western boundary, extending from the truck fuelling area to the drive through area.

Whilst this has assisted with the control of noise to the refuelling, dispensing and manoeuvring areas generally, it has limited ability to control truck engine braking noise from the freeway off-ramp.

In this regard, there will be instances where some of those vehicles exceed the sleep disturbance criteria to the residential dwellings located at locations Northbound 1 and 2, which are located on the one property, 298 Newport Rd adjoining the western boundary.....

Location NB3 is part of 714 and 724 Freemans Drive Cooranbong as a future "urban release area", and at this stage will need to be evaluated if and when dwellings are proposed for those zones.

Engine braking noise is not able to be effectively reduced at the source, which is the off-ramp, and the only alternative is to provide additional attenuation to NB1 and NB2, and this is the responsibility of the applicant to address.

Notwithstanding that aspect, the remainder of the on-going operational stage of development can be compliant if the recommendations of SLR Acoustic Consultants are incorporated into the design of the development.

I will place conditions on the consent, tentatively, and will await the final outcome of negotiations.



Any consent conditions will require acoustic certification prior to an occupation certificate being issued, and conformance testing and certification at three months after occupation.

Based on these referral comments, Council sought additional comment on the failure of locations NB1 and NB2 to achieve a satisfactory acoustic comfort level. Additional information was received and again referred to Council's Environmental Management staff who made these final comments:

I refer to the subject application and advise that I have reviewed the additional acoustic information forwarded to Council by Elton Consulting, which included Correspondence from SLR Acoustic consultants dated the 20th December and a Deed of Agreement between the owners of F3 Developments and the owners of 298 Newport Rd Cooranbong, prepared by Dunwoodie Legal date the April 2016.

The rationale for this Deed of Agreement is to satisfy Council's concerns with potential intrusive noise from engine braking from heavy haulage vehicles to the residents of number 298 Newport Road.

Due to the relative levels between the Service Centre and the F3 Freeway, practicable attenuation of the trucks using the entry and exit ramps is not possible, leaving the alternative strategy to provide attenuation at the affected residential receiver, which is 298 Newport Road.

Negotiations between developers and affected residents are acceptable outcomes where other practical acoustic solutions are not achievable. These agreements are sanctioned by the NSW Industrial Noise Policy.

This deed of agreement will now satisfy Council's concerns with the Sleep Disturbance Criteria and those concerns were previously raised by me in my internal response of the 9<sup>th</sup> May 2016.

You should seek comment from the City Solicitors' Office prior to finalising the consent.

Comments were then sought from the City Solicitors' Office, who concluded:

We are of the view that Council needs to be adequately satisfied that any noise impacts are acceptable on the basis of the application before it. Alternatively appropriate conditions of consent designed to mitigate those concerns need to be imposed.

The Deed does not provide a sufficient mechanism for Council to be satisfied in this regard.

Further, the current application indicates that any further mitigation measures would need to be carried out on the affected property, either by way of localised noise barriers or architectural treatment. Of course, those measures would need the approval of the owner of the affected property. If those measures were to be implemented, the consent of the owner of the affected property (and we would also suggest the purchaser, having an interest in the property) should be provided to Council to ensure that any conditions imposed can be implemented, and any relevant approval process for same can be undertaken.

The applicant was advised of this concern and on 30 May 2017 Council received correspondence prepared by Sparke Helmore Solicitors (Attachment No 7), regarding a proposed condition to ensure amenity concerns are mitigated. This correspondence was considered by Council's legal staff. They noted:

I have reviewed the advice from Sparke Helmore. Council certainly has the power to impose the condition proposed. However, to my mind, the questions to be answered in this matter are not strictly legal questions:

1. Is the development likely to create an unacceptable acoustic impact on lot 175?
2. If the answer to (1) is yes, is permitting the owner of lot 175 the opportunity to request mitigation works within a certain timeframe a sufficient answer to the acoustic impact?
3. If the answer to (2) is yes, is 6 months a sufficient timeframe for the owner of Lot 175 to request mitigation of acoustic impacts? Bearing in mind that, depending upon the time of year, the busier Christmas period might not fall during the 6 months.

The condition was then considered by Council's Principal Environmental Officer - Environment, who made the following comments:

I have reviewed the advice by Spark Helmore Lawyers in relation to the pending formal agreement with the adjoining property owners of Lot 175.

There appears to be good intent with the proposal, and I have no problems with the conditions outlined, but I have some concerns with a couple of issues which should receive further evaluation and implementation.

The ownership of Lot 175 may change, and therefore, is there some assurance that any prospective new owner will be covered with the proposal?.

A six month period may not be sufficient to cover seasonal weather and patron use of the facility, and this trial period must be increased to at least twelve months or beyond.

If there are no obvious issues within the proposed selected time period, and there are future issues with offensive noise or sleep disturbance due to a change with the operation of the facility, what is the outcome?

It would appear that there are some ifs, buts and maybe's at this stage, but in the absence of decisive acoustic treatment of Lot 175, the legal agreements proposed must provide permanent assurity.

Given the issues raised by Council's legal and environmental staff, the condition proposed by the applicant (via Spark Helmore) is recommended in the draft conditions of consent, however the reference to a 6 month time frame (or any time frame) has been removed.

Draft conditions of approval also include (1) certification of the acoustic report once operations have commenced and (2) acoustic controls during construction.

#### Part 9 Specific Land Uses – Section 9.15 Service Stations

The development is not defined as a service station. As such, this clause is not technically applicable. The controls are copied below only to show what Council would specifically consider when assessing an application for a service station:

Control 1: Vegetation landscaping must be included in the design of service stations to soften the appearance of the development, and to assist in contributing to the amenity of the area.

Control 2: A continuous landscape strip must be provided along the frontage of the site and any building or structure must be located at least 7 metres behind the landscape strip.

Control 3: A continuous building form must be provided along at least 75% of the rear boundary, where the development adjoins housing.

Control 4: A 3 metre wide densely vegetated buffer must be provided between the building and the lot boundary where a building wall with no openings is the closest element to adjoining housing.

Control 5: A 6 metre wide densely vegetated buffer must be provided between the building and the lot boundary where a building wall with openings is the closest element to adjoining housing.

Control 6: Vegetated buffers along boundaries must consist of species that will form a visual screen 4 meters [sic] high within three years.

Control 7: Vegetated buffers along large featureless walls must screen a minimum of 30% of the building elevation at maturity.

Control 8: 8. The development must be designed and constructed with high quality finishes.

Control 9: Building openings and operational activity areas must be located away from adjoining residences. Where site constraints mean that this is not feasible, measures are to be implemented to mitigate adverse impacts of noise, vibration, glare, light and odour on adjoining residences.

Control 10: Parking and outdoor storage areas must be screened from adjoining housing development.

Control 11: Casual surveillance must be provided from the public domain to any retail area or shop associated with the service station.

Control 12: Refuelling areas and the entrance to any retail area or shop must be visible from the street.

Control 13: Stand-alone Service Station development must not exceed 8.5 metres in height.

Control 14: A Crime Risk Assessment must be submitted to Council. See Council's Crime Prevention Through Environmental Design Guideline for further information.

Control 15: Non-discriminatory access must be provided to the development.

It is noted that this proposal would satisfy the majority of these controls.

**79C(1)(a)(iia) 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 building at 266 Newport Road, Cooranbong. Council's standard condition in relation to demolition is proposed.

## **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:**

Forty (40) submissions were received during the initial submission periods, raising numerous issues with the proposal. During the third notification period (with SIS) three (3) submissions were received. The matters raised in the submissions are summarised below.

*Health Impacts – Asthma/headaches triggered by Pollutants - Air Pollution / Odour from Food Premises*

### Planning Comment:

There are limited residential properties in close proximity to the development. The closest residential developments are 400m from the northbound/eastern site and 450m to residentially zoned land directly to the west of the proposal.

Council's Senior Sustainability Officer - Environmental Health's comments have been noted above (under DCP cl 4.6 Air Quality) These comments concluded that "This assessment has revealed that sensitive receivers would NOT be adversely impacted...."

No concerns were raised by Council's Environmental Management officers in relation to food and food odours being emitted from the site. Standard conditions in relation to food premises are included in the draft conditions of approval.

*Loss of Property Values*

### Planning Comment:

Property values are not a consideration under S79C of the *EP& A Act 1979*.

*Noise – 24hr operations/noise barrier does not extend along off-ramp – impacts on future residential areas*

### Planning Comment:

Initial comments from Council's Environmental Management in relation to noise impacts raised concerns with sleep disturbance criteria at northbound locations. They noted that Council, " [will not accept the Acoustic Consultant's comments stated in Section 7.7.2 of the report that the exceedence by one or two events per night would not be likely to affect the health and wellbeing significantly.](#)"

These concerns were put to the applicant in the initial additional information request. Further information was provided by the applicant and considered by Council's Environmental Management officers. Their comments have been noted above (DCP Cl 4.7). With the inclusion of a 160m long 3.2m high acoustic wall, the only property adversely affected by the development is the dwelling immediately to the west of the northbound centre at 298 Newport Road.

A specific condition in relation to this affected property has been discussed above (Cl 4.7 LM DCP).

In relation to the lodged acoustic report, Environmental Health has recommended the acoustic impacts be tested 90 days after operation to ensure compliance with the predicted noise levels. Given noise is a major public concern, it is also recommended that testing be carried out at 6 and 12 months once operations have progressed, to ensure compliance with the noise assessment. Further to that it is recommended that



this 6 month and 12 month testing occur at the closest peak travel event, such as a long weekend or Easter.

### *Vibrations*

#### Planning Comment:

Council's standard conditions in relation to vibrations caused during construction will be imposed in any consent.

Vibrations caused by the use were addressed by the applicant in the Acoustic and Vibration report. The assessment noted that:

.....vibration levels from vehicles operating on a roadway are unlikely to be more perceptible unless there are significant road irregularities, particularly if the affected receiver is more than 20 m from the roadway.

Given the minimum separation distance of 100 m from the Project to the nearest residential receptor, road traffic vibration levels are predicted to be negligible and below levels of human perception.

Based on the distances to residential properties this matter is not considered to have any adverse impacts.

*Accuracy of footprint and zoning – Additional lot not included in DA application and RMS land owner*

#### Planning Comment:

Site analysis plans lodged show the development and E2 zoning boundaries. This confirms that the entire project falls within the area of the site that is affected by the additional permitted uses/R2 zoning.

It is noted that the development (part off the northbound off ramp) is over lot 50 DP 701946 (264 Newport Road, Cooranbong) which was not included in the original development consent site.

1. The RMS own this site and have now granted their owner's consent.
2. The most recent notification included this lot in its list of affected properties.
3. This lot is zoned RU2, but is not included in the additional use provisions. Highway Service Centres are not permitted in this zone.

Council does not allow a permitted use to transverse (have access over) a site on which it is not permitted. This matter was raised with Council's IP staff who noted that Clause 99 of SEPP Infrastructure allows a Highway Service Station over land within a road corridor for a freeway. The land as noted above is owned by the RMS and is part of the M1 road corridor. The SEPP clause reads as follows:

#### 99 Highway service centres in road corridors

Development for the purpose of a highway service centre may be carried out in a road corridor for a freeway, tollway or national highway only with consent.

### *Impact on lifestyle*

#### Planning Comment:

Comments were received that the centres will not benefit the local community, (only those using the M1 north of the Morisset interchange), and impact on the lifestyle of nearby residential properties. While many properties affected by the physical development are unlikely to have the greatest benefit, as they will unlikely use the facility, (given its location north of the Morisset Interchange), this proposal has wider benefits to the community. Specific issues that may impact on lifestyle such as noise, pollution and traffic impacts are considered in this report and in the responses to submissions.

*Location in close proximity to other service centre/s - RMS - Highway Services Centre summary feedback report-recommended 1 hr travel time between centres.*

#### Planning Comment:

It is noted that the (Twin) Wyong Service Centres are located approximately 25km (or 15 minutes) drive to the south of the proposed centres.

In 2014 the RMS published a 'Review of the Highway Service Centres Along the Pacific Highway Discussion paper' – in June 2015 a summary feedback report was then published.

While this review only applies to Council's from Port Stephens to Tweed, with a proposed centre at Heatherbrae – once the M1 route is finalised to bypass the Hexham Bridge, it does aim to have centres 1 hour apart along the NSW coastal / M1 route.

The report also indicates the following uses should be located at a Highway Service Station:

- A restaurant or café ;
- Take away food and drink premises;
- Service stations and facilities for emergency vehicle towing and repairs;
- Parking for vehicles;
- Rest areas and public amenities.

It also identifies additional requirements, "notwithstanding the definition in the standard Local Environmental Plan template", Roads and Maritime also requires, in addition to all of the above inclusions:

- That the centre is open 24 hours a day, seven days a week;
- That all traffic arrangements are safe and efficient;
- At least 25 heavy vehicle parking spaces (nominally to suit B-Doubles, with capacity to expand to cater for longer combinations in the future) be provided;
- A number of parking spaces for recreation vehicles and coaches;
- The provision of children's play areas and tourist information;
- That use of toilets and other amenities be free of obligation to purchase goods or services;
- Separate undercover fuel areas for heavy and light vehicles;
- That no alcohol be sold on site.

It is noted that the service centres (Wyong and the proposed) are in a relatively short distance (in terms of highway travel) apart. However, the length of the Motorway conditions from Wahrenonga to Beresfield is over one hours drive and this will be

increased when the Northconnex links the M1 to the M2. There are limited opportunities for another centre from Wahroonga to Beresfield given the topography the M1 route travels through. There are also no service centres on the M15 (Hunter Expressway), with direct access to that route, which increases the extent of motorway conditions to/from Sydney.

The proposal is supported in this location, given:

- The proposal will provide competition to a monopoly (in terms of direct access) use.
- The proposal will reduce congestion at existing centres during busy times of the day/year.
- There will only be two (direct access centres) on the M1 in the 1hr 20 mins drive from Wahroonga to Beresfield and the 1hr 35mins from Wahroonga to Branxton, (which includes the M15).
- No adverse impacts to the service centres located off-route at Freemans Waterhole and Morisset within the city's boundaries.

### *Traffic*

#### Planning Comment:

Traffic impacts on the M1 are considered by the RMS. Their approval of the project is evidence that the Authority considers the traffic impacts acceptable.

Construction traffic, (until access off the M1 has been constructed), will affect local roads, namely Newport Road and Hawke Mount Road. Council will seek a Construction Traffic Management Plan to be prepared prior to construction commencing. The RMS also require a Construction Management Plan.

### *Access to locals via roadways*

#### Planning Comment:

There will be no vehicular access to the site from local roads once the development is completed.

This has a number of consequences, firstly it will prevent locals from accessing the facilities (via local roads), which will reduce impacts on local roads and local business centres. Staff however, driving or being dropped at the site, will only be able to access the site from the M1. This could mean for example that an employee from Morisset would have to drive to Freemans Waterhole Interchange to return home on completing a shift at the northbound centre or the same drive before starting a shift at the southbound centre.

When weighing up these matters the lack of direct access from the local road network is considered to be the most advantageous to the overall local community.

Concerns were also raised that staff will park nearby and walk 'overland' to the site, (as can be seen occurring at the Wyong service centres). It is noted that parking on local roads is limited and access via power line easements are controlled by locked gates – which is not the case at Wyong. The applicant has also indicated that the development site will be fenced by security chain mesh fencing, reducing opportunities for staff or members of the general public to access the site outside the M1 off ramps.

This prohibition on local access the centres – with a connection to the M1, is also requirement of the RMS.

*Security – trespassers*

Planning Comment:

The site of the works/centre will be fenced, this reduces the risk of persons walking/biking or driving over private property to access the centres. (It is noted on aerial views of the Wyong Service Centres (nth bound) that vehicles use an informal path under power lines to access the site from St Johns Road, Warnervale. Power line easements off Newport Road are gated – with locks.)

*Impact on Natural Environment – impacts on flora and fauna*

Planning Comment:

This application involved the lodgement of a Species Impact Statement which was considered by the NSW Office of Heritage and Environment. They have provided General Terms of Approval. Council's relevant officers (Flora and Fauna – Planner and Ecosystems Enhancement – Sustainability) have recommended additional conditions to ensure that impacts on Flora and Fauna are minimised and mitigated.

*Light pollution (local fauna impacts included) – semi rural area*

Planning Comment:

A standard condition will be provided that ensures lighting is provided in accordance with Australian Standard AS4282-1997. A recent application at Toronto (DA/1543/2016 – condition No 11) required additional lighting measures given the proximity to a local bat colony. It has not been considered necessary for additional lighting measures at this site.

*No economic benefit – negative impact on local services / No benefit to local community – no local access*

Planning Comment:

Council's Strategic Planner was requested to comment on the proposal. Their conclusion noted above, was that Integrated Planning do not raise any objection to the proposed development on economic grounds.

Council also sought an independent opinion on the matter from *SGS Economics & Planning*. While their final conclusion has been noted above, a number of their sub-conclusions are noted below:

SGS broadly agrees that only a small proportion of local resident expenditure is captured by local facilities such as Cooranbong and that much of the expenditure would be directed to large centres. (p2)

SGS broadly agrees that the proposed highway service centre's source of trade would be different to both Morisset and Cooranbong. (p3)

Based on these assessments it is concluded that the proposal will not have an adverse impact on the Cooranbong or Morisset retail centres. Employment generated by ongoing operations will provide local job opportunities.

#### *Clause 7.9 LM LEP 2014*

##### Planning Comment:

Clause 7.9 does not apply to this development. It applies to service station developments in the following zones:

- (a) Zone B1 Neighbourhood Centre,
- (b) Zone B2 Local Centre,
- (c) Zone B3 Commercial Core,
- (d) Zone B4 Mixed Use,
- (e) Zone B7 Business Park.

This clause limits the area of the building on the site and the floor areas used for the “ancillary retail selling of general merchandise.”

#### *Polluted stormwater runoff*

##### Planning Comment:

Council’s Development Engineer has noted a supportable Stormwater Management Plan has been submitted with the application. They concluded that:

- The water quality outcomes do not strictly meet Council’s requirements for a greenfield site, but exceed Council’s requirements for urban areas. It is considered that the proposed water quality outcomes are satisfactory for this site, which contains some highly disturbed areas in its current state.

Council’s Environmental Management staff have made the comments regarding *Fuel Dispensing Area Wastewater Disposal* noted above. Their comments seek to condition any consent so that it “will require the applicant to provide appropriate treatment and discharge to sewer or a collection system for tanker pump out to an approved waste facility.”

It is also noted that NSW Department of Industry – Water has provided GTAs that will be included in any consent.

#### *Littering from fast food users*

##### Planning Comment:

This is a perennial issue with fast food outlets. While the fast food businesses have made an effort to reduce waste and litter, (via provision of bins and recyclable /biodegrade packing), there will always be a small percentage of customers with little regards for their fellow citizens and the environment. The anti-social behaviour of these few should not out-weigh the vast majority of customers who will dispose of their waste appropriately.

#### *Fire and explosion hazards*

##### Planning Comment:

A Preliminary Hazard Assessment has been carried out as required by SEPP 33. This has identified the risks with the intent to minimise risks to people and property.

The report concluded that the development provides suitable setbacks given the thresholds achieved on the site

*Fuel or sewerage spillage – availability of emergency services*

Planning Comment:

When the sites were rezoned to permit Highway Service Centres the rezoning application was considered by such bodies as the Department of Planning, Rural Fire Service and NSW Office of Environment and Heritage. During this time, strategic matters, such as the adequacy of emergency services in the local area is a consideration. As the site has now been zoned to permit this use the provision of an adequate level of emergency services is assumed.

*Bushfire risk*

Planning Comment:

The site is located within an area identified as having a bushfire risk. While not required, Council referred the matter to the local RFS for their comments, (as noted above). They have recommended a number of conditions and these are included in the draft conditions for approval.

*Height of signage*

Planning Comment:

No signage is proposed with this application. It is, however expected that with any approval on this site, a future DA for signage would be submitted, including a 'large' identification signage directed to both sides of the M1. This proposed signage is likely to be higher than the height limit applicable to the zone and will require the consent of the RMS before consideration could be given to approving such signage.

*Future DAs*

Planning Comment:

There is a probability that if approved there will be future DAs for these sites (including signage). It would also be expected that these applications would be minor in comparison to this DA (eg no referral to JRPP, no notification, or as a CDC for operations of the fast food premises.) This is not a reason to withdraw support for an application.

*Visual pollution/visual impact*

Planning Comment:

Council's Landscape Architect has raised no concerns with the visual impact. From the Motorway the development – similar the Wyong service centres, will have limited visual contact with the Motorway (excluding signage). Areas of retained bush surrounding the development will minimise visual impact from neighbouring residential precincts.



*Sewer provision/connection – exceeds ability of present system*

Planning Comment:

The development will need to connect to Hunter Water's system. The management/capacity of this system is the responsibility of Hunter Water. Hunter Water have not responded to Council's referral sent on 10 May 2016.

*Noise during construction – Construction Management*

Planning Comment:

Standard conditions of consent, which limit construction hours and noise and the control of dust are to be included as conditions of any development consent.

*Lack of notification/No notification to Wyong Service Centres*

Planning Comment:

Over sixteen neighbouring properties and Owners' Corporations were notified of the proposal. Notices were also placed in the Newcastle Herald and signage on the Newport Road frontage was erected, resulting in over forty submissions combined.

The owners of the Wyong Service Centres were not notified in the first notification. They were subsequently notified, and objections to the proposal were received on their behalf.

*Rubbish/Waste generation*

Planning Comment:

The proposal will need to comply with the Building Waste Management Plan and once tenants/occupants of the facilities are determined Waste Management Plans will need to be prepared.

*Additional accidents on M1*

Planning Comment:

While it is noted that more accidents/incidents occur at interchanges where there is greater traffic conflicts, the proposal is supported by the RMS who have ownership, care and control of the M1. It is noted that a reduction in possible accidents would be expected from drivers who are well rested.

*Confusing internal design*

Planning Comment:

The internal design has been supported by the RMS.

Council's Traffic Engineer has raised concerns with the need to differentiate between specialised parking areas and various rights of way in the traffic flow. These can be addressed with appropriate signage way finding and road markings.

*No public transport for staff*

Planning Comment:

There is limited public transport options for potential staff for the centre. It is noted that the centres are designed to cater for car owners/drivers, truck drivers and those travelling by inter-state or long distance bus which would not necessarily be located in an area with good quality public transportation and for this reason it is not considered a reason to withdraw support for the application.

The final notification (late 2016 to early 2017) with SIS, raised a number of concerns, (listed below), which are noted and discussed above:

- Air Pollution / Quality;
- Light Pollution / Spill;
- Noise Pollution;
- Employment opportunities – economic benefits limited;
- Motorists' Safety;
- Acoustics and natural amphitheatre;
- Stormwater;
- Lack of toilet facilities – sewer impacts;
- Solid waste;
- Ecological impacts; and
- Local community impacts

Each submission has been considered and assessed against the relevant Council's controls and it is concluded that satisfactory design and 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 NSW OEH, RMS, NSW Primary Industries – Water and Mine Subsidence Board as integrated referral submissions, details of which are provided below.

NSW Rural Fire Service, Transgrid and Ausgrid also 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 15 of the Mine Subsidence Compensation Act 1961;
- Section 90 of the Water Management Act 2000;
- Section 138 of the Roads Act 1997; and
- Section 79B of the Environmental Planning and Assessment Act 1979.

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

### **Mine Subsidence Compensation Act 1961**

The Mine Subsidence Board provided their General Terms of Approval dated 27 August 2015 for the southbound centre. They are found at Attachment 6 and included as conditions of a draft consent.

### **Water Management Act 2000**

GTAs provided in 31 May 2016 – conditions have been included in the draft consent.

### **Roads Act 1993**

GTAs have been provided by the RMS in relation to Section 138 of this Act. These are included in the draft consent via condition.

### **Threaten Species Conservation Act 1995**

Section 79B of the EP&A Act has been addressed and GTAs have been provided by the OEH, dated 17 March 2017.

## **CONCLUSION**

Based on the above assessment it is concluded that the construction and operation of the proposed M1 Highway Service Centres, will result in an appropriate development with no unreasonable environmental impacts.

Acknowledging there are a number of public submissions 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 public interest and meet the objectives of the Act, which will provide benefit to the residents of Lake Macquarie, the Hunter and the broader community.

## **RECOMMENDATION**

It is recommended that the application be approved, subject to the conditions contained in Appendix 1 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.

John Andrews  
**Chief Development Planner**  
**Development Assessment and Compliance**

**Attachment 1: Proposed Conditions of Consent**

**Attachment 2: Plans of Development**

**Attachment 3: RMS GTAs**

**Attachment 4: OEH GTAs**

**Attachment 5: Office of Water GTAs**

**Attachment 6: Mines GTAs (for southbound centre)**

**Attachment 7: Letter from Sparke Helmore Solicitors regarding noise**