



Ordinary Council

LATE REPORTS

Business Paper

date of meeting: Wednesday 18 May 2016

location: Council Chambers
17 Burrawan Street
Port Macquarie

time: 5.30pm

Note: Council is distributing this agenda on the strict understanding that the publication and/or announcement of any material from the Paper before the meeting not be such as to presume the outcome of consideration of the matters thereon.

Council's Vision

A sustainable high quality of life for all

Council's Mission

Building the future together
People Place Health Education Technology

Council's Corporate Values

- ★ Sustainability
- ★ Excellence in Service Delivery
- ★ Consultation and Communication
- ★ Openness and Accountability
- ★ Community Advocacy

Council's Guiding Principles

- ★ Ensuring good governance
- ★ Looking after our people
- ★ Helping our community prosper
- ★ Looking after our environment
- ★ Planning & providing our infrastructure



**PORT MACQUARIE
HASTINGS**

How Members of the Public Can Have Their Say at Council Meetings

Council has a commitment to providing members of the public with an input into Council's decision making. The Council's Code of Meeting Practice provides two (2) avenues for members of the public to address Council on issues of interest or concern at the Ordinary Council Meeting. These are:

Addressing Council on an Agenda Item:

If the matter **is** listed in the Council Business Paper, you can request to address Council by:

- Completing the *Request to Speak on an Agenda Item at a Council Meeting*, which can be obtained from Council's Offices at Laurieton, Port Macquarie and Wauchope or by downloading it from Council's website.
- On-line at <http://www.pmhc.nsw.gov.au/About-Us/How-Council-Works/Council-Committee-Meetings/Request-to-speak-on-an-Agenda-Item>

Your request to address Council must be received by Council no later than 4:30pm on the day prior to the Council Meeting.

Council's Code of Meeting Practice sets out the following guidelines for addressing Council:

- Addresses will be limited to 5 minutes.
- If you wish any written information, drawings or photos to be distributed to the Council to support the address, two (2) copies should be provided to the Group Manager Governance & Executive Services prior to the commencement of the meeting.
- Where speakers wish to make an audio visual presentation, a copy is to be provided to the Group Manager Governance & Executive Services by 4.30pm on the day prior to the Council Meeting.
- Council will permit only two (2) speakers "Supporting" and two (2) speakers "Opposing" the *Recommendation* contained in the Business Paper. If there are more than two speakers supporting and opposing, the Mayor will request the speakers to determine who will address Council.

Addressing Council in the Public Forum:

If the matter **is not** listed in the Council Business Paper, you can request to address Council by:

- Completing the *Request to Speak in the Public Forum at Ordinary Council Meeting*, which can be obtained from Council's Offices at Laurieton, Port Macquarie and Wauchope or by downloading it from Council's website.
- On-line at <http://www.pmhc.nsw.gov.au/About-Us/How-Council-Works/Council-Committee-Meetings/Request-to-speak-in-a-Public-Forum>

Your request to address Council must be received by Council no later than 4:30pm on the day prior to the Council Meeting.

A maximum of eight (8) speakers will be heard in the Public Forum. Each speaker will be limited to 5 minutes. Council may ask questions of speakers but speakers **cannot** ask questions of Council.

Council will not determine matters raised in the Public Forum session, however may resolve to call for a further report, when appropriate.

Speakers will be allowed to address Council in the Public Forum on the same issue no more than three (3) times in each calendar year. (Representatives of incorporated community groups may be exempted from this restriction).



**PORT MACQUARIE
HASTINGS**

Ordinary Council Meeting

Wednesday, 18 May 2016

LATE REPORTS

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**PORT MACQUARIE
HASTINGS**

Looking After Our Environment

What are we trying to achieve?

We understand and manage the impact that the community has on the natural environment. We protect the environment now and in the future.

What will the result be?

- Accessible and protected waterways, foreshores, beaches and bushlands.
- Renewable energy options.
- Clean waterways.
- An environment that is protected and conserved for future generations.
- Development outcomes that are ecologically sustainable and complement our natural environment.
- Residents that are environmentally aware.
- A community that is prepared for natural events and climate change.

How do we get there?

- 4.1 Protect and restore natural areas.
- 4.2 Ensure service infrastructure maximises efficiency and limits environmental impact.
- 4.3 Implement total water cycle management practices.
- 4.4 Continue to improve waste collection and recycling practices.
- 4.5 Provide community access and opportunities to enjoy our natural environment.
- 4.6 Create a culture that supports and invests in renewable energy.
- 4.7 Increase awareness of and plan for the preservation of local flora and fauna.
- 4.8 Plan and take action to minimise impact of natural events and climate change.
- 4.9 Manage development outcomes to minimise the impact on the natural environment.

Looking After Our Environment

Item: 12.05

Subject: DA2014 - 410.3 MODIFICATION TO SHOP TOP HOUSING INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 - LOT 123 DP1219042, CLARENCE STREET, PORT MACQUARIE

Report Author: Matt Rogers

Property: Lot 123, DP1219042, Clarence Street, Port Macquarie
Applicant: Bamford Engineering
Owner: Yogi Bear Holdings Pty Ltd
Application Date: 30 March 2016
Estimated Cost: N/A
Location: Port Macquarie
File no: DA2014 - 410.3
Parcel no: 65374

Alignment with Delivery Program

4.9.2 Undertake transparent and efficient development assessment in accordance with relevant legislation.

RECOMMENDATION

That section 96 modification to DA2014 - 410.3 for Shop Top Housing including Clause 4.6 variation to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 123, DP1219042, Clarence Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a section 96 application to modify approval for shop top housing at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition of the application, one (1) submission has been received.

The application was reported to Council's Development Assessment Panel (DAP) on 11 May 2016 whereby the following was resolved:

That it be recommended to Council that section 96 modification to DA2014 - 410.3 for Shop Top Housing including Clause 4.6 variation to Clause 4.3 (Height

of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 123, DP1219042, Clarence Street, Port Macquarie, be determined by granting consent subject to the following changes to the recommended conditions:

- As per Planning Circulars PS 08-003 & 08-014, the modified height variation is more than a 10% deviation from the standard and therefore the application needs to be determine by full council rather than general manager or nominated staff member.

Existing sites features and Surrounding development

The site is zoned B3 Commercial Core in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



The existing subdivision pattern and location of existing development within the locality is shown in the following aerial photograph:

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2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Change to finished ground floor level, increase of 800mm.
- Increase in building height of 800mm.

Refer to attachments at the end of this report.

Application Chronology

- 30 March 2016 - Application lodged
- 8 - 21 April 2016 - Public exhibition via neighbour notification

3. STATUTORY ASSESSMENT

3. STATUTORY ASSESSMENT

Is the proposal substantially the same?

Section 96 of the Environmental Planning and Assessment Act 1979 enables the modification of consents and categorises modification into three categories - S.96(1) for modifications involving minor error, mis-description or miscalculation; S.96(1A) for modifications involving minimal environmental impact; and S.96(2) for other modifications. Each type of modification must be considered as being substantially the same to that which was originally consented to.

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The subject application is being considered under the provisions of Section 96(2). The proposal is considered to be substantially the same development to that which was originally consented to and will have minimal environmental impact. Having regard to the above principles, the proposed modification is not considered to alter the fundamental essence of the original development for the following reasons:

- The development use remains unchanged.
- The development footprint remains the same.
- Building height and built form are substantially the same. An 800mm increase to building height is minor in the context of the overall development and the surrounding locality.

Are there any condition(s) of consent imposed by a Minister, government or public authority that require modification?

No changes to any conditions imposed by a Minister, government or public authority.

Does the application require notification/advertising in accordance with the regulations and/or any Development Control Plan?

Neighbour notification has been undertaken in accordance with DCP 2013.

Any submissions made concerning the modification?

One submission was received following completion of the neighbour notification period. Key issues raised in the submission received and comments in response to these issues are provided as follows:

Submission Issue/Summary	Planning Comment/Response
It seems pointless to have a height limit standard if developers continue to vary it.	Refer to comments within clause 4.6 heading of this report.
If approval is granted the wording should be changed to the proposed modification is not to exceed 1m increase in building height as the higher this building becomes the more it impinges on privacy and values of adjoining property.	<p>The approval will provide for the building heights nominated on the approved plans. There is no evidence to suggest that the increase in height will adversely impact on privacy to adjoining properties.</p> <p>Impact on property values is not a planning consideration.</p>

Any matters referred to in section 79C (1) relevant to the modification?

- (a) The provisions (where applicable) of:
- (i) any Environmental Planning Instrument:

Section 79C(1) Matters for Consideration

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

- (a) The provisions (where applicable) of:

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(i) any Environmental Planning Instrument:

State Environmental Planning Policy 65 - Design Quality of Residential Flat Development

In accordance with clause 4 this policy applies to the proposal. It is noted that no Design Review Panel has been appointed by Port Macquarie-Hastings Council following amendments to this Policy in July 2015.

In accordance with clause 30(2), the modified proposal is consistent with the design quality principles contained in the Apartment Design Guide.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

In accordance with clause 6, a BASIX certificate has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

Port Macquarie-Hastings Local Environmental Plan 2011

In accordance with clause 2.2 the subject site is zoned B3 Commercial Core.

In accordance with clause 2.3(1) and the B3 zone landuse table, the proposed development for shop top housing is a permissible landuse with consent.

In accordance with clause 2.3(2) the consent authority must have regard to the objectives of a zone when determining a development application.

The objectives of the B3 Commercial Core zone are as follows:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure that new residential accommodation and tourist and visitor accommodation within the zone does not conflict with the primary function of the centre for retail and business use.
- To provide for the retention and creation of view corridors and pedestrian links throughout the Greater Port Macquarie city centre.

In accordance with clause 2.3(2), the proposal is consistent with the zone objectives having regard to the following:

- The proposal is a permissible land use;
- The development would provide additional ground floor retail and business use;
- The development will provide suitable high density residential accommodation;
- The proposal is accessible and will provide employment opportunities.

In accordance with clause 4.3, the maximum overall height of the modified proposal above ground level (existing) is 23.099m which does not comply with the height limit of 19m applying to the site. It is noted that the major bulk of the building (not including the roof over the roof top terrace) is at 20.198m on the west boundary and 19.244m on the east boundary. In the centre of the building is a communal roof deck, its roof being 23.099m above ground level. As a result, the applicant has submitted a Clause 4.6 variation to the standard.

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The change in levels and subsequent building heights are necessary to match the new footpath level from recent works undertaken in the road reserve.

Pursuant to Clause 4.6(3), consent must not be granted for a proposal that contravenes a development standard unless the consent authority has considered a written request from the applicant that justifies the variation by showing that the subject standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the contravening of the standard.

As a result of the above, the applicant submitted a Clause 4.6 variation to the standard based on the following reasons:

- The building design and height is consistent with the existing and future character of the locality in relation to height, bulk and scale.
- Existing building designs in the locality provide for lift overruns, roof top access and communal use rooftop areas in addition to the main building envelopes.
- There will be negligible impacts in relation to appearance, views, loss of privacy and loss of solar access.
- The proposal will have minimal impact on the heritage values of the site.
- The proposal will continue to provide for a transition in built form and land use intensity.

Having consideration to the above the applicant has demonstrated the proposal is consistent with the performance objectives of the height of building clause and will have limited impact on the environment. In addition, it is also considered that:

- The proposal is consistent with the objectives of the LEP and is unlikely to have any implications on State related issues or the broader public interest.
- When viewed from the street it will present as a six storey building. The roof top elements are open in nature, setback 3m from the perimeter of the main building, add minimal bulk and as suggested by the DRP will articulate the built form.
- The proposal is well below the allowable FSR standard thereby minimising bulk onsite.

As per Planning Circulars PS 08-003 & 08-014, Council can assume the Director's Concurrence for variations to height limits. The modified height variation is more than a 10% deviation from the standard and therefore the application needs to be determined by full council rather than general manager or nominated staff member.

In accordance with clause 4.4, the floor space ratio of the proposal remains unchanged at 1:2.91 which complies with the maximum 1:3.5 floor space ratio applying to the site.

(ii) Any draft instruments that apply to the site or are on exhibition:

No draft instruments apply.

(iii) any Development Control Plan in:

Port Macquarie-Hastings Development Control Plan 2013

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As the modification relates to a change in building height only, there are no specific building provisions of this plan applicable.

Car Parking

This development is reliant on parking provided by DA2015/332 and ties into the adjoining residential flat development (DA2016/149). The total parking required versus proposed for the whole site is as follows:

This proposal as modified still requires 42.1883 spaces. DA2016/149 requires 15.5 spaces. In total 57.68 spaces are required to serve both developments. A total of 73 spaces are proposed. It is noted a couple of these spaces may be lost due to turnaround requirements for blind aisles however proposed parking exceeds requirements.

(iiia) any planning agreement that has been entered into under Section 93f or any draft planning agreement that a developer has offered to enter into under Section 93f:

No planning agreement has been offered or entered into.

iv) any matters prescribed by the Regulations:

New South Wales Coastal Policy

The proposed development is consistent with the objectives and strategic actions of this policy. See SEPP 71 comments for further detail.

Demolition of buildings AS 2601

Demolition of the existing buildings are capable of compliance with the relevant standards. Appropriate condition has been recommended to ensure waste management and asbestos removal is undertaken in accordance with relevant legislative requirements.

v) any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)), that apply to the land to which the development application relates:

No coastal zone management plan applies to the site.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, social and economic impacts in the locality:

Context & Setting

The site has approximately 2m fall from south to north and a 1m cross fall east to west. The site has a frontage of 30.17m to Clarence Street and an average depth of 33.53m.

Adjoining the site to the north is the Northpoint Apartments (9 storey residential flat building). Adjoining the site to the east is a low density apartment building similar to which exists on the subject site. Beyond and on the corner of Clarence and Munster Streets is the Macquarie Waters apartments (six storey residential flat building). Adjoining the site to the south is Clarence Street and beyond is the Port Pacific

Looking After Our Environment

Resort building. Adjoining the site to the west is a single storey commercial building on the corner of Clarence and Murrays Streets.

The modified proposal is considered to be consistent with other higher density developments in the locality.

The modified proposal will not compromise any important views or view corridors. Impact to views enjoyed from units of the Port Pacific building would be minimal given the change in grade on Clarence Street and the subject site.

It is evident that the orientation of the block, units and subsequent balconies seek to maximise light and ventilation with the northern orientation. The building has been positioned in the southern portion of the block with the rear balconies setback approximately 6.8m from the rear boundary. This provides for approximately 19.5m separation to the units in the North point apartment building. It is considered that sufficient spatial separation between the units to provide an acceptable level of privacy.

(c) The suitability of the site for the development:

The proposal as modified will fit into the locality and the site attributes are conducive to the proposed development. Site constraints have been adequately addressed and appropriate conditions of consent recommended.

(d) Any submissions made in accordance with this Act or the Regulations:

One (1) written submission was received following public exhibition of the application. Refer to comments previously provided within the report addressing concerns raised.

(e) The Public Interest:

The proposed development satisfies relevant planning controls and is unlikely to impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.
- Development contributions will be required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.

No change to contribution schedule attached to original consent.

5. CONCLUSION

The application has been assessed in accordance with Section 96 of the Environmental Planning and Assessment Act 1979.

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Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

The site is suitable for the proposed development as modified, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. It is recommended that the section 96 application be approved, subject to the recommended conditions as amended and provided in the attachment section of this report.

Attachments

- 1 [View](#). 2014 - 410.3 Section 96 Plans
- 2 [View](#). DA2014 - 410.3 SoEE
- 3 [View](#). DA2014 - 410.3 DA Modified Consent Conditions.
- 4 [View](#). DA2014 - 410.3 Submission - Stier

Looking After Our Environment

Item: 12.06

Subject: DA2016 - 149.1 SHOP TOP HOUSING INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 - LOT 123 DP1219042, CLARENCE STREET, PORT MACQUARIE

Report Author: Matt Rogers

Property: Lot 123, DP1219042, Clarence Street, Port Macquarie
Applicant: Yogi Bear Holdings Pty Ltd
Owner: Yogi Bear Holdings Pty Ltd
Application Date: 4 March 2016
Estimated Cost: \$2,700,000
Location: Port Macquarie
File no: DA2016 - 149.1
Parcel no: 65374

Alignment with Delivery Program

4.9.2 Undertake transparent and efficient development assessment in accordance with relevant legislation.

RECOMMENDATION

That DA2016 - 149.1 for Shop Top Housing including Clause 4.6 variation to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 123, DP1219042, Clarence Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for shop top housing including a height variation at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition of the application, no submissions were received.

The application was reported to Council's Development Assessment Panel (DAP) on 11 May 2016 whereby the following was resolved:

That it be recommended to Council that DA2016 - 149.1 for Shop Top Housing including Clause 4.6 variation to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 123, DP1219042,

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Clarence Street, Port Macquarie, be determined by granting consent subject to the following changes to the recommended conditions:

- Amend condition A(14) to read: 'This consent provides for the necessary change in levels and access to the car parking approved via DA2015/332.'
- Amend Condition A1 to by updating plan table to reference the following:

Plan / Supporting Document	Reference	Prepared by	Date
Statement of Environmental Effects	15 Clarence Street	David Pensini	December 2015
Development Plans	1507 Revision B	Wayne Ellis Architect	10 May 2016
BASIX Certificate	652499M	Concept Designs Australia	11 January 2016

As per Planning Circulars PS 08-003 & 08-014, the modified height variation is more than a 10% deviation from the standard and therefore the application needs to be determine by full council rather than general manager or nominated staff member.

1. BACKGROUND

Existing sites features and Surrounding development

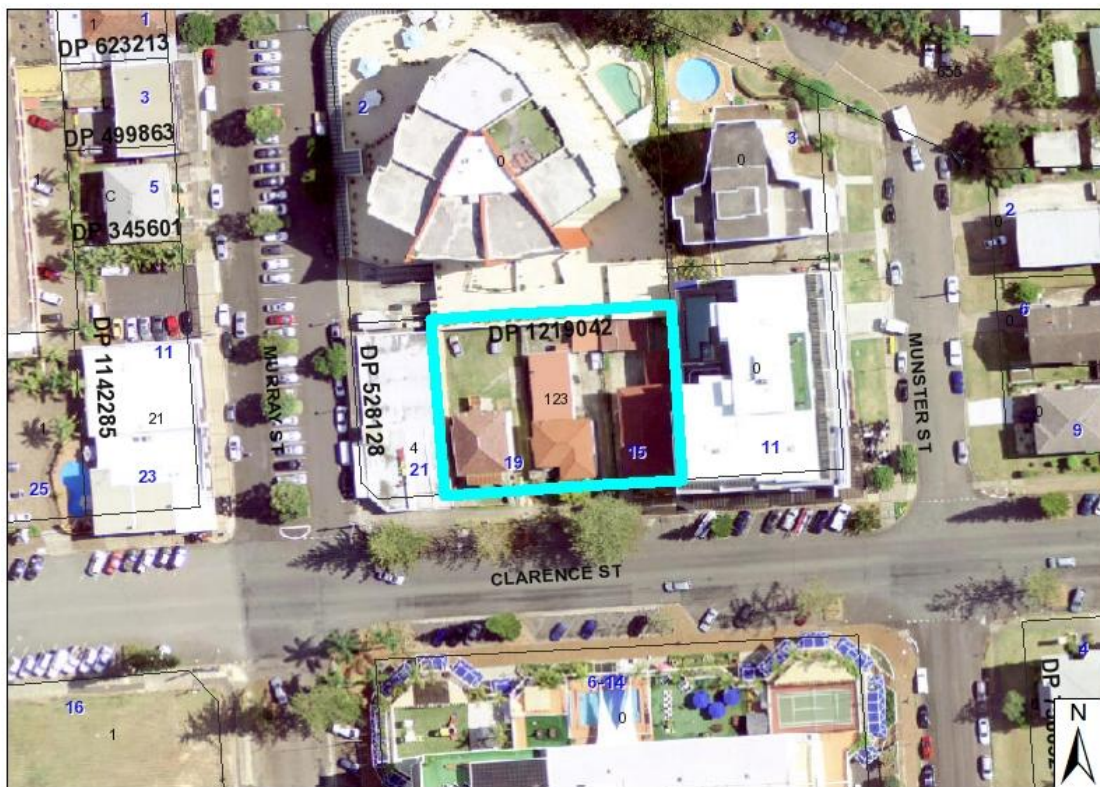
The site has an area of 1518m².

The site is zoned B3 Commercial Core in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:

Looking After Our Environment



The existing subdivision pattern and location of existing development within the locality is shown in the following aerial photograph:



Looking After Our Environment

2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Construction of a six (6) storey residential flat building above approved basement parking. The building will comprise ground floor commercial and 10 x 2 bedroom units over levels 1 to 6.

Refer to attachments at the end of this report.

Application Chronology

- 4 March 2016 - Application lodged
- 14-30 March 2016 - Public exhibition via neighbour notification
- 23 March 2016 - Additional information request (apartment design statement)
- 5 April 2016 - Apartment design statement provided

3. STATUTORY ASSESSMENT

Section 79C(1) Matters for Consideration

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

- (a) **The provisions (where applicable) of:**
(i) **any Environmental Planning Instrument:**

State Environmental Planning Policy 55 – Remediation of Land

In accordance with clause 7, following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated and is suitable for the intended use.

State Environmental Planning Policy 62 - Sustainable Aquaculture

In accordance with clause 15C, given the nature of the proposed development, proposed stormwater controls and its' location, the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries within the nearby Hastings River approximately 150m to the north-west from the site.

State Environmental Planning Policy 64 - Advertising and Signage

There is no signage proposed as part of the application. Suitable condition has been recommended advising of consent requirements for future signage.

State Environmental Planning Policy 65 - Design Quality of Residential Flat Development

In accordance with clause 4 this policy applies to the proposal. It is noted that no Design Review Panel has been appointed by Port Macquarie-Hastings Council following amendments to this Policy in July 2015.

In accordance with clause 30(2), the proposal has demonstrated satisfactory consideration against the design quality principles contained in the Apartment Design Guide and the following table provides an assessment against these principles:

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Requirement	Proposed	Complies
<p>Context & Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The proposal is for a six storey residential flat building. The area is characterised by a mixture of high rise developments. A number of larger flat buildings exist in the immediate area. Encouraging higher density in areas with close proximity to the CBD or business zones is desirable.</p> <p>The proposed building design is compatible with existing development and the desired future character of the area as stated in the relevant planning and design policies. It is considered the building will contribute to the identity of the area.</p>	Yes.
<p>Built form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The proposal incorporates a variation to the LEP building height control. Refer to clause 4.6 of LEP 2011 comments for consideration of the proposed variations.</p> <p>The height and bulk of the proposed building is considered to be acceptable in the streetscape and future desired character of the area.</p> <p>The building is considered to achieve an appropriate built form and incorporates interesting building elements and treatments that will compliment the streetscape.</p> <p>The proposed internal unit layouts provide for internal amenity. The orientation of the block takes advantage of the northern outlook.</p>	Yes

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<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The proposal is for a floor space ratio (FSR) of approximately 2.48:1, which complies with the maximum 3.5:1 FSR adopted in the LEP.</p> <p>The adopted FSR for the site is consistent with the objectives of the B3 zone and the height of buildings envisaged for the area.</p> <p>The proposed density is also considered to be sustainable having regard to availability of infrastructure, and public transport, proximity to services and community facilities and the environmental quality of the area.</p>	Yes
<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.</p>	<p>The north - south orientation of the block has been utilised. All units contain a certain level of north facing balconies/aspect and opportunities for natural ventilation.</p> <p>A BASIX certificate has been provided demonstrating that the design satisfies acceptable energy and water efficiency measures.</p> <p>Suitable landscaping areas proposed on ground floor.</p>	Yes
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute</p>	<p>Satisfactory landscaping. The soil depth and area available is consistent the Apartment Design Guide.</p>	Yes

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<p>to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.</p>		
<p>Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</p>	<p>The building incorporates generous unit layouts and design which optimise the northern orientation, ventilation, privacy etc.</p> <p>Adequate storage and outdoor space provided throughout the building.</p> <p>Accessibility is possible via ramps, stairs and lifts.</p> <p>The layout of the units has taken advantage of the northern orientation with an emphasis of natural sunlight and ventilation via extensive north facing windows and balconies.</p> <p>The design and layout will provide a good level of amenity.</p> <p>All units are accessible via lifts.</p> <p>Building depth is satisfactory.</p> <p>All units include a sufficient amount of private open space.</p> <p>Communal open space is satisfactory.</p>	<p>Yes</p>
<p>Safety Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined</p>	<p>The various array of windows, doors and balconies throughout the building provide surveillance of the site and also the public domain.</p>	<p>Yes</p>

Looking After Our Environment

and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.	<p>Access to the site is controlled via a pedestrian entry point on Clarence Street and achieves good casual surveillance.</p> <p>The basement parking area is secured.</p> <p>The proposal adequately addresses the principles of Crime Prevention Through Environmental Design.</p>	
Housing Diversity and Social Interaction Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.	<p>The proposal provides 2 bedroom apartments only. 2 bedroom units will suit a variety of budgets and housing needs.</p> <p>The proposal adequately addresses social dimensions and housing affordability.</p>	Yes
Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	<p>The plans provide examples of the colours, textures and finishes. The colours and materials provided on the plans indicate a contemporary high quality design and finish. It is considered that the aesthetics of the building will respond appropriately to the surrounding environment and context of the existing and desired character of the locality.</p>	Yes

Clause 28(2), the proposal has adequately addressed the Apartment Design Guide. The following table provides an assessment against the relevant Apartment Design Guide criteria:

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Requirement	Proposed	Complies
<u>3A site analysis</u>		
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	Site analysis provided.	Yes
<u>3B orientation</u>		
Building types and layouts respond to the streetscape and site while optimising solar access within the development.	The site's primary frontage is to Clarence Street. The proposed building presents to Clarence Street with its ground floor commercial space and pedestrian and driveway entries. By setting the building along the Clarence Street frontage the building is afforded a northern orientation to rear and allows each unit to be provided with open, north facing units. This will ensure that suitable solar access is available to the individual units throughout the year.	Yes
Overshadowing of neighbouring properties is minimised during mid winter	Due to the orientation of the site the primary overshadowing impacts shall occur over Clarence Street. There are no adverse overshadowing impacts to adjoining sites to the east or west.	Yes
<u>3C public domain interface</u>		
Transition between private and public domain is achieved without compromising safety and security	The ground level provides direct access to the street. It is noted that a small retaining wall is proposed along the frontage of the commercial tenancy. This is considered unavoidable given the slope of the site in meeting disabled access grade requirements. Each of the upper levels contain a balcony overlooking the street (public domain) as well as the rear (northern) area of private open space.	Yes
Amenity of the public domain is retained and enhanced.	Street frontage is activated with ground floor commercial tenancies with integration of awning structures above footpath.	Yes

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<u>3D Communal and public open space</u>		
Communal open space 25% of the site.	Communal roof top area is approximately 20% of site area which is considered sufficient. There is limited opportunity to provide ground floor communal open space.	No but considered acceptable given business zoning and sufficient private open space areas.
50% direct sunlight to useable communal open space for 2 hours mid winter	>50% direct sunlight to communal open space area.	Yes
Communal open space is designed to allow a range of activities, respond to site conditions and be attractive and inviting.	The rooftop communal open space include a large covered area incorporating BBQ and toilet facilities. The communal area is considered to allow for a range of activities for both the individual and groups in a user friendly and northerly orientated open space.	Yes
Communal open space is designed to maximise safety.	The communal open space is directly accessible from the lift and designed to maximise safety.	Yes
Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.	No public open space proposed.	N/A
<u>3E deep soil zones</u>		
3m minimum dimensions required for deep soil zone and minimum 7% of site area.	No deep soil planting proposed. Consistent with DCP provisions for the site.	No but considered acceptable.
<u>3F Visual privacy</u>		
Between habitable rooms and site boundaries: <ul style="list-style-type: none"> - 6m separation up to 4 storeys - 9m separation 5 and 6 storey - 3m separation non habitable up to 4 storeys - 4.5m separation non habitable up to 4 storeys 	On the northern side of the development there is a minimum 9m rear setback to the rear balcony of the units. On the east and west sides of the development there is a zero side setbacks. No windows are provided in these elevations.	Yes No but considered acceptable.

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Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.	Fin walls and windows perpendicular to side boundaries east and west provide visual and acoustic privacy without detrimentally impacting solar access and views.	Yes
<u>3G Pedestrian access and entries</u>		
Building entries and pedestrian access connects to and addresses the public domain.	Multiple building entries are provided to ensure an activated street frontage is provided. Each access is clearly defined and articulated to the street.	Yes
Access, entries and pathways are accessible and easy to identify	The building access areas are clearly visible from the street and the ground floor is provided at grade in compliance with the relevant disability standards.	Yes
Large sites provide pedestrian links for access to streets and connection to destinations	Pedestrian connections to the public footpath running along Clarence Street are proposed in accordance with the design criteria.	Yes
<u>3H Vehicle access</u>		
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	The basement driveway entry is located in the western corner of the adjoining site. The ground floor commercial entry is provided in the eastern corner of the site. Both connect directly to Clarence Street. Considered acceptable.	Yes
<u>3J Bicycle and carparking</u>		
On land within 400m of B3 or B4 mixed use or equivalent in a nominated regional centre the min. car parking requirements set out in the Guide to Traffic Generating Developments are to be provided.	<p>The subject site is located in B3 zone. In accordance with the design criteria the minimum car parking requirement for the site can be calculated against the DCP or <i>RMS Guide to Traffic Generating Development</i>, whichever is the lesser.</p> <p>In this case, the RMS Guide has been used.</p> <p>Car parking calculations are as follows:</p>	Yes

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	<p>Medium Density Residential flat buildings (for less than 20 dwellings) = 1 space for each unit + 1 space per 5 units (visitor parking).</p> <p>Commercial = 1 space per 40m² gross floor area.</p> <p>Proposed:</p> <ul style="list-style-type: none"> - 10 x 2 bedroom units - 139.82m² commercial <p>Total 12 + 3.5 = 16 (15.5) car parking spaces required.</p> <p>As the proposal is reliant on parking provided via DA2014/410 and DA2015/332 the total parking required versus proposed is as follows:</p> <p>DA2014/410 required 42.1883 spaces. This proposal requires 15.5 spaces. In total 57.68 spaces required to serve both developments. A total of 73 spaces is proposed. It is noted 2-3 of these space may be lost due to turnaround requirements for blind aisle parking.</p>	
Parking and facilities are provided for other modes of transport	Area exists within the basement car park along the western wall, close to the basement entry.	Yes
Carpark design and access is safe and secure	Safe and secure parking proposed.	Yes
Visual and environmental impacts of underground car parking are minimised	The proposed basement car park shall not be visible from the street, apart from the driveway entry.	Yes
<u>4A Solar and daylight access</u>		
Living rooms and private open space areas of at least 70% apartments receive 3 hours of sunlight mid winter	All apartments receive 3 hours of sunlight mid winter	Yes
Max. 15% of apartments receive no direct sunlight in mid winter	N/A	N/A
Daylight access is maximised where sunlight is limited	It is considered that adequate daylight access is available to each of the proposed units due	Yes

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	to their orientation.	
Design incorporates shading and glare control, particularly for warmer months	Shading structures are proposed upon rear elevation to ensure a suitable level of glare control is provided as well as shade from the summer sun.	Yes
<u>4B natural ventilation</u>		
All habitable rooms are naturally ventilated.	The depths of the proposed unit's habitable rooms are considered to support natural ventilation.	Yes
The layout and design of single aspect apartments maximises natural ventilation.	No single aspect units.	N/A
60% of apartments are naturally cross ventilated	Cross ventilation provided.	Yes
Overall depth of crossover or cross through apartments does not exceed 18m	Average units depth of 18m. Some units are 19.3m in depth but still achieve solar and ventilation objectives.	No but considered acceptable.
<u>4C ceiling heights</u>		
2.7m habitable rooms ceiling height	3m habitable rooms ceiling height.	Yes
Ceiling height increases the sense of space in apartments and provides for well proportioned rooms	Consistent.	Yes
Ceiling heights contribute to the flexibility of building use over the life of the building	Consistent.	Yes
<u>4D apartment size and layout</u>		
Apartment size minimums to be comply 2 bed = 70m ²	Apartment size minimums comply	Yes
Windows in habitable rooms with 10% of floor area	Windows provided and sufficient size	Yes
Environmental performance of the apartment is maximised	Bedrooms are located on the external face of the building so as to satisfy the required environmental performance.	Yes
Apartment layouts are designed to accommodate a variety of household activities and needs	Consistent. Bedroom dimensions to comply.	Yes
<u>4E Private open space and balconies</u>		
2 bed min area 10m ² and min depth 2m	All balconies comply.	Yes
Ground floor min 15m ² and min depth 3m	Ground floor unit private open space complies.	Yes
Primary private open space and balconies are appropriately located to enhance liveability for residents.	The north facing balconies for each of the proposed units are located off a bedroom and/or living area in a manner	Yes

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	compliant with the design criteria.	
Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.	The balcony design is considered to integrate into the architectural form of the building whilst providing views across the site, passive surveillance of the street and maintaining visual privacy for occupants. Operable louvres and solid balustrades are considered to contribute to the provision of privacy whilst also ensuring a positive contribution to architectural form.	Yes
Private open space and balcony design maximises safety.	The operable louvres and solid balustrades are considered to provide a design compliant with the applicable requirements and are not considered to provide opportunities for climbing or falls.	Yes
<u>4F Common circulation and spaces</u>		
Max. 8 units off a circulation core on a single level	Compliant	Yes
Common circulation spaces promote safety and provide for social interaction between residents	The proposed lift lobby will provide a short, direct entry to the lift with access to the units.	Yes
<u>4G Storage</u>		
Min. storage requirements	Storage complies.	Yes
<u>4H Acoustic privacy</u>		
Noise transfer is minimised through the siting of buildings and building layout	The internal layout of the units has been designed so as to maximise acoustic privacy between apartments. Bedroom are position at end pints of the units. The units have been designed to comply with the noise transmission requirements of the BCA.	Yes
Noise impacts are mitigated within apartments through layout and acoustic treatments.	Rooms with similar noise requirements are grouped together both internally within the apartments and between apartments. Internal walls between apartments shall be constructed so as to comply with the applicable noise and	Yes

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	acoustic standards.	
<u>4J Noise and pollution</u>		
In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.	The subject site is not considered to be located within a noisy or hostile environment.	N/a
Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	The building is not considered to front a significant noise source that would necessitate the installation of noise mitigation solutions.	N/a
<u>4K Apartment mix</u>		
A range of apartment types and sizes is provided to cater for different household types now and into the future.	The proposal is for 2 bedroom units only. When considered in conjunction the adjoining 3 bedroom units the mix is considered appropriate for the site and its position considering the distances to public transport, employment and education.	Yes
The apartment mix is distributed to suitable locations within the building.	Refer to above.	Yes
<u>4L Ground floor apartments</u>		
Street frontage activity is maximised where ground floor apartments are located	No ground floor units proposed.	N/A
Design of ground floor apartments delivers amenity and safety for residents.	No ground floor units proposed.	N/A
<u>4M Facades</u>		
Building facades provide visual interest along the street while respecting the character of the local area.	The proposed design provides a composition of varied building elements to ensure that the building is provided with variations in texture, material and detail. The proposal is considered compliant with the design criteria.	Yes
Building functions are expressed by the facade	The building entries are clearly defined from the street frontage via the provision of the access paths and variation of materials surrounding the entries. The proposal is considered compliant with the design criteria.	Yes
<u>4N Roof design</u>		
Roof treatments are integrated	Although not visible from the	Yes

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into the building design and positively respond to the street.	street the proposal is considered compliant with the design criteria.	
Opportunities to use roof space for residential accommodation and open space are maximised	Roof top communal terrace area.	Yes
Roof design incorporates sustainability features	Solar panels proposed.	Yes
<u>4O Landscape design</u>		
Landscape design is viable and sustainable	The proposed landscape planting is limited to first floor and acceptable.	Yes
Landscape design contributes to the streetscape and amenity	Limited landscape potential to street frontage. Town Centre master plan will provide street landscaping.	Yes
<u>4P Planting on structures</u>		
Appropriate soil profiles are provided	The soil depth above the basement car park is considered capable of accommodating small trees, shrubs, ground covers and turf The landscape plan details planting above the basement car park to ensure a visually attractive outlook towards the rear ground floor units. The proposal is considered compliant with the design criteria.	Yes
Plant growth is optimised with appropriate selection and maintenance	The plant species will be chosen for their suitability for the local environment and tolerance to the existing and proposed site conditions. The proposal is considered compliant with the design criteria.	Yes
Planting on structures contributes to the quality and amenity of communal and public open spaces	The proposal is considered compliant with the design criteria.	Yes
<u>4Q Universal design</u>		
Universal design features are included in apartment design to promote flexible housing for all community members	Universal design features are included in apartment design to promote some flexible housing for all community members in particular units.	Yes
A variety of apartments with adaptable designs are provided	The proposed apartments are considered to provide a layout and design that caters for adaptable apartments which include a high level of solar access.	Yes

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Apartment layouts are flexible and accommodate a range of lifestyle needs	The proposed apartments contain open plan living, kitchen and dining areas which are considered to be suitable for a variety of adaptable uses.	Yes
<u>4S Mixed Use</u>		
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Commercial ground floor street activation and residential above.	Yes
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	Separate access and parking areas well defined.	Yes
<u>4T Awning and Signage</u>		
Awnings are well located and complement and integrate with the building design	Awnings are street aligned, well integrated into the building design and provide defined entry to commercial tenancy.	Yes
Signage responds to the context and desired streetscape character	Building identification signage fronting Clarence Street consistent with the character of area and not visually obtrusive.	Yes
<u>4U Energy efficiency</u>		
Development incorporates passive environmental design	The proposal is considered to provide adequate passive solar design. BASIX provided.	Yes
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	The proposal is considered to provide adequate natural ventilation. BASIX provided.	Yes
Adequate natural ventilation minimises the need for mechanical ventilation	The proposal is considered to provide adequate natural ventilation. BASIX provided.	Yes
<u>4V Water management and conservation</u>		
Potable water use is minimised	BASIX certificate submitted which includes requirements for water reuse.	Yes
Urban stormwater is treated is treated on site before being discharged to receiving waters	Refer to stormwater comments later in this report.	Yes
Flood management systems are integrated into site design	Suitable stormwater management systems are proposed to cater for any internal flooding of the basement parking area	Yes
<u>4W Waste management</u>		
Waste storage facilities are designed to minimise impacts on the streetscape, building entry	A common waste storage area is proposed within the ground floor parking area in a location	Yes

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and amenity of residents.	suitable for collection via a private contractor.	
Domestic waste is minimised by providing safe and convenient source separation and recycling.	Collection from the proposed building can occur via private collection.	Yes
4X Building maintenance		
Building design detail provides protection from weathering	The proposed design is considered to provide design solutions to be weather proof.	Yes
Systems and access enable ease of maintenance	North and south facing unit windows are considered to be able to be cleaned from inside. The windows provided to the circulation cores will require external maintenance.	Yes
Material selection reduces ongoing maintenance costs	The materials chosen for the proposed building are considered to be appropriate for the locality, robust and durable.	Yes

State Environmental Planning Policy 71 – Coastal Protection

The site is located within a coastal zone as defined in accordance with clause 4 of SEPP 71. In accordance with clause 5, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

Having regard to clauses 2, 8 and 12 to 16 of SEPP 71 and clause 5.5 of Hastings LEP 2011 inclusive the proposed development will not result in any of the following:

- any restricted access (or opportunities for access) to the coastal foreshore
- any identifiable adverse amenity impacts along the coastal foreshore and on the scenic qualities of the coast;
- any identifiable adverse impacts on any known flora and fauna (or their natural environment);
- subject to any identifiable adverse coastal processes or hazards;
- any identifiable conflict between water and land based users of the area;
- any identifiable adverse impacts on any items of archaeological/heritage;
- reduce the quality of the natural water bodies in the locality (due to effluent & stormwater disposal, construction impacts, land use conflicts);
- adverse cumulative impacts of the proposed development on the environment;
- development within a zone to be consented to as if it were in a neighbouring zone.

In particular, the site is cleared and located within an area zoned for commercial purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

In accordance with clause 6, BASIX certificate has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended

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that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

Port Macquarie-Hastings Local Environmental Plan 2011

In accordance with clause 2.2 the subject site is zoned B3 Commercial Core.

In accordance with clause 2.3(1) and the B3 zone landuse table, the proposed development for shop top housing is a permissible landuse with consent.

In accordance with clause 2.3(2) the consent authority must have regard to the objectives of a zone when determining a development application.

The objectives of the B3 Commercial Core zone are as follows:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure that new residential accommodation and tourist and visitor accommodation within the zone does not conflict with the primary function of the centre for retail and business use.
- To provide for the retention and creation of view corridors and pedestrian links throughout the Greater Port Macquarie city centre.

In accordance with clause 2.3(2), the proposal is consistent with the zone objectives having regard to the following:

- The proposal is a permissible land use;
- The development would provide additional ground floor retail and business use;
- The development will provide suitable high density residential accommodation;
- The proposal is accessible and will provide employment opportunities.

In accordance with clause 4.1 it is noted that no subdivision is proposed as part of the application.

In accordance with clause 4.3, the maximum overall height of the proposal above ground level (existing) is 22.36m which does not comply with the height limit of 19m applying to the site. It is noted that the major bulk of the building (not including the roof over the roof top terrace) is at 19.9m on the west boundary and 18.97m on the east boundary. In the centre of the building is a communal roof deck, its roof being 22.36m above ground level. As a result, the applicant has submitted a Clause 4.6 variation to the standard.

Pursuant to Clause 4.6(3), consent must not be granted for a proposal that contravenes a development standard unless the consent authority has considered a written request from the applicant that justifies the variation by showing that the subject standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the contravening of the standard.

As a result of the above, the applicant submitted a Clause 4.6 variation to the standard based on the following reasons:

- The building design and height is consistent with the existing and future character of the locality in relation to height, bulk and scale.

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- Existing building designs in the locality provide for lift overruns, roof top access and communal use rooftop areas in addition to the main building envelopes.
- There will be negligible impacts in relation to appearance, views, loss of privacy and loss of solar access.
- The proposal will have minimal impact on the heritage values of the site.
- The proposal will continue to provide for a transition in built form and land use intensity.

Having consideration to the above the applicant has demonstrated the proposal is consistent with the performance objectives of the height of building clause and will have limited impact on the environment. In addition, it is also considered that:

- The proposal is consistent with the objectives of the LEP and is unlikely to have any implications on State related issues or the broader public interest.
- When viewed from the street it will present as a six storey building. The roof top elements are open in nature, adequately setback from the perimeter of the main building, add minimal bulk and will articulate the built form.
- The proposal is well below the allowable FSR standard thereby minimising bulk on site.

As per Planning Circulars PS 08-003 & 08-014, Council can assume the Director-General's Concurrence for variations to height limits. The height variation is more than a 10% deviation from the standard and therefore the application needs to be determined by council rather than general manager or nominated staff member.

In accordance with clause 4.4, the floor space ratio of the proposal is 1:2.48 which complies with the maximum 1:3.5 floor space ratio applying to the site.

In accordance with clause 5.9, no listed trees in Development Control Plan 2013 are proposed to be removed.

In accordance with clause 5.10 the site is a listed archaeological site (A111). The applicant provided a preliminary archaeological assessment for the previous application for construction of basement parking which was referred to the NSW Heritage Council. The prior consent contains conditions addressing heritage matters.

In accordance with clause 7.3 the land is above the flood planning area and no flood related building controls apply to the site. In accordance with clause 7.4 the north-western portion of the site is partly mapped within the flood plain risk management area. The development provides for adequate emergency evacuation onto Clarence Street and is not of a development type provided for in this clause.

In accordance with 7.7, the proposed development does not penetrate the Obstacle Limitation Surface (OLS) of the Port Macquarie Airport. In particular the OLS for the site is approximately 60m. However, if a crane is to be utilised during construction, care will be required. A condition is recommended to ensure any crane used onsite does not penetrate the OLS and in the event that it does a controlled activity approval from the airport operator be obtained prior to works commencing.

In accordance with clause 7.13, satisfactory arrangements are in place for provision of essential public utility infrastructure including stormwater, water and sewer infrastructure to service the development.

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(ii) Any draft instruments that apply to the site or are on exhibition:

No draft instruments apply.

(iii) any Development Control Plan in:

Port Macquarie-Hastings Development Control Plan 2013

General provisions

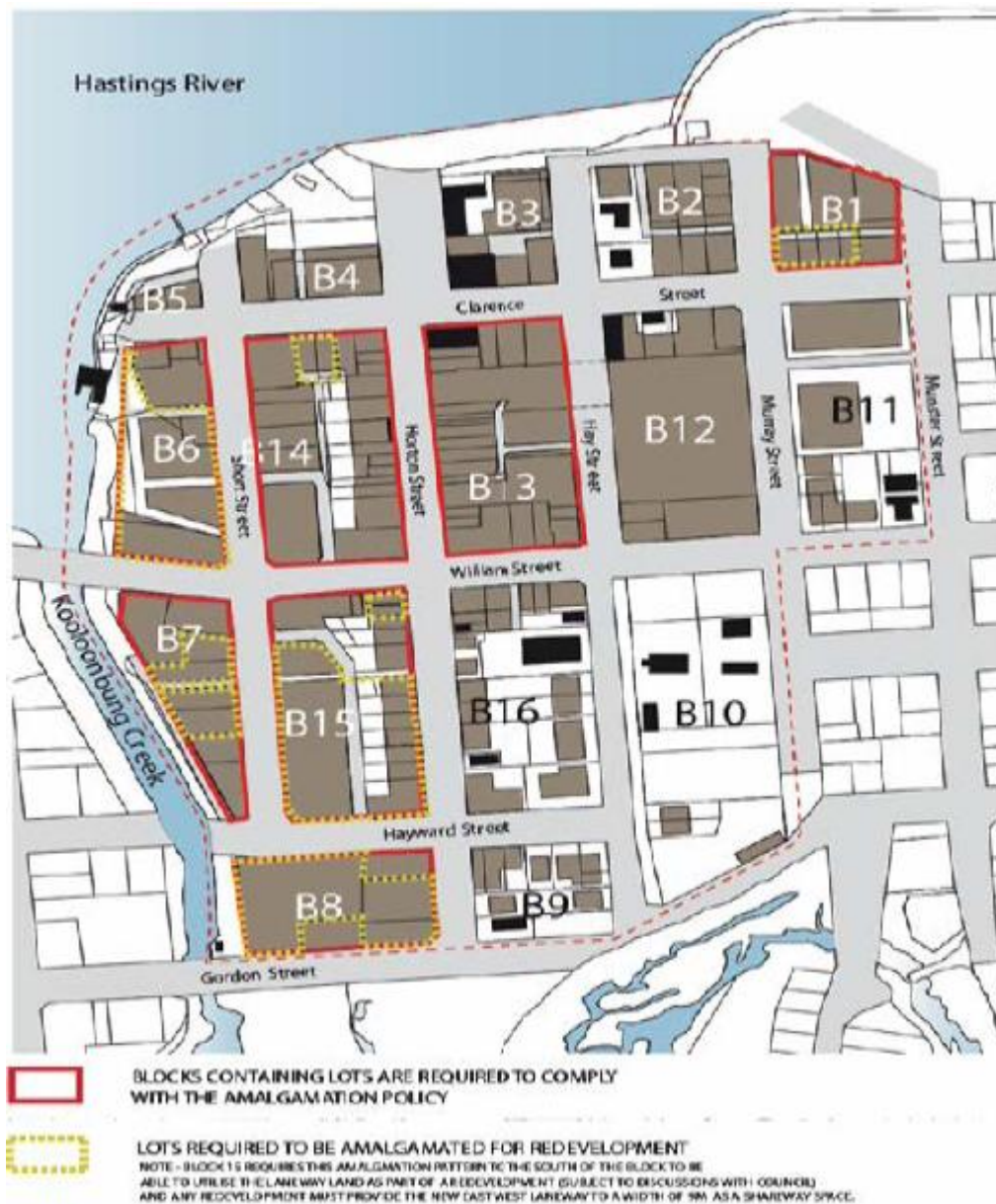
Requirements	Proposed	Complies
<ul style="list-style-type: none"> Advertising & Signage 	None proposed.	N/A
<ul style="list-style-type: none"> Community Participation & Social Impact Assessment 	Public exhibition undertaken in accordance with the requirements of this plan. Social Impact Assessment not considered necessary for the proposal.	Yes
<ul style="list-style-type: none"> Crime Prevention 	Adequate casual surveillance available and principles of crime prevention through environmental design achieved.	Yes
<ul style="list-style-type: none"> Environmental Management 	<ul style="list-style-type: none"> Site is mapped as potential archaeological site. Preliminary heritage assessment provided. Refer to comments earlier within report. Excavation contained to within perimeter of the building. Retaining wall along rear boundary. No tree removal proposed. Stormwater management details to be provided. 	<p>Yes.</p> <p>Yes. To be engineer certified.</p> <p>Consistent with master plan works.</p> <p>Stormwater capable of being managed. Details to be provided with section 68 application.</p>
<ul style="list-style-type: none"> Transport, Traffic Management, Access & Car Parking 	<p>Refer to comments in SEPP 65 heading above.</p> <p>Driveway grades, car parking layout and manoeuvring details provided.</p>	Yes

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Part 5 - Area based provisions - Port Macquarie Town Centre

Requirements/Objectives	Proposed	Complies
Clarence Street precinct The future heritage and leisure focus of the town for visitors and residents, Clarence Street will be a distinctive tree lined pedestrian dominated area with hotels and holiday apartments above an active street frontage lined with restaurants, heritage buildings and sidewalk cafés. The new buildings should respond to the heritage buildings without mimicking them.	6 storey residential flat building with ground floor commercial. Ground floor commercial will provide active street frontage. Building design considered to be not out of character with existing flat buildings within the precinct.	Consistent with objectives.
Site amalgamation - Amalgamations are desired on land identified in Figure 26. - If applicants propose a different amalgamation pattern then they must demonstrate that orderly development, high levels of connectivity and vehicle access will occur and that mid block connections are provided appropriately.	Proposal inconsistent with desired amalgamation plan.	Three lots (minus the corner lot) have been amalgamated. Considered to a good outcome.
Active Frontages and Shop Widths - Maximum shop widths comply with Figure 27: Maximum shop widths.	30m maximum shop front width applies. Proposed shop front equates to approx 15m.	Yes
Façade Enclosure Façade enclosure complies with the block controls. Block 1: <ul style="list-style-type: none"> - Ground 60% - First 50% - Second/Third 40% - Top floor 40% 	Refer to SEPP 65 design comments.	Façade enclosure considered acceptable.
Roof Design Break up roofs where possible with hips, gables and changes in materials.	Roof broken up with lift overrun and roof top terrace structures.	Yes

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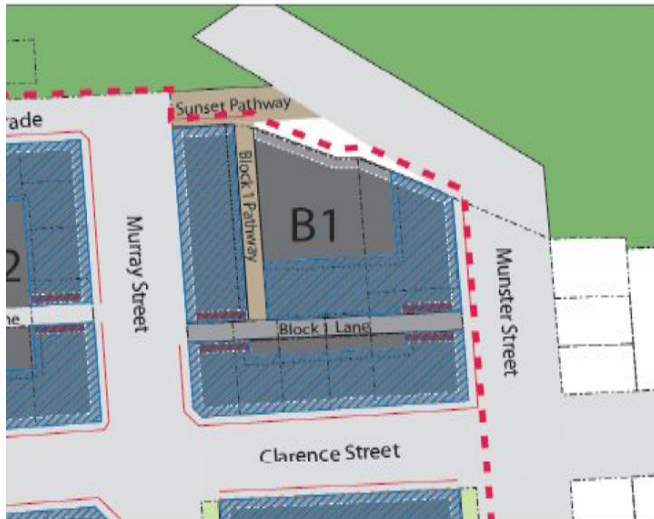
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PART 4 BLOCK CONTROLS

Block 1



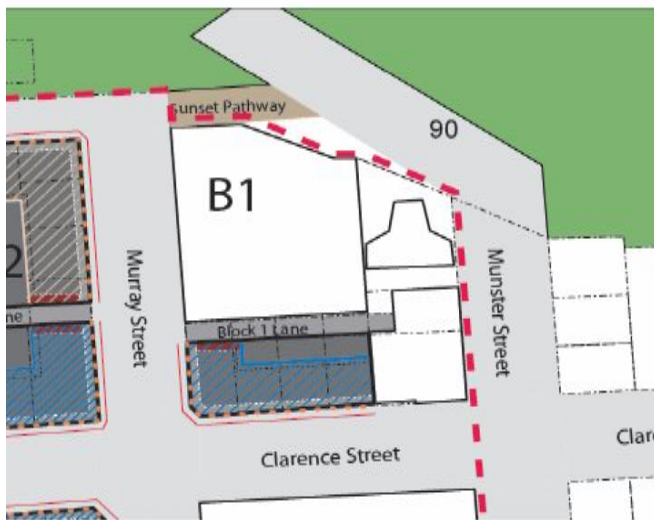
Location map



DIAGRAMMATIC BLOCK PLAN - LONG TERM



0 25 50 100 150 200m



INTERIM BLOCK PLAN

Incorporating existing strata buildings and newly approved or constructed buildings and buildings significantly taller than current height controls.

KEY

Existing

- Study Area
- Existing lot boundaries
- Heritage building footprint
- Heritage area
- Existing strata or recently approved or constructed building footprint
- Existing Foreshore Reserve (subject to separate public domain plans)

New development

- 5. Maximum Building Depth
 - Ground Floor Building Footprint
 - Upper Floor Building Footprint
- 6. Front Boundary Setback
 - Build to line
- 8. Facade Articulation Zone
 - Front
 - Side/Roof
 - Upper Floor
- 9. Extent of Street Awning to be provided
- 12. New Streets, Laneways & Paths
 - Proposed New Street
 - Proposed New Laneway
 - Proposed New Path
- 14. Landscaping
 - Soft Landscaped with Deep Soil
 - Mix of Hard & Soft Landscaping

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Summary - Block 1 controls

Maximum Building Depth. Ground whole site less setbacks, First/Second/Third/Top = 20m.

Refer to SEPP 65 comments. Depth consistent.

Front Setback (Clarence Street). Ground/First/Second/Third = 0m. Top Floor = 3m.

Front lobby on front boundary 0m consistent. <1m first/second/third/fourth/fifth with elements within articulation zone. Noting top floor <1m setback. While top floor does not comply it is consistent with adjoining top floor facades and will not result in any adverse visual, bulk and scale or amenity impacts which are inconsistent with that envisaged by the DCP.

Rear Setback. Minimum 0m to Block 1 Lane for Ground/First/Second/Third. Top Floor minimum 3m.

Proposed 8.4m to rear boundary all floors. Note future laneway not possible having regard to Macquarie Waters building.

Side Setback. Minimum 0m to Block 1 Pathway for Ground/First/Second/Third. Top Floor minimum 3m.

Proposed 0m side boundary setbacks all floors.

Façade Enclosure. Ground 60%, First 50%, Second/Third 40%, Top Floor 40%.

Refer to SEPP 65 design comments. Façade enclosure considered acceptable.

Front articulation zone. Ground min 0m. First to fifth min 1.8m Max 4m. Top Floor N/a

Refer to SEPP 65 design comments. Consistent.

Rear/Side Articulation 0m.

No side/rear articulation proposed.

Vehicle entry from streets and paths. Off Block 1 Lane, Munster or Murray Streets

Access directly from Clarence Street.

New Streets, Laneways and Paths. Block 1 Lane. Min 7m wide – two way vehicle movement and 1m footpath.

Proposed two level basement car parking. No provision for laneway or footpath.

Arcades. N/A.

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Car Parking Underground, on street, some on grade.

Proposed two levels of basement car parking and commercial spaces at grade.

Landscaping. N/A.

Residential Flat Development, Tourist and Visitor Accommodation, Mixed Use Development Provisions:

Objectives/Provisions	Proposed	Complies
Site Design & Analysis <ul style="list-style-type: none"> - Attributes and constraints adequately considered in design. - Consideration to adjacent and adjoining sites in design. 	Site analysis provided.	Yes.
Site Layout <ul style="list-style-type: none"> - Functional & integrated with neighbourhood. - Energy efficient design. 	Detailed site plan provided with application demonstrating integration with potential integration with adjoining sites. Energy efficiency details provided. BASIX.	Yes.
Height Limits & FSR <ul style="list-style-type: none"> - Complies with LEP - Min floor to ceiling 2.7m. - FSR at least 1:1. 	Variation to height proposed. Ceiling heights comply. FSR 2.48:1.	No. Refer to LEP clause 4.6 comments. Yes. Yes.
Streetscape & Front Setback <ul style="list-style-type: none"> - Front setback with 20% of average setback of adjoining buildings. - Tourist accommodation 9m max setback for pool. - Balconies may encroach up to 600mm into setbacks. - Building aligned to street boundary. - Openings align with street or rear of site. 	Proposed 0m front setback. N/A Balconies within setbacks. Building aligns with street. Openings face street.	Considered acceptable. N/A Yes. Yes. Yes.
Side & Rear Setbacks <ul style="list-style-type: none"> - Side setback min 1.5 for max 75% of building depth. - Windows in side walls setback 3m from side. - Adjoins existing strata building side set back 	0m side setbacks No windows in side walls. No strata building adjoining sides.	Considered acceptable. N/A. N/A.

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<ul style="list-style-type: none"> min 3m. Rear setback min 6m to building & sub basement. Party wall development if site amalgamation not possible and higher density envisaged. Corner sites consolidated with adjacent sites. 	<p>8.4m rear setback to building.</p> <p>Site amalgamation as per DCP not achievable.</p> <p>Not a corner site.</p>	<p>Yes.</p> <p>Noted but considered best achievable outcome. N/A</p> <p>N/A</p>
Building Depth <ul style="list-style-type: none"> Max 18m 	Refer to SEPP 65 Design comments.	Building depth considered acceptable.
Energy Conservation & Solar Access <ul style="list-style-type: none"> Adequate light and ventilation. Overshadowing. Energy efficiency. 	<p>North facing balconies. BASIX provided. No adverse shadow impacts given lot orientation. BASIX provided,</p>	<p>Yes .</p> <p>Yes.</p> <p>Yes</p>
Landscaping	Landscaping plan provided.	Yes
Deep Soil – N/A	N/A	N/A
Communal Open Space <ul style="list-style-type: none"> 25% of site area 	The rooftop terrace area inclusive of BBQ and toilets facilities provides sufficient communal open space.	Yes.
Private Open Space <ul style="list-style-type: none"> Ground floor dwelling min 35m² with 4mx4m area. Areas <2m in width be excluded from area. Balconies on or above first floor min 8m² with min 2m width with direct living area access. 	<p>No ground floor dwellings.</p> <p>Noted.</p> <p>Refer to SEPP 65 comments.</p>	<p>N/A</p> <p>Yes</p>
Fences and Walls <ul style="list-style-type: none"> None proposed 	None proposed	N/A
Acoustic Privacy <ul style="list-style-type: none"> Living areas to face street Parking and driveways separation >3m from bed windows Openings of adjacent dwellings >3m separation. 	<p>Noted that two bedrooms at front of building face street. N/A no ground floor units.</p> <p>No side wall openings.</p>	<p>Noise impacts considered to be minimal. Additional glazing to bedroom windows possible.</p> <p>N/A</p>

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- Building wall design minimise noise transition comply with AS.	Designed to comply with noise transmission requirements.	Yes
Visual Privacy - Direct views between adjacent living areas screened if with distances. - Screening or fence requirements. - Window privacy screen requirements - Balcony privacy screen requirements	No side wall openings. Privacy walls and screening proposed where necessary.	Yes Yes
Accessibility - In accordance with AS1428 - Barrier free min 20% of dwellings - Layout for variety of groups - Building design capable of adaptation to whole of partial changes of use	Capable of compliance with AS1428. Details to be provided with Construction Certificate.	Yes.
Social Dimensions & Affordability - Located close to open space/recreation areas. - FSR not less than 1:1 - Variety of apartment types, 1, 2, 3+ beds. - Consider Affordable Housing Strategy	Close to Town Green open space and foreshore areas. FSR complies. 2 bedroom only. Design allows for variety of potential tenants.	Yes. Yes. Considered acceptable. Yes.
Roof Form - Variations in form & materials to be provided - Lift overruns & plant integrated within roof structure	Roof top structures provided varied roof form. Overrun and plant incorporated into roof top structures.	Yes.
Façade Composition & Articulation - Well balanced - Consistent & complimentary to elements & materials of existing buildings	Consistent with existing flat buildings within the locality.	Yes
Entries & Corridors - Clear line of transition - Sheltered & lit - Adequate circulation	Building entry well defined, sheltered and adequate circulation	Yes

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space - Corridor width min 2.5m wide & 3m high	space. Two entries of adequate width.	Acceptable
Balconies - Min one balcony per apartment. - Main balcony min 2m width a 8m2. - Directly accessible from living area. - Balconies recessed, balustrade.	Two per unit. Complies. Off living area. Recessed and balustrade details provided.	Yes Yes Yes Yes
Emergency Services - Accessible	Capable of access from street hydrant.	Yes
Laundries & Clothes Drying Facilities	Laundry in each unit.	Yes
Mailboxes	Provided on ground level	Yes
Safety & Security	Design meets principles of crime prevention through environmental design.	Yes
Site Storage	Adequate storage proposed.	Yes
Waste Management - Communal bulk waste facilities to be provided. - Designated area at ground or basement	Garbage storage on ground floor behind commercial tenancies.	Yes
Utilities	Services available.	Yes
Strata Title Subdivision	No subdivision proposed.	N/A

Business and Commercial Development Provisions:

Requirements/Objectives	Proposed	Complies
Building Heights:	Proposed 22.36m. 19m LEP max height limit applies.	No. Refer to LEP clause 4.6 comments.
Setbacks: • A zero metre setback to ground floor is preferred in all business zone developments.	0m front setback.	Yes
Roof Form: • Variations in roof form including the use of skillions, gables and hips are to be provided in the development.	Variation with roof terrace proposed. Lift overrun and plant incorporated.	Yes.

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Building Facades, Materials & Finishes: <ul style="list-style-type: none"> Colours, construction materials and finishes shall be predominately pale in colour and textured, tonal and subtle. 	Proposed colours appear acceptable and consistent with existing flat buildings within the street.	Yes
<ul style="list-style-type: none"> Shopfront widths are to be between 15 and 20metres. 	Shopfront widths acceptable.	Yes
<ul style="list-style-type: none"> Architectural detailing is to be provided to promote articulation, character and visual interest in the streetscape. 	Architectural detailing provided within the articulation zone. Incorporates overhangs and recesses.	Yes
Active Frontages: <ul style="list-style-type: none"> Ground floor levels shall not be used for residential purposes in B1, B2, B3 and B4 zones. 	Ground floor incorporates shop/retail.	Yes
<ul style="list-style-type: none"> A minimum of 50% of the ground floor level front facade is to be clear glazed. 	Approx 50% of street frontage clear glazed.	Yes
Arcades	No arcade proposed.	N/A
Awnings	Awning structure provides coverage for the extent of the active street frontage.	Yes
<ul style="list-style-type: none"> Skylights may be provided in the awning for a maximum depth of 1/3 of the total awning depth. 	None proposed.	N/A
<ul style="list-style-type: none"> Under awning lighting shall comply with AS/NZS1158. 	Capable of compliance.	Yes.
<ul style="list-style-type: none"> Awnings are designed and constructed to encourage pavement dining in areas identified for pavement dining, along the foreshore and in piazzas. 	Awnings designed to encourage outdoor dining opportunities.	Yes.
Landscaping: <ul style="list-style-type: none"> A landscape plan shall be submitted with the development application 	Landscape plan provided.	Yes
Gateways & landmark Sites:	N/A	N/A
Waste management: <ul style="list-style-type: none"> A waste management plan for the construction and/or occupation of the development is provided 	Waste management plan provided.	Yes

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Vehicular Access Location and Design: <ul style="list-style-type: none"> No direct vehicular access to at grade or basement car parking from the active street frontage will be permitted in B1 zones. The number of vehicular crossovers shall be kept to a minimum and appropriate sight lines provided to ensure safe integration of pedestrian and vehicular movement. 	<p>B3 Zone. Single crossover proposed. Access to basement car park from main entrance off Clarence Street.</p> <p>Single crossover proposed at grade.</p>	<p>Yes.</p> <p>Yes</p>
Pedestrian Entries & Access: <ul style="list-style-type: none"> The development complies with AS1428—Design for Access and Mobility. 	Designed to comply with standard.	Yes
Outdoor Dining:	Not proposed as part of this DA but future intent clear.	Yes
Commercial Development Adjoining Residential Land uses: <ul style="list-style-type: none"> The development is designed so that all vehicle movement areas and servicing areas are located away from adjoining residential areas. 	<p>Site adjoins residential units located to the east.</p> <p>Site does not adjoin residential zoned land.</p>	Yes
<ul style="list-style-type: none"> Waste areas are located and managed to minimise pests, noise and odour. 	Garbage storage located on ground floor behind commercial tenancy and basement for residential units.	Yes

Mixed Use Development Provisions:

Requirements	Proposed	Complies
Mixed use Development: <ul style="list-style-type: none"> For the purpose of mixed use development, 'place' is defined as being on the same lot or within those lots that are the subject of a single development application for 'mixed use development'. 	The proposal is considered mixed use development. It comprises commercial use on the ground floor and residential above.	Yes
<ul style="list-style-type: none"> Mixed use developments are located in areas close to key business, commercial and employment centres with good public transport accessibility. 	Located on main street within close proximity to CBD. Appropriate land zoning.	Yes
<ul style="list-style-type: none"> The development must be designed so that loading bays, garbage collection areas and noise and odour generating 	Garbage collection via commercial private agreement within ground floor parking area.	Yes

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<p>aspects of buildings are located away from residential areas.</p> <ul style="list-style-type: none"> • Vehicular circulation systems are legible and differentiate between commercial service requirements, such as loading docks, and residential access. • Residential entries are located directly from the public street and clearly demarcated from entries to commercial premises. • Security entries are to be provided to all entrances into private areas, including car parks and internal courtyards. • Where possible acoustic separation between loud commercial uses (such as cafés and restaurants) and residential uses is achieved by utilising an intermediate quiet-use barrier, such as offices. • Plant is located on the roof or visually and acoustically isolated from the residential uses. 	<p>Commercial use not of a size that warrants a loading dock. Loading for commercial tenancies via parking at grade.</p> <p>Single crossover to parking. Commercial patrons likely to park on the street.</p> <p>Capable of compliance.</p> <p>No café/restaurant proposed. Would be subject to further application.</p> <p>Plant location and details incorporated into roof top structures.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> • Buildings are to have a simple and efficient structural grid. • The number of internal, apartment structural walls are minimised. • Ceiling heights for the ground and first floors are to be 3.6m. 	<p>Design acceptable.</p> <p>Design acceptable.</p> <p>Ceiling height acceptable.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

(iia) any planning agreement that has been entered into under Section 93f or any draft planning agreement that a developer has offered to enter into under Section 93f:

No planning agreement has been offered or entered into.

iv) any matters prescribed by the Regulations:

New South Wales Coastal Policy

The proposed development is consistent with the objectives and strategic actions of this policy. See SEPP 71 comments for further detail.

v) any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)), that apply to the land to which the development application relates:

No coastal zone management plan applies to the site.

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- (b) **The likely impacts of that development, including environmental impacts on both the natural and built environments, social and economic impacts in the locality:**

Context & Setting

The site was historically a single Torrens Title lot until recent consolidation with the two adjoining lots to the west. The site has an approximate fall from south to north of approximately 2m. The site has a frontage of 15.08m to Clarence Street and an average depth of 33.53m.

Adjoining the site to the north is the North point Apartments (9 storey residential flat building). Adjoining the site to the east is the Macquarie Waters apartments (six storey residential flat building). Adjoining the site to the south is Clarence Street and beyond is the Port Pacific Resort building. Adjoining the site to the west is the approved six storey residential flat building.

The proposal is consistent with planning controls in terms of density and height and will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain. The proposal is considered to be consistent with other higher density developments in the locality.

The proposal will not compromise and important views or view corridors. Impact to views enjoyed from units of the Port Pacific building would be minimal given the change in grade on Clarence Street and the subject site, and the location of existing buildings adjacent to the site.

It is evident that the orientation of the block, units and subsequent balconies seek to maximise light and ventilation with the northern orientation. The building has been positioned in the southern portion of the block. This provides for adequate separation to the units in the North point apartment building. It is considered that sufficient spatial separation between the units to provide an acceptable level of privacy.

Access, Transport & Traffic

No change to existing access and parking arrangements to that provided via DA2015/332.

Pedestrians

In accordance with the Port Macquarie Town Centre Master Plan, the proposed redevelopment of the lots will require full width concrete paving along the frontage of the site with specified materials and finishes.

Public Domain

No adverse impacts on public spaces or access thereto.

Utilities

Telecommunication and electricity services are available to the site.

Stormwater

The proposed stormwater system conceptually complies with Council's requirements. Details will be designed and submitted for Local Government Act (Section 68) approval prior to issue of the construction certificate.

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Water

Records indicate that the current development site has an existing 20mm metered water service from the 150mm PVC water main on the same side of Clarence Street.

Each residential and commercial unit will require individual water metering with the meters either located on the road frontage or at the unit with remote reading facility located adjacent to the road frontage or in an easily accessible area such as a foyer.

Final water service sizing will need to be assessed by a hydraulic consultant to suit the commercial, domestic and fire service components of the proposed development, as well as backflow protection requirements. The existing 20mm metered water service is to be disconnected. There is no charge for this disconnection service. Detailed plans will be required to be submitted for assessment with the S.68 application.

Sewer

Council records indicate that the development site is connected to sewer via junction to the existing sewer line that runs along the northern property boundary. A sewer reticulation strategy is to be provided. A manhole will be required at the high end of the line as it will be more than 40m long. If the main is subject to future extension an end of line terminal shaft (poo pit) will be required.

As the development will exceed 2ET discharge, sewer connection is to be made from a manhole. The hydraulic designer is to confer with Council sewer section prior to submitting sewer design plans.

Detailed plans will be required to be submitted for assessment with the S.68 application.

Soils

The proposed development will be unlikely to have any adverse impacts on soils in terms of quality, erosion, stability and/or productivity subject to a standard condition requiring erosion and sediment controls to be in place prior to and during construction.

Air & Micro-climate

The operations of the proposed development will be unlikely to result in any adverse impacts on the existing air quality or result in any pollution.

Flora & Fauna

Construction of the proposed development will not require any removal/clearing of any significant vegetation and therefore will be unlikely to have any significant adverse impacts on biodiversity or threatened species of flora and fauna.

Waste

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. Suitable conditions have been recommended for demolition water disposal. No adverse impacts anticipated.

Energy

The proposal includes measures to address energy efficiency and will be required to comply with the requirements of BASIX. No adverse impacts anticipated.

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Noise & Vibration

No adverse impacts anticipated. Condition recommended to restrict construction to standard construction hours.

Natural Hazards

The site is not mapped as bushfire prone land. Refer to comments under clause 7.3 of LEP comments for flood considerations.

Safety, Security & Crime Prevention

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in a loss of safety or security in the area. The increase in housing density will improve natural surveillance within the locality and openings from each dwelling overlook common and private areas.

Social Impact in the Locality

Given the nature of the proposed development and its location the proposal is unlikely to result in any adverse social impacts.

Economic Impact in the Locality

No adverse impacts. Likely positive impacts can be attributed to the construction of the development.

Site Design and Internal Design

The proposed development design is satisfactorily responds to the site attributes and will fit into the locality. No adverse impacts likely.

Construction

No potential adverse impacts identified to neighbouring properties with the construction of the proposal.

Cumulative Impacts

The proposed development is not expected to have any adverse cumulative impacts on the natural or built environment or the social and economic attributes of the locality.

(c) The suitability of the site for the development:

The proposal will fit into the locality and the site attributes are conducive to the proposed development. Site constraints have been adequately addressed and appropriate conditions of consent recommended.

(d) Any submissions made in accordance with this Act or the Regulations:

No written submissions were received following public exhibition of the application.

(e) The Public Interest:

The proposed development satisfies relevant planning controls and is unlikely to impact on the wider public interest.

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4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.
- Development contributions will be required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.

Refer to draft contribution schedule attached to this report and recommended conditions.

5. CONCLUSION

The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.

Attachments

- 1 [View](#). DA2016 - 149.1 Plans.
- 2 [View](#). DA2016 - 149.1 LEP Variation Justification.
- 3 [View](#). DA2016 - 149.1 SOEE
- 4 [View](#). DA2016 - 149.1 Design Guide Assessment.
- 5 [View](#). DA 2016 - 149.1 Recommended Conditions