

# Development Assessment Panel

## Business Paper

**date of meeting:** Wednesday, 27 February 2013

**location:** Function Room, PMHC, Port Macquarie

**time:** 2.00pm

**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.



**PORT MACQUARIE  
HASTINGS**

## **Development Assessment Panel**

### **CHARTER**

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#### **Functions:**

1. To review development application reports and conditions.
2. To determine development applications outside of staff delegations.
3. To refer development applications to Council for determination where necessary.
4. To provide a forum for objectors and applicants to make submissions on applications before DAP.
5. To maintain transparency for the determination of development applications.

#### **Delegated Authority:**

Pursuant to Section 377 of the Local Government Act, 1993 delegation to determine development applications under Part 4 of the Environmental Planning and Assessment Act 1979 having regard to the relevant environmental planning instruments, development control plans and Council policies.

#### **Format Of The Meeting:**

1. Panel meetings shall be carried out in accordance with Council's Code of Meeting Practise for Council Sub-Committees, except where varied by this Charter.
2. Meetings shall be "Open" to the public.
3. The Panel will hear from applicants and objectors or their representatives. Where considered necessary, the Panel will conduct site inspections which will be open to the public.

## Development Assessment Panel

### ATTENDANCE REGISTER

Member	17/10/12	07/11/12	21/11/12	12/12/12
Paul Drake	✓	✓	✓	✓
Matt Rogers	X	X	X	X
Dan Croft	A	✓	✓	✓
Patrick Gailbraith-Robertson (alternate)			✓	
Clinton Tink (alternate)	✓		✓	
David Fletcher	✓	✓	✓	✓
Paul Biron (alternate)				
Cliff Toms	A	✓	✓	✓
David Troemel (alternate)	✓			

Member	23/01/13	13/02/13			
Paul Drake	✓	✓			
Matt Rogers					
Dan Croft	✓	✓			
Patrick Gailbraith-Robertson (alternate)					
David Fletcher	✓	✓			
Cliff Toms	✓	✓			
Geoff Metcalfe (alternate)					
David Troemel (alternate)					
Lewin Wiles (alternate)					

**Key:** ✓ = Present

**A** = Absent With Apology

**X** = Absent Without Apology



**PORT MACQUARIE  
HASTINGS**

# Development Assessment Panel Meeting

Wednesday, 27 February 2013

## Items of Business

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**PORT MACQUARIE  
HASTINGS**



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**Item: 01****Subject: ACKNOWLEDGEMENT OF COUNTRY**

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"I acknowledge that we are gathered on Birpai Land. I pay respect to the Birpai Elders both past and present. I also extend that respect to all other Aboriginal and Torres Strait Islander people present."

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**Item: 02****Subject: APOLOGIES**

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**RECOMMENDATION**

That the apologies received be accepted.

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**Item: 03****Subject: CONFIRMATION OF PREVIOUS MINUTES**

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**RECOMMENDATION**

That the Minutes of the Development Assessment Panel Meeting held on 13 February 2013 be confirmed.

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**PRESENT**

***Members:***

Paul Drake  
Dan Croft  
David Fletcher  
Cliff Toms

***Other Attendees:***

Pat Galbraith-Robertson  
Clint Tink

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The meeting opened at 2.07pm.

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**01 ACKNOWLEDGEMENT OF COUNTRY**

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The Acknowledgement of Country was delivered.

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**02 APOLOGIES**

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There were no apologies.

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**03 CONFIRMATION OF MINUTES**

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**CONSENSUS:**

That the Minutes of the Development Assessment Panel Meeting held on 23 January 2013 be confirmed.

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**04 DISCLOSURES OF INTEREST**

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There were no disclosures of interest presented.

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**05 STAGED SEVENTY TWO (72) LOT RESIDENTIAL SUBDIVISION, WITH TWO (2) DRAINAGE RESERVES AND A RESIDUE LOT AT LOT 3 DP 552001, PARISH CAMDEN HAVEN, DUNBOGAN**

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Speakers:  
Michelle Hollis (applicant)

**CONSENSUS:**

1. That the Koala Plan of Management prepared by Darkheart Eco-Consultancy dated January 2012 be adopted, subject to the changes outlined by the Department of Planning and Infrastructure in their letter dated 16 August 2012.
2. That upon acceptance of recommendation 1, DA 2012/0163 for a staged seventy two (72) lot residential subdivision, with two (2) drainage reserves and a residue lot at Lot 3, DP 552001, Parish of Camden Haven, Dunbogan, be determined by granting consent subject to the recommended conditions and as amended below:
  - Amend condition E21 by inserting the words 'subject to the requirements of bushfire protection measures' at the end of the first dot point in the condition.

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**06 DA 2012 - 546 - ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION**

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Speakers:  
Debbie Facey (o)  
Terrance Stafford (applicant)  
Peter Kallin (owner)

**CONSENSUS:**

That DA 2012 - 546 for an attached dual occupancy and torrens title subdivision at Lot 5, DP 1069338, No. 20 The Anchorage, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Insert the following condition in Section B of the consent 'The block wall on the north eastern deck of the rear dwelling (Hastings River side) be continued for the full length of the deck (i.e 750mm extension). Details to be provided with the application for construction certificate.'
- Delete condition F(2)
- Insert the following condition in Section E of the consent; 'Prior to release of an occupation certificate, a survey certificate completed by a registered surveyor is to be submitted to the Principal Certifying Authority demonstrating the building has been constructed in accordance with the approved plans.'

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**07 DA2012 - 0532 - ADDITIONS TO DWELLING (COMPLETION OF A PARTLY CONSTRUCTED REAR DECK) - LOT 377 DP 236950, 31 VENDUL CRESCENT, PORT MACQUARIE**

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Speakers:

Philip Laing (o)

Wayne Ellis (applicant)

Lou Perri (owner)

The applicant confirmed that the application related to the deck only and that reference to a front courtyard wall on the plans was an error.

Dan Croft, Cliff Toms and David Fletcher voted for the recommendation subject to the deletion of condition B(7).

Paul Drake voted against the recommendation on the following grounds:

**'Reasons'** for voting against recommendation:

1. *Loss of privacy caused by potential excessive over-viewing and potential noise emanating there-from, to/from the adjoining southern neighbour.*
2. *Absence of any effort by applicant to mitigate privacy impacts at southern end of the proposed deck.*

**Comment:** *The deck is more than partly built save for an area at its southern end of approx 12 sq m (i.e. about 4 x 3 m). This area would provide excessive and exponential opportunity to overlook the rear of the adjoining property en toto. Further no privacy screen was offered at this end. Setting back this southern end the additional 3 m (i.e. approving the deck as built) would make a significant contribution to mitigating loss of privacy impacts for both properties*

*Deletion (or non completion) of this part would not deny the applicants their right to ample above ground open space (i.e. 63 sq m).'*

This Item will be reported to a future meeting of Council.

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The meeting closed at 3.20pm.

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Item: 04  
Subject: DISCLOSURES OF INTEREST

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**RECOMMENDATION**

That Disclosures of Interest be presented

**DISCLOSURE OF INTEREST DECLARATION**

Name of Meeting: .....  
Meeting Date: .....  
Item Number: .....  
Subject: .....  
.....

I, ..... declare the following interest:

☐**Pecuniary:**

Take no part in the consideration and voting and be out of sight of the meeting.

☐**Non-Pecuniary - Significant Conflict:**

Take no part in the consideration and voting and be out of sight of the meeting.

☐**Non-Pecuniary - Insignificant Conflict:**

May participate in consideration and voting.

For the reason that: .....  
.....

Signed: ..... Date: .....

*(definitions are provided on the next page)*

**Definitions**

(Local Government Act and Code of Conduct)

**Pecuniary**

An interest that a person has in a matter because of a reasonable likelihood or expectation or appreciable financial gain or loss to the person or another person with whom the person is associated. (*LG Act s442 and s443*).

A Councillor or member of a Council Committee who is present at a meeting and has a pecuniary interest in any matter which is being considered must disclose the nature of that interest to the meeting as soon as practicable.

The Councillor or member of a Council Committee must not take part in the consideration and voting on the matter and be out of sight of the meeting. (*LG Act s451*)

**Non-Pecuniary**

An interest that is private or personal that the Councillor or member of a Council Committee has that does not amount to a pecuniary interest as defined in the LG Act.

If you have declared a non-pecuniary interest you have a number of options for managing the conflict. The option you choose will depend on an assessment of the circumstances of the matter, the nature and significance of your interest. You must deal with a non-pecuniary interest in one of the following ways.

**Non Pecuniary – Significant Interest**

(For example; family, a close friendship, membership of an association, sporting club, corporation, society or trade union).

- Have no involvement by absenting yourself from and not taking part in any consideration or voting on the issue as if the provisions in the LG Act s451(2) apply.
- A future alternative is to remove the source of the conflict (for example, relinquishing or divesting the personal interest that creates the conflict or reallocating the conflicting duties to another officer).

**Non Pecuniary – Less than Significant Interest**

- It may be appropriate that no action is taken. However, you must provide an explanation of why you consider that the conflict does not require further action.



## SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

<b>By</b> <i>[insert full name of councillor]</i>	
<b>In the matter of</b> <i>[insert name of environmental planning instrument]</i>	
<b>Which is to be considered at a meeting of the</b> <i>[insert name of meeting]</i>	
<b>Held on</b> <i>[insert date of meeting]</i>	
<b>PECUNIARY INTEREST</b>	
Address of land in which councillor or an associated person, company or body has a proprietary interest ( <i>the identified land</i> ) <sup>i</sup>	
Relationship of identified land to councillor [Tick or cross one box.]	<input type="checkbox"/> Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease trust, option or contract, or otherwise).  <input type="checkbox"/> Associated person of councillor has interest in the land.  <input type="checkbox"/> Associated company or body of councillor has interest in the land.
<b>MATTER GIVING RISE TO PECUNIARY INTEREST<sup>ii</sup></b>	
Nature of land that is subject to a change in zone/planning control by proposed LEP ( <i>the subject land</i> ) <sup>iii</sup> [Tick or cross one box]	<input type="checkbox"/> The identified land.  <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor [Tick or cross one box]	<input type="checkbox"/> Appreciable financial gain.  <input type="checkbox"/> Appreciable financial loss.

Councillor's Signature: ..... Date: .....

**Important Information**

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993*. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

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- i. Section **443** (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative<sup>iv</sup> or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.
  - ii. Section **442** of the *Local Government Act 1993* provides that a **pecuniary interest** is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section **448** of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).
  - iii. A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in section **443** (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest—see section **448** (g) (ii) of the *Local Government Act 1993*.
  - iv. **Relative** is defined by the *Local Government Act 1993* as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

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Item: 05

Subject: DA 2010 - 0282 - CONTINUED USE OF CAR SPACES AND ALTERATIONS TO STORAGE AND FOOD PREPARATION AREA FOR REFRESHMENT ROOM - STUNNED MULLET - LOT 65 SP 80160, 61/12-24 WILLIAM STREET, PORT MACQUARIE

Report Author: Patrick Galbraith-Robertson

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Property: Lot 65 SP 80160, 61/12-24 William street, Port Macquarie  
Applicant: Beukers and Ritter Consulting  
Owner: Restaurant Management and Consulting Services Pty Ltd  
Application Date: 1 June 2010  
Date Formal: 1 June 2010  
Estimated Cost: \$4,000  
Location: Port Macquarie  
File no: DA2010/0282  
Parcel no: 46081

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#### Alignment with Delivery Program

- 4.9.2 Undertake development assessment in accordance with relevant legislation.
- 4.9.3 Implement and maintain a transparent development assessment process.

#### RECOMMENDATION

1. That the Development Assessment Panel support the proposed Voluntary Planning Agreement and recommend to the General Manager to exercise delegation, granted by the Council resolution of 22 October 2008, to enter into the Stunned Mullet Planning Agreement.
2. DA 2010/0282 for the continued use of, and alterations to, car spaces for the purpose storage and food preparation area associated with refreshment room at Lot 61, SP 80160, No. 61/12-24, Port Macquarie, be determined by granting consent subject to the recommended conditions.

#### Executive Summary

This is an updated report on a development application which was previously reported to the Development Assessment Panel on 21 November 2012. This update includes expansion of comments to assist DAP in their determination as to whether to grant consent to the DA and also to provide more comment regarding an additional submission received post the last DAP meeting.

The DAP resolved the following at its meeting on 21 November 2012:

*That DA2010/282 and associated Voluntary Planning Agreement be deferred to enable the following:*

*1. A site inspection be undertaken by the full Panel.*

*2. An updated report be presented to the Panel outlining the history of unauthorised occupation and/or structures associated with the refreshment room and history of applications associated with the refreshment room including details on whether Owner's consent from the body corporate was provided/required for these applications.*

This report considers a Development Application for the continued use of car spaces for storage and food preparation area for refreshment room at the subject site.

The proposal has been amended during the assessment of the application including the applicant offering a Voluntary Planning Agreement.

This report provides an assessment of the application in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Subsequent to exhibition of the application on two (2) occasions, fourteen (14) submissions have been received.

## **1. BACKGROUND**

### **Existing sites features and surrounding development**

The site is an existing strata lot within an existing multi-storey mixed use building.

The site was zoned, at the time of lodgement of the application on 1 June 2010, as 2(t1) Residential Tourist under Hastings Local Environmental Plan 2001, as shown in the following zoning plan (note whole site subject to strata plan shown for identification purposes):



The proposal is for the continued use of an existing double garage associated with an existing restaurant (known as the Stunned Mullet).

The existing subdivision pattern and location of development within the immediate locality is shown in the following aerial photo (source: Nearmap 24 March 2012):





## 2. DESCRIPTION OF DEVELOPMENT

Key aspects of the application proposal include the following:

- Continued use of an existing double garage to the rear of an existing restaurant for the purposes of food preparation, food storage and garbage storage. The proposal has been amended during the assessment of the DA post the first public exhibition period.
- A Voluntary Planning Agreement has been offered by the Applicant post the first public exhibition to address the removal of the two (2) off-street parking spaces from the rear of the restaurant.

Refer to attachments at the end of this report.

### History Chronology of recorded events prior to subject DA

- 18 December 2009 - DA 2009/480 - development consent issued for glazed screens around outdoor dining area.
- 14 January 2010 - Construction Certificate issued relating to DA 2009/480.
- 28 January 2010 - Letter of complaint received advising that the Applicant should cease works due to no approval from Executive Committee being provided.
- 28 January 2010 - Letter of complaint received raising concerns with DA2009/480 not covering the full extent of work required in the DA and that owner's consent to use common property should have been provided. Stainless steel columns, dwarf wall on western boundary, pavers, supports and sealed surface, and stormwater drains from balconies above are common property.
- 29 January 2010, 3 February 2010, - Council response provided as follows:



*"Please be advised that Council provides the following responses to the issues raised in your letter:*

- *The application was assessed and determined not to require neighbour notification on the basis that the works were within the applicant's strata lot, the permanent structures were replacing temporary structures of a similar design and no adverse impact to the façade was foreseen.*
- *In terms of owners consent, provided the works are within the confines of the applicant's strata lot, owners consent from the strata is not considered to be required. Any other by law or requirement adopted by the strata plan is considered to be a matter for the strata. It will be up to the applicant/owner to ensure they do their own due diligence in complying with the strata. The works covered by DA 2009/480 are considered to be within the applicant/owners strata lot.*
- *The glazed structure is considered to be of similar appearance to the existing screens.*
- *The applicant is required to construct the structure in accordance with the BCA and relevant Australian Standards, which addresses wind loading. The Certifying Authority will need to be satisfied that the structure is structurally sound prior to the issue of a Final Occupation Certificate.*
- *If the applicant installs the seating or does work not in accordance with the approved plans, this will be investigated.*
- *Council will investigate the stormwater issue as a matter of compliance.*
- *The fee of \$10,000 is considered a reasonable estimate for the proposed value of works.*
- *The applicant/owner will be informed by Council of issues raised and the need to consider the works in respect of the strata plan. Council will continue to inspect the property and works as per the development application/construction certificate process."*

- 3 February 2010 - Council staff advised applicant of the following:

*"Please be advised that Council has received a number of submissions following the approval of the above application. The submissions relate to the proposed works encroaching onto and using common property without the consent of the strata. Council suggests that you ensure compliance with any requirement of the strata in proceeding with the development."*

- 9 February 2010/15 February 2010 - Letters of complaint received requesting action as per headings below under 12 March 2010. Concern still that the works not contained entirely within lot - stainless steel columns which are common property and to which applicant is fastening the glazed structure, glazed western wall inside dwarf wall which provides barrier to alfresco area and the right of way for owners to access lift tower. Concern raised that 2 parking spaces being used for food storage and cool rooms.
- 12 March 2010 - Council advice provided to a resident of the Building as follows:

*"In response to your questions, the following advice is provided:*

1. *Declare DA 2009/480 void and request Mr Perri re-apply.*

*Refer to Council's letter dated 29 January 2010. In particular, Council is not prepared to declare the DA void.*

2. *Reconsider the assessment and allow the Strata the opportunity to comment.*

*Refer to Council's letter dated 29 January 2010. In particular, Council did not believe the works constituted the need for notification.*

- 3. Ensure no Final Occupation Certificate is issued until a new DA is lodged.**

*Refer to the above dot points and dot point 8 in Council's letter to you dated 29 January 2010.*

- 4. Advise Mr Perri that until a Final Occupation certificate is issued, no restaurant patrons should be allowed to dine in the outside area.**

*The property has been previously issued a Final Occupation certificate as part of DA 2005/123 to allow the use of the outside area. Council's Building Inspector has advised that if the structures under DA 2009/480 pose a risk to the users of such an area, this is a matter for the owner and Workcover. However, Council will advise the owner of this issue.*

- 5. Similar design and appearance**

*Council has already provided comments and its position on this matter in the letter dated 29 January 2010.*

- 6. Owner Corporation Consent**

*Council has already provided comments and its position on this matter in the letter dated 29 January 2010.*

- 7. BCA and Standards**

*Council's Building Inspector has advised that Engineering specifications are not required to be submitted for every development application. In this case, the owner has provided Engineering Certification as part of the Construction Certificate process that the works are structurally sound. Furthermore, Council's Building Inspector has advised that the development is currently proceeding in compliance with the BCA.*

- 8. Electrical Wires lying in water**

*Council's Building Inspector has advised that this is Workcover matter. Council will also advise the owner of this issue.*

- 9. Glazed enclosure and implications for liquor licence**

*Compliance with the restaurant is a matter for Council and a review of the consent has been undertaken. Matters of non compliance that were identified are discussed later in this letter. In terms of the liquor licence, this is not a matter of Council. It is suggested that you contact the NSW Office of Liquor, Gaming and Racing.*

- 10. Non compliance with Initial Restaurant DA (parking, exhaust fan, roller door being shut, toilet numbers)**

*A review of DA 2005/123 has revealed that the owner is using the garage area for storage and a cool room in lieu of providing two (2) parking spaces. Council's*

*Food Safety Officer and a Building Inspector have inspected the area and found no adverse safety issues with the works that have been undertaken. However, Council will be pursuing this matter further with the owner. Council will keep you informed on this matter as it progresses. Toilet numbers have been checked and deemed to comply with the BCA.*

*In terms of the By Laws, they are not a matter for Council consideration.*

#### **11. Engineering and Design**

*Refer to point 7 of this letter.*

#### **12. Not building to the DA consented plan**

*A Council Building Inspector has inspected the property and advised that the works are currently being completed in accordance with the approval.*

#### **13. Stormwater**

*Following a site inspection, Council's Compliance Section have confirmed that the stormwater pipe in question has been cut, capped and redirected. Council will follow this matter up with the owner and keep you informed as details progress."*

- 12 March 2010 - Council advice provided to operator/Applicant as follows:

Please be advised that following a recent compliance check of the above applications and premises, the following issues were identified:

*"It is noted that the outdoor dining area has a final occupation certificate under DA 2005/123. However, to satisfy Workcover requirements you will need to make sure that any patrons using this area during construction works associated with DA 2009/480 are provided with a safe environment until the final occupation certificate is issued for DA 2009/480.*

*Furthermore, Council has been advised that there is electrical wiring lying underneath pavers in a wet environment, potentially creating a hazard. This is also a matter that Workcover may follow up on.*

*The garage area that was to include two (2) parking spaces associated with DA 2005/123 has been converted into a cool room and storage area associated with the restaurant. Council previously brought this issue to your attention on 11 December 2006. In order to use the garage for such a purpose will require a modification to DA 2005/123. Any car parking shortfall will need to be compensated and the process of a Voluntary Planning Agreement (VPA) still stands. It should be noted that since the 11 December 2006 the parking rate is now \$8099 per space (and is subject to CPI). The contributions section have indicated that the difference in the rate to be applied between a one (1) and two (2) space shortage, is likely to be at the higher end (i.e. even if one (1) space is still provided, the rate to be applied will be closer to a two (2) space shortage of approximately \$16,000). The cost in preparing a VPA is \$4000. For more information on the VPA process, it is suggested that you contact either Tim Molloy or Vanessa Penfold in the contribution section of Council on 65818111. The VPA should be included with the modification. The fee for the modification is 50% of the original DA fee or \$500, whichever is the lesser. The fee can be confirmed by contacting*

*Development & Environment Administrative Staff also on 65818111.*

*It appears that a stormwater pipe has been cut, capped and redirected. Council's Compliance Section will follow up this matter with you separately. However, if approval is required, you may wish to include such works in your modification as per point 2 above."*

- 10 March 2010 - Engineers certification provided of the structural adequacy of the placement of the glass sliders and timber framed structure enclosing the existing restaurant area.
- 17 March 2010 - Final inspection by Council's Building Surveyor.
- 6 April 2010 - Interim Occupation Certificate issued subject to external sill around windows being completed.

### Application Chronology

- 1 June 2010 – DA lodged.
- 11 to 28 June 2010 – Public exhibition of original proposal via neighbour notification.
- 22 June 2010 – Applicant requested to clarify common property impacts of proposal.
- 9 July 2010 – Applicant provided with summary of issues raised in submissions received.
- 14 July 2010 – Copy of correspondence received from Applicant advising position of works relating to common property not being affected.
- 15 July 2010 - Copy of advice received as prepared by Strata manager:
  1. *"Additions to a lot, which are paid by the owner of that lot, after registration of the strata plan become the responsibility of the owner of that lot. The garage doors installed to your lot fall under this category and therefore are not considered common property.*
  2. *As owner of your lot, you have 'a special privilege to make alterations to common property and install pipes, wires, cables and ducts in common property necessary to connect your commercial lot to the commercial grease trap' (By Law 27.2c). In addition, as owner of your lot, you have 'a special privilege to make alterations to common property and install pipes, wires, cables and ducts in common property necessary to connect your commercial lot to the commercial kitchen exhaust servicing your commercial lot' (By Law 29.2c). So long as any penetration is for either of these two purposes, then you are entitled to do this.*
  3. *Technically, any owner is permitted to use the common property driveway and visitors carpark although I also draw your attention to By Law 13 which states that 'you must have consent from the Owners Corporation to park or stand a vehicle on common property'.*
  4. *The air space in any lot is 'owned' and is for the exclusive use of the owner of that particular lot. "*
- 16 July 2010 – Additional information requested including list of initial assessment concerns raised.
- 22 October 2010 – Advice provided to Strata manager that application processing on hold pending likely Voluntary Planning Agreement to be offered.
- 22/26 June 2011 – Advice provided to Applicant on process for preparing Voluntary Planning Agreement including monetary value to be offered.
- 18 August 2011 – Example Voluntary Planning Agreement provided to Applicant.



- 20 September 2011 - Advice provided to Strata manager that application processing on hold pending likely Voluntary Planning Agreement to be offered.
- 25 October 2011 – Meeting with Applicant to discuss preparation of Voluntary Planning Agreement.
- 30 May 2012 – Draft Voluntary Planning Agreement sent to Applicant as prepared by Lindsay Taylor Lawyers.
- 7 August 2012 – Clarification advice provided to Applicant on sections of Voluntary Planning Agreement.
- 5 September 2012 – Voluntary Planning Agreement formally offered by Applicant.
- 14 September to 12 October 2012 – Public exhibition of amended proposal and Voluntary Planning Agreement via neighbour notification and advertisement in local newspapers.
- 15 October 2012 – Site inspection of premises by assessing officer.
- 21 November 2012 - DA and proposed VPA reported to the Development Assessment Panel.
- 14 February 2013 - Additional information received - copy of Owner's Corporation resolution regarding 'approval of design of current glazed weatherproof enclosure which has been constructed on the subject lot' - dated 31 March 2010 which was after commencement/completion of works.
- 14 February 2013 - Additional information received - copy of Owner's Corporation By-Laws for the Sandcastle Building dated 25 August 2004. No details provided to advise/confirm approval to install refrigerator freezer and refrigerator compressors external to lot above roller door (assumed to have been installed sometime in September 2012). Body Corporate approval granted to external air conditioning plant only.

### **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 No. 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.

The requirements of this SEPP are therefore satisfied.

#### **State Environmental Planning Policy No. 71 – Coastal Protection**

The site is located within a coastal zone as defined in accordance with clause 4.

In accordance with clause 7, this SEPP prevails over the Hastings LEP 2001 in the event of any inconsistency.

Having regard to clauses 8 and 12 to 16 inclusive the proposed development will not result in any of the following:

- a) any restricted access (or opportunities for access) to the coastal foreshore;

- b) any identifiable adverse amenity impacts along the coastal foreshore and on the scenic qualities of the coast;
- c) any identifiable adverse impacts on any known flora and fauna (or their natural environment);
- d) subject to any identifiable adverse coastal processes or hazards;
- e) any identifiable conflict between water and land based users of the area;
- f) any identifiable adverse impacts on any items of archaeological/heritage; and
- g) reduce the quality of the natural water bodies in the locality.

In particular, the site is currently occupied by the subject existing restaurant tenancy.

The requirements of this SEPP are therefore satisfied.

#### **North Coast Regional Environmental Plan**

In accordance with clause 2, the proposal is consistent with the aims of this REP.

In accordance with clause 32B (2), the proposal will not contravene any of the aims, objectives or strategic requirements of the following:

- (a) *the NSW Coastal Policy 1997,*
- (b) *the Coastline Management Manual, and*
- (c) *the North Coast: Design Guidelines.*

In accordance with clause 32B (3), the proposal will not impede public access to the nearby foreshore. The VPA monetary contribution maybe used by Council to improve safe access to the foreshore.

The requirements of this REP are therefore satisfied.

#### **Hastings Local Environmental Plan 2001**

In accordance with clause 9, the subject site is zoned 2(t1) Residential Tourist. The proposed development for a continued use of car space as storage and food preparation area for refreshment room is best characterised as being ancillary to the 'refreshment room' for the purposes of the LEP, which is a permissible landuse with consent.

The objectives of the 2(t1) zone are as follows:

- (a) *To ensure that permanent residential development does not sterilise identified tourism precincts.*
- (b) *To permit and encourage tourist and ancillary residential development and associated services and facilities where such services and facilities are an integral part of the development and are of a scale appropriate to the needs generated by that development, or which are compatible with tourist and associated residential accommodation.*
- (c) *To enable appropriate development where allowed with consent.*

The proposal is consistent with the zone objectives, particularly as the proposed storage and food preparation area facilities are ancillary to an existing approved refreshment room.

In accordance with clause 13, satisfactory arrangements are available for water supply and facilities for removal/disposal of sewage to the proposal.

The requirements of this LEP are therefore satisfied.

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



**Port Macquarie-Hastings Local Environmental Plan 2011**

This LEP commenced after lodgement of the DA. In accordance with clause 1.8A, this LEP is to be treated as a draft LEP.

The site is currently zoned R4 High Density Residential. The proposed use is best characterised as being ancillary/subordinate to the primary purpose for a 'restaurant' and is permissible with consent in the current R4 zone. The proposal is not inconsistent with the draft zone objectives and relevant provisions.

**(iii) any Development Control Plan in:**

**Port Macquarie-Hastings Development Control Plan 2006 (as in force at the time of original lodgement):**

**DCP 18 – Off-Street Parking Code**

The proposal does not comply with the applicable development provisions of this DCP relating to calculated off-street parking requirements. The proposal includes removal of the 2 carparking spaces for additional food preparation and storage purposes which in itself will not generate any additional parking demand making reference to the parking calculation methodology. The removal of the 2 car spaces will however be unable to be absorbed within the entire building complex in terms of total calculated parking demand (i.e. No surplus carparking provided or credit for the site).

The removal of the two (2) parking spaces will be unlikely to create any significant parking impacts or adverse impacts on traffic and road function within the immediate Town Beach locality noting the extent of public parking spaces and additional spaces earmarked in the Rotary Park Masterplan.

The Applicant proposes a Voluntary Planning Agreement to address the removal of these parking spaces. Refer to additional comments under Voluntary Planning Agreement section of this report.

**DCP 40 – Advertising of Development**

The proposed development, as amended, and Voluntary Planning Agreement has been publicly exhibited via neighbour notification and advertisement in the local newspaper/s in accordance with the requirements of the DCP.

**DCP 41 – Building Construction and Site Management**

The proposal is capable of compliance with the building construction and site management requirements of this DCP subject to standard conditions of consent recommended as appropriate.

**DCP 46 – Town Beach Precinct**

The proposal will not contravene any of the applicable development provisions of this DCP.

**(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:**

Council has received an offer to enter into a Voluntary Planning Agreement (VPA) in connection with the Development Application. The Planning Agreement provides for the payment to Council by the Developer, in lieu of provision of the two parking spaces, of a development contribution of approximately \$16,758 towards the cost of

the provision by Council of public car parking, or the upgrading of pedestrian or traffic facilities, in the local area of the development.

A copy of the draft planning agreement is attached to this report. Public notification of the Planning Agreement was made in conjunction with the amended Development Application. Matters raised in submissions in relation to the development application and VPA are discussed in submissions section of this report.

Council's resolution 22 October 2008 (Item 27) provides the General Manager delegated authority to enter into a Voluntary Planning Agreement on behalf of Council where the development to which the Agreement relates is approved by Council's Development Assessment Panel.

**iv) any matters prescribed by the Regulations:**

In accordance with clause 93 of the Environmental Planning and Assessment Regulation 2000, there is no change of 'building use' under the Building Code of Australia as assumed to be class 6 under the Building Code of Australia originally.

**New South Wales Coastal Policy**

The proposed development is consistent with the objectives and strategic actions of this policy.

**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:**

N/A

**(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 is occupied by an existing mixed use building containing ground floor commercial tenancies including the subject refreshment room tenancy.

No adverse context impacts upon existing apartments above the premises in particular can be identified to warrant refusal of the application.

**Access, Transport & Traffic**

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic. The proposal is not likely to generate any additional traffic generation trips as a result of the development.

**Water Supply**

Additional hand basin likely to be required to be installed. Can be addressed with Section 68 application.

**Sewer**

Additional hand basin likely to be required to be installed. Can be addressed with Section 68 application.

**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 to warrant refusal of the application. The food preparation and storage area will be subject to further improvements.

**Waste**

The premises currently has no formalised garbage storage area. As part of the proposal a formalised separate defined garbage storage area will be installed.

**Energy**

No adverse impacts anticipated.

**Noise & Vibration**

The application does not propose any changes to existing hours of operation of the restaurant.

**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.

**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/completion of the development.

**Site Design and Internal Design**

No adverse impacts likely.

**Construction**

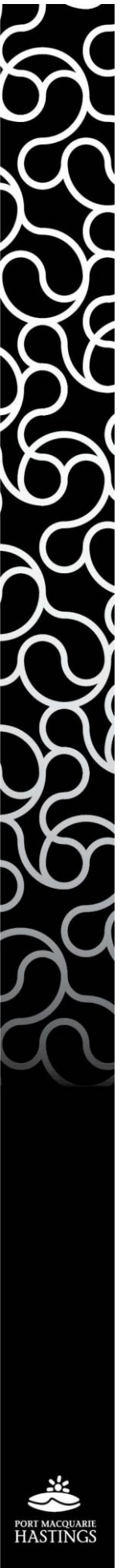
No potential adverse impacts identified to neighbouring properties with the construction of the proposal. Standard conditions restricting hours of construction are recommended.

**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.



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

Fourteen (14) written submissions have been received as a result of public exhibition of the application on two (2) occasions.

Key issues (note: list is a summary) raised in the submissions received and comments in response to these issues are provided as follows:

Submission Issue/Summary	Planning Comment/Response
Questioned why food storage allowed in garage	Section of garage to be fitted out to food health standards. Refer recommended conditions. Current use is substandard – agree. Garbage storage area defined separate from food preparation. If any common property is involved to do additional works the Applicant should obtain permission from body corporate of Strata for building.
Wheelie bins should not be within food storage area and will attract vermin	
Questioned environmental standards and hygiene. The current use if substandard.	
Questioned exhaust emissions from food processing areas	
Questioned whether retrospective works possible	Works have commenced but need to be completed to proposed plans and standards. Use of space proposed plus alterations to complete applied for. Condition recommended to require Building Certificate for current completed works.
Questioned fixed wall addition plus a new smaller roller	Refer to amended plans for clarification.
Where are alternative parking spaces	Voluntary Planning Agreement proposes offset for public benefit.
Parking spaces already at premium	
Consideration to be given to all residents and rate payers not just the needs of the restaurant owner that has increased the seating capacity without given enough thought to food preparation areas.	
Concern with concrete slabs being drilled through and encroached on common property	Compliance matter and body corporate strata matter
Suppliers/deliveries forced to double park in visitor carpark thoroughfare restricting exit and entry	Development Control Plan 2011 does not require a specific loading bay for the size of the development proposed. It is considered that any disturbance would be a temporary inconvenience.
The offer to make financial compensation to Council does nothing to address the shortage of parking in or near the Sandcastle.	Council has accepted parking contributions by way of two other voluntary planning agreements for developments outside of areas where parking Development Contribution Plans apply. There are public parking areas in the vicinity of the development. The parking contribution proposed under the Agreement will be able to be utilised by Council to improve pedestrian and traffic facilities in the locality in order to more efficiently use existing parking to serve the development.
The offer of a compensatory payment is inconsequential as it will not provide much needed additional car spaces that this proposal should seek to achieve.	
Clause 14 of the draft Voluntary	A planning agreement may in some

Planning Agreement states that the parties agree not to register this Agreement under s93H of the Act – what does this mean?	cases be registered on the title of the land. Registration is not considered necessary in this case given that the agreement provides for payment of a one-off contribution amount to Council within 28 days of consent.
The amount of \$16,758 does not seem adequate to compensate for two car spaces. How was this figure calculated?	The contribution amount has been calculated based on the equivalent car parking contribution amount levied on development outside of the CBD area under Council's Car Parking Contribution Plan 1993 - Gordon Street precinct.
The use of the premises is in breach of Development Control Plans 2006 and 2011	The proposal seeks variation to the typical calculated parking provision standard for 2 parking spaces via the offering of a Voluntary Planning Agreement.
The parking at the Sandcastle and Port Macquarie generally is at a premium. The loss of 2 parking spaces is significant particularly in the warmer months.	The loss of two spaces is not considered significant and is capable of being accommodated within the precinct. Contribution payments considered a suitable offset for the loss of two spaces only.



The removal of the 2 parking spaces already completed was not authorised by the body corporate or Council	Noted. The proposal is within private strata lot and Applicant contends that the proposal does not affect common property.
Questioned whether proposal is a 'refreshment room' or 'restaurant'.	By definition under previous Hastings Local Environmental Plan 2001 the proposal is best characterised as fitting the definition of a 'refreshment room'.
The owner of the restaurant parks frequently in the visitor only parking area.	Noted. This is a strata body corporate matter.
Concern with timeframe for resolution on matter up to 2 years particularly when the use was already in place. Questioned whether there was some negotiation over VPA being offered. Lack of Council diligence particularly in regard to Compliance action. The issue goes back to 2005.	Concern noted. Applicant was advised of concerns and needed to respond. Applicant approached Council to seek alternative method to offsetting parking calculation reduction. Council commenced compliance action to require the matter to be resolved and subsequently a DA was lodged which the subject of consideration.
Questioned inaccuracy of details submitted versus plans.	Current amended plans are what is proposed.
Louvered enclosure fixed to underside of the common property slab above the roller door and spanning the full width of the roller door. The addition is for improved air conditioning quality for the kitchen and food preparation areas however speculate that the space is for refrigerator freezer and refrigerator compressors. Questioned whether this meets building standards.	Noted. This is a strata body corporate matter from owner point of view. Building Certificate to be obtained together with a Construction Certificate to complete the works.
Concern that other ground floor tenancies are retaining carparking in difference to the subject proposal and retaining carparking instead	Noted. That is the subject of this application.
The Applicant does not have Body Corporate approval to make any variation to the existing double garage doors. The Applicant intends to modify the area covered by the garage door and replace door with a part solid wall and smaller storeroom access door. In 2005 the Applicant was given permission by the Body Corporate to fill in across the double car space with a double garage door and single entry side door. He was given permission with the condition that he maintain the two(2) car spaces within. Failed to meet this condition.	Current amended plans show 'replace existing roller with 2 rollers' and 'replace existing service door'. The internal use of the double garage is the subject of this DA.

**(e) The Public Interest:**

Issues of concern raised in submissions received following public exhibition of the proposal have been addressed earlier in this report.

The proposed development is not expected to impact on the wider public interest particularly as the proposal will result in additional public amenity/infrastructure improvements to offset the required calculated parking requirements.

**DCP 2011 (now in force but considered as draft)**

The proposal will not contravene any of the objectives of this DCP.

**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.

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. Consequently, 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](#). DA2010 / 0282 -DAP Meeting 21 November 2012 Agenda Item

## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
21/11/2012

Item: 07

Subject: DA 2010/0282 - CONTINUED USE OF, AND ALTERATIONS TO, CAR SPACES FOR THE PURPOSE OF STORAGE AND FOOD PREPARATION AREA ASSOCIATED WITH REFRESHMENT ROOM - STUNNED MULLET

Report Author: Patrick Galbraith-Robertson

Property: Lot 65 SP 80160, 61/12-24 William Street, Port Macquarie  
Applicant: Beukers & Ritter Consulting  
Owner: Restaurant Management and Consulting Services Pty Ltd  
Application Date: 1 June 2010  
Date Formal: 1 June 2010  
Estimated Cost: \$4,000  
Location: Port Macquarie  
File no: DA 2010/0282  
Parcel no: 46081

## Alignment with Delivery Program

- 4.9.2 Undertake development assessment in accordance with relevant legislation.  
4.9.3 Implement and maintain a transparent development assessment process.

## RECOMMENDATION

1. That the Development Assessment Panel support the proposed Voluntary Planning Agreement and recommend to the General Manager to exercise delegation, granted by the Council resolution of 22 October 2008, to enter into the Stunned Mullet Planning Agreement.
2. DA 2010/0282 for the continued use of, and alterations to, car spaces for the purpose storage and food preparation area associated with refreshment room – Stunned Mullet at Lot 61, SP 80160, No. 61/12-24, Port Macquarie, be determined by granting consent subject to the recommended conditions.

## Executive Summary

This report considers a Development Application for a continued use of car spaces to storage and food preparation area for refreshment room – Stunned Mullet at the subject site.

The proposal has been amended during the assessment of the application including the Applicant offering a Voluntary Planning Agreement.

This report provides an assessment of the application in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

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Subsequent to exhibition of the application on two (2) occasions, fourteen (14) submissions have been received.

## 1. BACKGROUND

## Existing sites features and surrounding development

The site is an existing strata lot within an existing multi-storey mixed use building.

The site was zoned, at the time of lodgement of the application on 1 June 2010, as 2(t1) Residential Tourist under the previous Hastings Local Environmental Plan 2001, as shown in the following zoning plan (note whole site subject to strata plan shown for identification purposes):



The proposal is the continued use of a previously approved double garage associated with an existing restaurant (known as the Stunned Mullet).

The existing subdivision pattern and location of development within the immediate locality is shown in the following aerial photo (source: Nearmap 24 March 2012):



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## AGENDA

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Key aspects of the application proposal include the following:

- Continued use of an existing double garage to the rear of an existing restaurant for the purposes of food preparation, food storage and garbage storage. The proposal has been amended during the assessment of the DA post the first public exhibition period.
- A Voluntary Planning Agreement has been offered by the Applicant post the first public exhibition to address the removal of the two (2) off-street parking spaces from the rear of the restaurant.

Refer to attachments at the end of this report.

**Application Chronology**

- 1 June 2010 – DA lodged.
- 11 to 28 June 2010 – Public exhibition of original proposal via neighbour notification.
- 22 June 2010 – Applicant requested to clarify common property impacts of proposal.
- 9 July 2010 – Applicant provided with summary of issues raised in submissions received.
- 9 July 2010 – Copy of correspondence received from Applicant advising position of works relating to common property not being affected.

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- 16 July 2010 – Additional information requested including list of initial assessment concerns raised.
- 22 October 2010 – Advice provided to Strata manager that application processing on hold pending likely Voluntary Planning Agreement to be offered.
- 22/26 June 2011 – Advice provided to Applicant on process for preparing Voluntary Planning Agreement including monetary value to be offered.
- 18 August 2011 – Example Voluntary Planning Agreement provided to Applicant.
- 20 September 2011 - Advice provided to Strata manager that application processing on hold pending likely Voluntary Planning Agreement to be offered.
- 25 October 2011 – Meeting with Applicant to discuss preparation of Voluntary Planning Agreement.
- 30 May 2012 – Draft Voluntary Planning Agreement sent to Applicant as prepared by Lindsay Taylor Lawyers.
- 7 August 2012 – Clarification advice provided to Applicant on sections of Voluntary Planning Agreement.
- 5 September 2012 – Voluntary Planning Agreement formally offered by Applicant.
- 14 September to 12 October 2012 – Public exhibition of amended proposal and Voluntary Planning Agreement via neighbour notification and advertisement in local newspapers.
- 15 October 2012 – Site inspection of premises.

## 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 No. 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.

The requirements of this SEPP are therefore satisfied.

## State Environmental Planning Policy No. 71 – Coastal Protection

The site is located within a coastal zone as defined in accordance with clause 4.

In accordance with clause 7, this SEPP prevails over the Hastings LEP 2001 in the event of any inconsistency.

Having regard to clauses 8 and 12 to 16 inclusive the proposed development will not result in any of the following:

- a) any restricted access (or opportunities for access) to the coastal foreshore;
- b) any identifiable adverse amenity impacts along the coastal foreshore and on the scenic qualities of the coast;
- c) any identifiable adverse impacts on any known flora and fauna (or their natural environment);
- d) subject to any identifiable adverse coastal processes or hazards;



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## AGENDA

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- e) any identifiable conflict between water and land based users of the area;
- f) any identifiable adverse impacts on any items of archaeological/heritage; and
- g) reduce the quality of the natural water bodies in the locality.

In particular, the site is currently occupied by the subject existing restaurant tenancy.  
The requirements of this SEPP are therefore satisfied.

**North Coast Regional Environmental Plan**

In accordance with clause 2, the proposal is consistent with the aims of this REP.

In accordance with clause 32B (2), the proposal will not contravene any of the aims, objectives or strategic requirements of the following:

- (a) *the NSW Coastal Policy 1997,*
- (b) *the Coastline Management Manual, and*
- (c) *the North Coast: Design Guidelines.*

In accordance with clause 32B (3), the proposal will not impede public access to the nearby foreshore. The VPA monetary contribution may be used by Council to improve safe access to the foreshore.

The requirements of this REP are therefore satisfied.

**Hastings Local Environmental Plan 2001**

In accordance with clause 9, the subject site is zoned 2(t1) Residential Tourist. The proposed development for a continued use of car space as storage and food preparation area for refreshment room is best characterised as being ancillary to the 'refreshment room' for the purposes of the LEP, which is a permissible land use with consent.

The objectives of the 2(t1) zone are as follows:

- (a) *To ensure that permanent residential development does not sterilise identified tourism precincts.*
- (b) *To permit and encourage tourist and ancillary residential development and associated services and facilities where such services and facilities are an integral part of the development and are of a scale appropriate to the needs generated by that development, or which are compatible with tourist and associated residential accommodation.*
- (c) *To enable appropriate development where allowed with consent.*

The proposal is consistent with the zone objectives, particularly as the proposed storage and food preparation area facilities are ancillary to an existing approved refreshment room.

In accordance with clause 13, satisfactory arrangements are available for water supply and facilities for removal/disposal of sewage to the proposal.

The requirements of this LEP are therefore satisfied.

**(ii) Any draft instruments that apply to the site or are on exhibition:****Port Macquarie-Hastings Local Environmental Plan 2011**

This LEP commenced after lodgement of the DA. In accordance with clause 1.8A, this LEP is to be treated as a draft LEP.

The site is currently zoned R4 High Density Residential. The proposed use is best characterised as being ancillary/subordinate to the primary purpose for a 'restaurant'



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and is permissible with consent in the current R4 zone. The proposal is not inconsistent with the draft zone objectives and relevant provisions.

(iii) any Development Control Plan in:

**Port Macquarie-Hastings Development Control Plan 2006 (as in force at the time of original lodgement):**

**DCP 18 – Off-Street Parking Code**

The proposal is unable to comply with the applicable development provisions of this DCP relating to calculated off-street parking requirements. The proposal includes removal of the 2 carparking spaces for additional food preparation and storage purposes which in itself will not generate any additional parking demand making reference to the parking calculation methodology. The removal of the 2 car spaces will however be unable to be absorbed within the entire building complex in terms of total calculated parking demand (ie. No surplus carparking provided or credit for the site).

The removal of the two (2) parking spaces will be unlikely to create any significant parking impacts or adverse impacts on traffic and road function within the immediate Town Beach locality noting the extent of public parking spaces and additional spaces earmarked in the Rotary Park Masterplan.

The Applicant proposes a Voluntary Planning Agreement to address the removal of these parking spaces. Refer to additional comments under Voluntary Planning Agreement section of this report.

**DCP 40 – Advertising of Development**

The proposed development, as amended, and Voluntary Planning Agreement has been publicly exhibited via neighbour notification and advertisement in the local newspaper/s in accordance with the requirements of the DCP.

**DCP 41 – Building Construction and Site Management**

The proposal is capable of compliance with the building construction and site management requirements of this DCP subject to standard conditions of consent recommended as appropriate.

**DCP 46 – Town Beach Precinct**

The proposal will not contravene any of the applicable development provisions of this DCP.

**(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:**

Council has received an offer to enter into a Voluntary Planning Agreement (VPA) in connection with the Development Application. The Planning Agreement provides for the payment to Council by the Developer, in lieu of provision of the two parking spaces, of a development contribution of approximately \$16,758 towards the cost of the provision by Council of public car parking, or the upgrading of pedestrian or traffic facilities, in the local area of the development.

A copy of the draft planning agreement is attached to this report. Public notification of the Planning Agreement was made in conjunction with the amended Development Application. Matters raised in submissions in relation to the development application and VPA are discussed in submissions section of this report.



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Council's resolution 22 October 2008 (Item 27) provides the General Manager delegated authority to enter into a Voluntary Planning Agreement on behalf of Council where the development to which the Agreement relates is approved by Council's Development Assessment Panel.

iv) any matters prescribed by the Regulations:

In accordance with clause 93 of the Environmental Planning and Assessment Regulation 2000, there is no change of 'building use' under the Building Code of Australia as assumed to be class 6 under the Building Code of Australia originally.

**New South Wales Coastal Policy**

The proposed development is consistent with the objectives and strategic actions of this policy.

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:

N/A

(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 is occupied by an existing mixed use building containing ground floor commercial tenancies including the subject refreshment room tenancy.

No adverse context impacts upon existing apartments above the premises in particular can be identified to warrant refusal of the application.

**Access, Transport & Traffic**

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic. The proposal is not likely to generate any additional traffic generation trips as a result of the development.

**Water Supply**

Additional hand basin likely to be required to be installed. Can be addressed with Section 68 application.

**Sewer**

Additional hand basin likely to be required to be installed. Can be addressed with Section 68 application.

**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 to warrant refusal of the application. The food preparation and storage area will be subject to further improvements.

**Waste**

The premises currently has no formalised garbage storage area. As part of the proposal a formalised separate defined garbage storage area will be installed.



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No adverse impacts anticipated.

**Noise & Vibration**

The application does not propose any changes to existing hours of operation of the restaurant.

**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.

**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/completion of the development.

**Site Design and Internal Design**

No adverse impacts likely.

**Construction**

No potential adverse impacts identified to neighbouring properties with the construction of the proposal. Standard conditions restricting hours of construction are recommended.

**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.

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

Fourteen (14) written submissions have been received as a result of public exhibition of the application on two (2) occasions.

Key issues (note: list is a summary) raised in the submissions received and comments in response to these issues are provided as follows:

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## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
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Submission Issue/Summary	Planning Comment/Response
Questioned why food storage allowed in garage	Section of garage to be fitted out to food health standards. Refer recommended conditions. Current use is substandard – agree.
Wheelie bins should not be within food storage area and will attract vermin	
Questioned environmental standards and hygiene. The current use if substandard.	
Questioned exhaust emissions from food processing areas	Garbage storage area defined separate from food preparation. If any common property is involved to do additional works the Applicant should obtain permission from body corporate of Strata for building.
Questioned whether retrospective works possible	Works have commenced but need to be completed to proposed plans and standards. Use of space proposed plus alterations to complete applied for. Condition recommended to require Building Certificate for current completed works.
Questioned fixed wall addition plus a new smaller roller	Refer to amended plans for clarification.
Where are alternative parking spaces	Voluntary Planning Agreement proposes offset for public benefit.
Parking spaces already at premium	
Consideration to be given to all residents and rate payers not just the needs of the restaurant owner that has increased the seating capacity without given enough thought to food preparation areas.	
Concern with concrete slabs being drilled through and encroached on common property	Compliance matter and body corporate strata matter
Suppliers/deliveries forced to double park in visitor carpark thoroughfare restricting exit and entry	Development Control Plan 2011 does not require a specific loading bay for the size of the development proposed. It is considered that any disturbance would be a temporary inconvenience.
The offer to make financial compensation to Council does nothing to address the shortage of parking in or near the Sandcastle.	Council has accepted parking contributions by way of two other voluntary planning agreements for developments outside of areas where parking Development Contribution Plans apply.  There are public parking areas in the vicinity of the development. The parking contribution proposed under the Agreement will be able to be utilised by Council to improve pedestrian and traffic facilities in the locality in order to more efficiently use existing parking to serve the development.
The offer of a compensatory payment is inconsequential as it will not provide much needed additional car spaces that this proposal should seek to achieve.	
Clause 14 of the draft Voluntary	A planning agreement may in some



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## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
21/11/2012

Planning Agreement states that the parties agree not to register this Agreement under s93H of the Act – what does this mean?	cases be registered on the title of the land. Registration is not considered necessary in this case given that the agreement provides for payment of a one-off contribution amount to Council within 28 days of consent.
The amount of \$16,758 does not seem adequate to compensate for two car spaces. How was this figure calculated?	The contribution amount has been calculated based on the equivalent car parking contribution amount levied on development outside of the CBD area under Council's Car Parking Contribution Plan 1993 - Gordon Street precinct.
The use of the premises is in breach of Development Control Plans 2006 and 2011	The proposal seeks variation to the typical calculated parking provision standard for 2 parking spaces via the offering of a Voluntary Planning Agreement.
The parking at the Sandcastle and Port Macquarie generally is at a premium. The loss of 2 parking spaces is significant particularly in the warmer months.	The loss of two spaces is not considered significant and is capable of being accommodated within the precinct. Contributions payments considered a suitable offset for the loss of two spaces only.



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## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
21/11/2012

The removal of the 2 parking spaces already completed was not authorised by the body corporate or Council	Noted. The proposal is within private strata lot and Applicant contends that the proposal does not affect common property.
Questioned whether proposal is a 'refreshment room' or 'restaurant'.	By definition under previous Hastings Local Environmental Plan 2001 the proposal is best characterised as fitting the definition of a 'refreshment room'.
The owner of the restaurant parks frequently in the visitor only parking area.	Noted. This is a strata body corporate matter.
Concern with timeframe for resolution on matter up to 2 years particularly when the use was already in place. Questioned whether there was some negotiation over VPA being offered. Lack of Council diligence particularly in regard to Compliance action. The issue goes back to 2005.	Concern noted. Applicant was advised of concerns and needed to respond. Applicant approached Council to seek alternative method to offsetting parking calculation reduction. Council commenced compliance action to require the matter to be resolved and subsequently a DA was lodged which the subject of consideration.
Questioned inaccuracy of details submitted versus plans.	Current amended plans are what is proposed.
Louvered enclosure fixed to underside of the common property slab above the roller door and spanning the full width of the roller door. The addition is for improved air conditioning quality for the kitchen and food preparation areas however speculate that the space is for refrigerator freezer and refrigerator compressors. Questioned whether this meets building standards.	Noted. This is a strata body corporate matter from owner point of view. Building Certificate to be obtained together with a Construction Certificate to complete the works.
Concern that other ground floor tenancies are retaining carparking in difference to the subject proposal and retaining carparking instead	Noted. That is the subject of this application.

**(e) The Public Interest:**

Issues of concern raised in submissions received following public exhibition of the proposal have been addressed earlier in this report.

The proposed development is not expected to impact on the wider public interest particularly as the proposal will result in additional public amenity/infrastructure improvements to offset the required calculated parking requirements.

**DCP 2011 (now in force but considered as draft)**

The proposal will not contravene any of the objectives of this DCP.

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

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## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
21/11/2012

- 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.

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. Consequently, 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. DA2010 - 0282 Plans
2. DA2010 - 0282 Planning Agreement
3. DA2010 - 0282 Recommended DA Conditions
4. DA2010 - 0282 Development Contributions Calculation Sheet

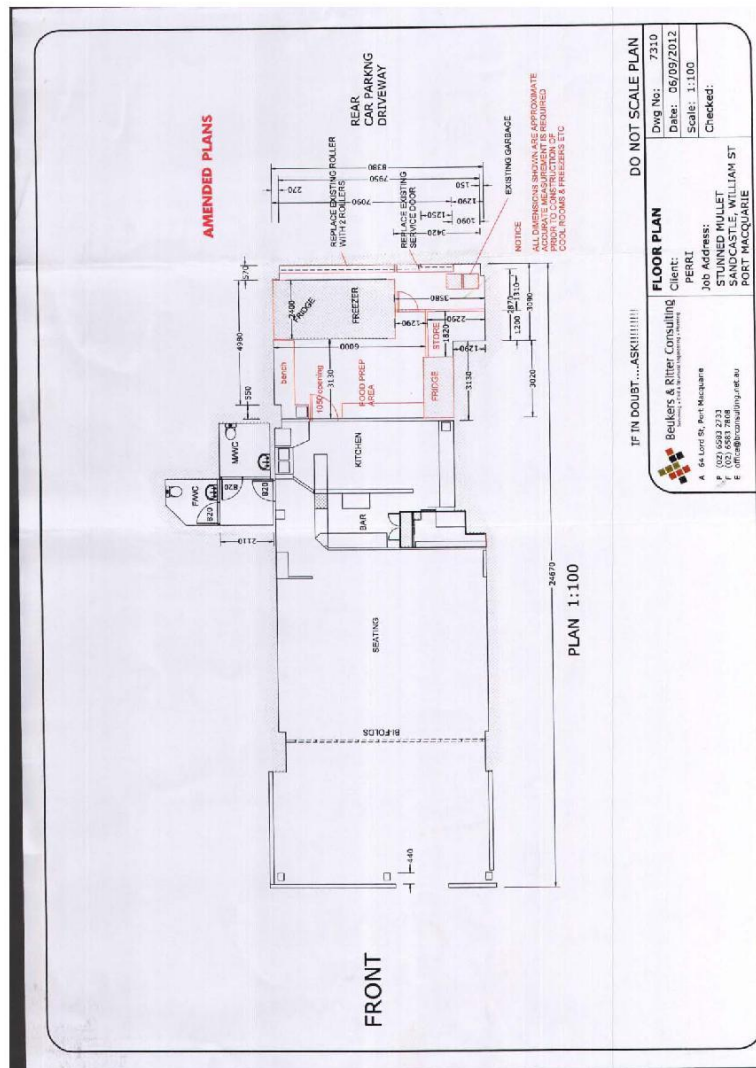


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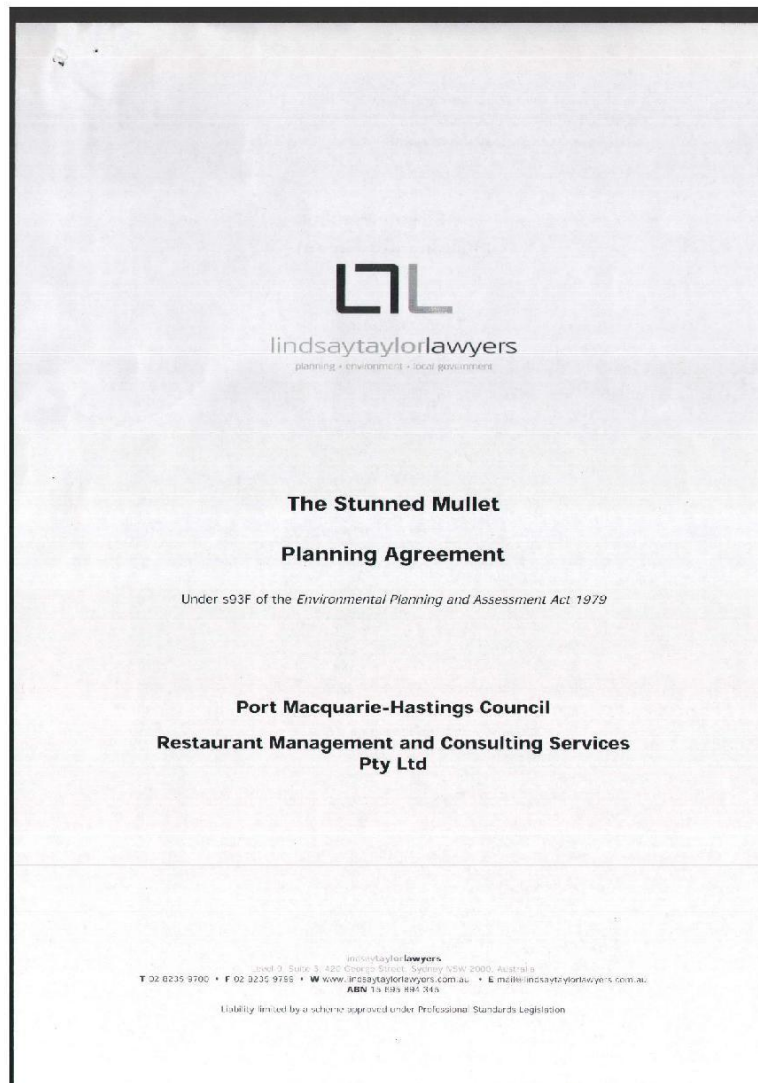
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The Stunned Mullet Planning Agreement  
Port Macquarie-Hastings Council  
Restaurant Management and Consulting Services Pty Ltd

**The Stunned Mullet  
Planning Agreement**

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Restaurant Management and Consulting Services Pty Ltd		
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The Stunned Mullet Planning Agreement  
Port Macquarie-Hastings Council  
Restaurant Management and Consulting Services Pty Ltd

**The Stunned Mullet  
Planning Agreement**

**Summary Sheet**

**Council:**

**Name:** Port Macquarie-Hastings Council  
**Address:** Corner Lord and Burrawah Streets, Port Macquarie, New South Wales, 2444  
**Telephone:** (02) 6581 8111  
**Facsimile:** (02) 6581 8123  
**Representative:** Tim Molloy

**Developer:**

**Name:** Restaurant Management and Consulting Services Pty Ltd  
**Address:** PO BOX 8, Port Macquarie NSW 2444  
**Telephone:** (02) 6584 7757  
**Email:** lcu@thestunnedmullet.com.au  
**Representative:** Lou Perri

**Land:**

See definition of *Land* in clause 1.1.

**Development:**

See definition of *Development* in clause 1.1.

**Development Contributions:**

See clause 7

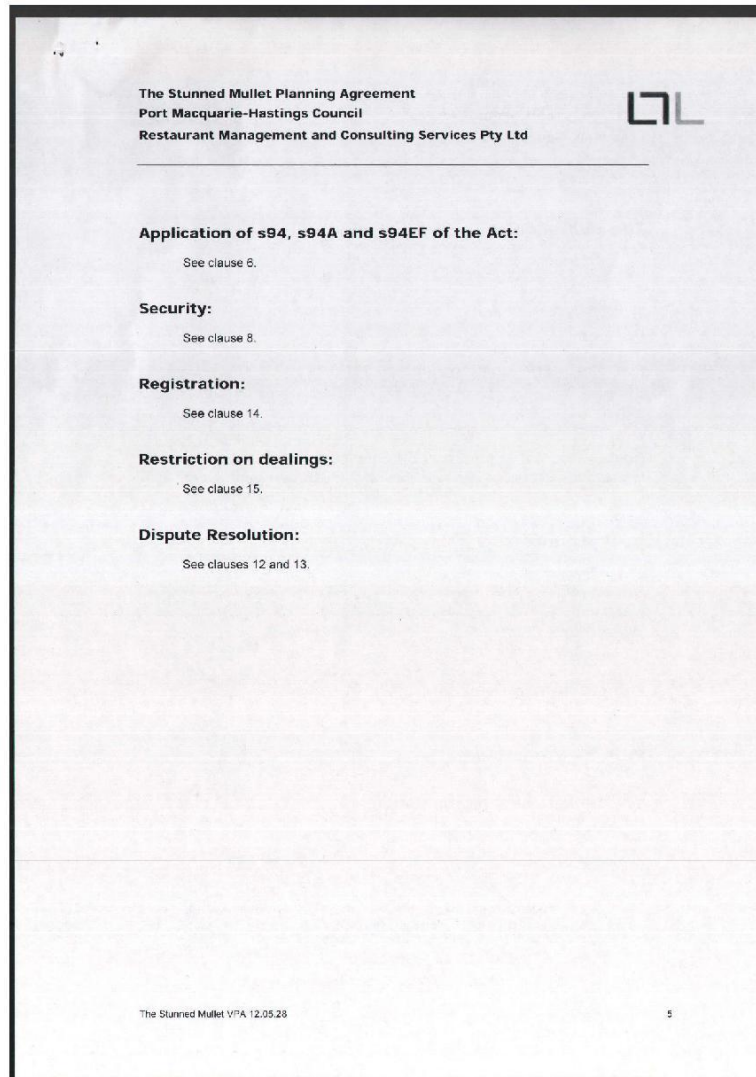
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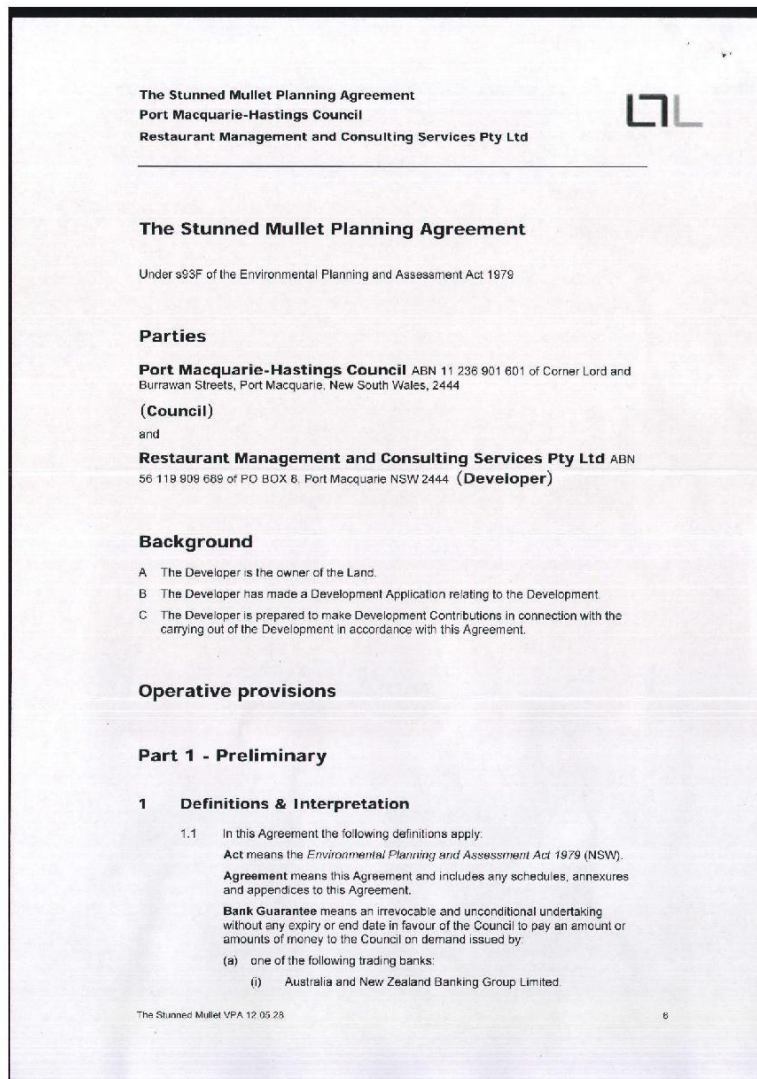


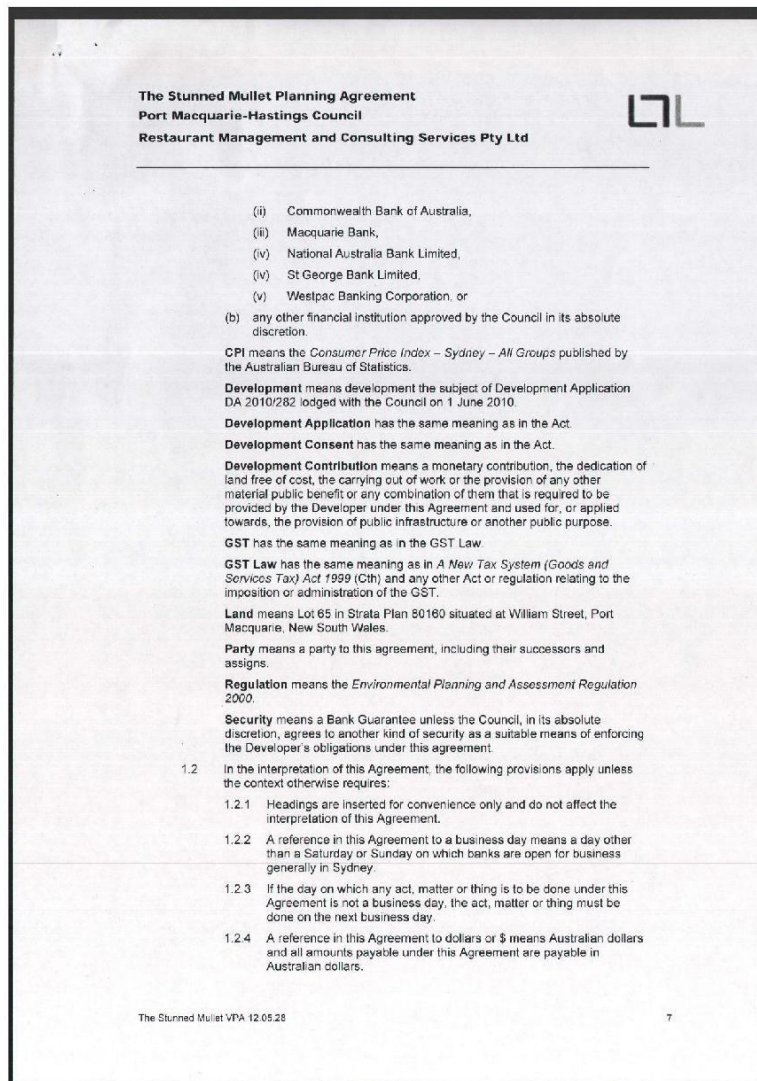


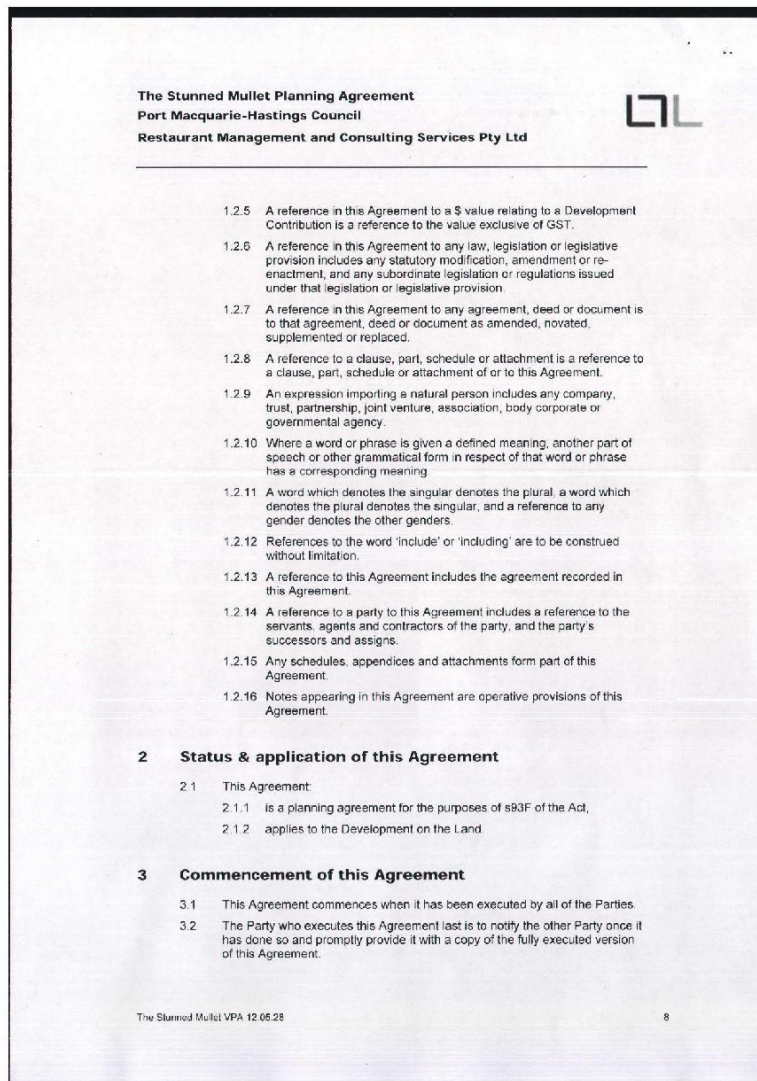
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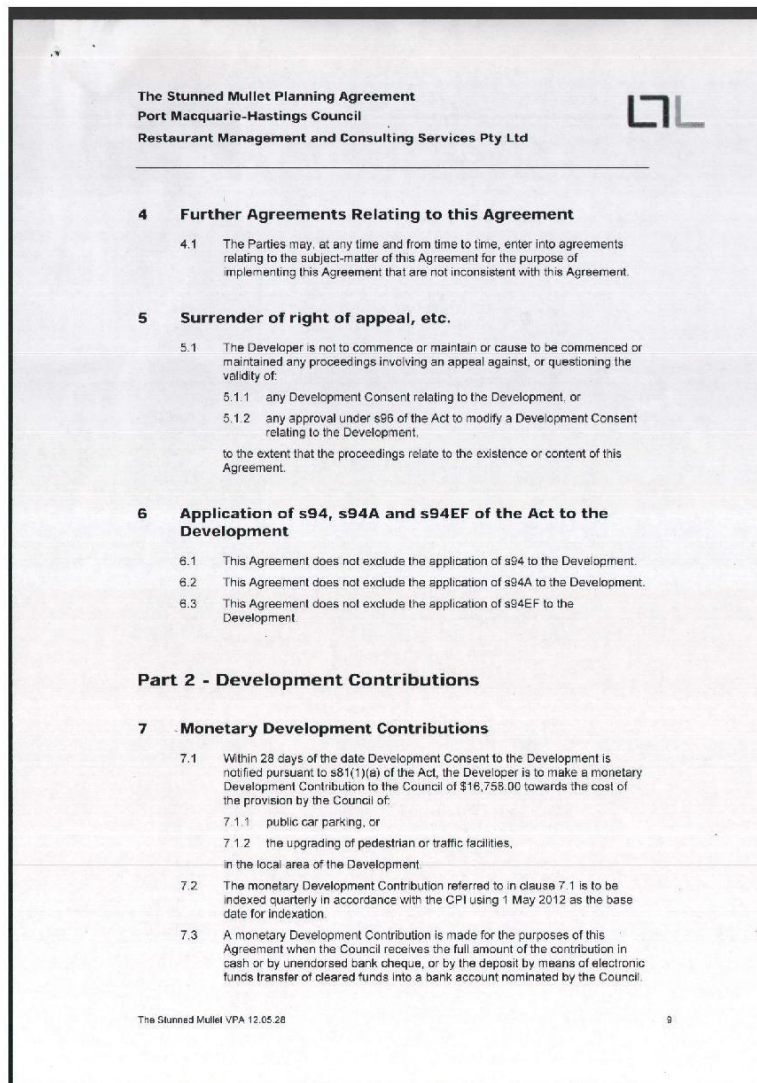




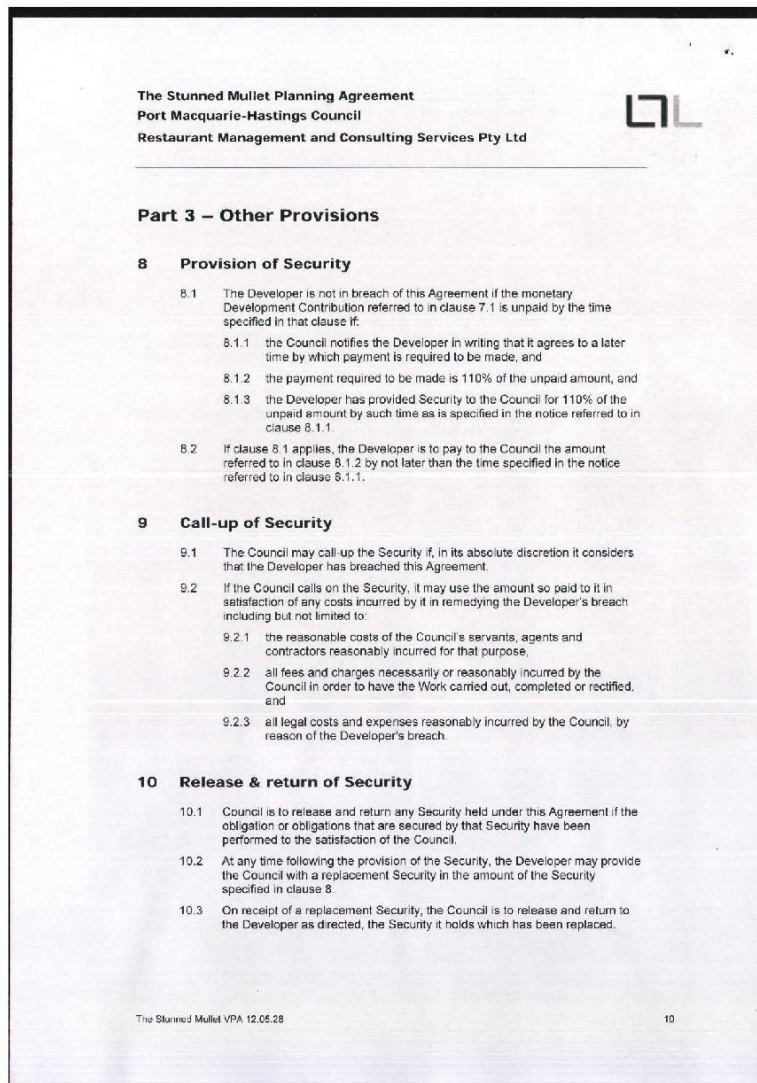


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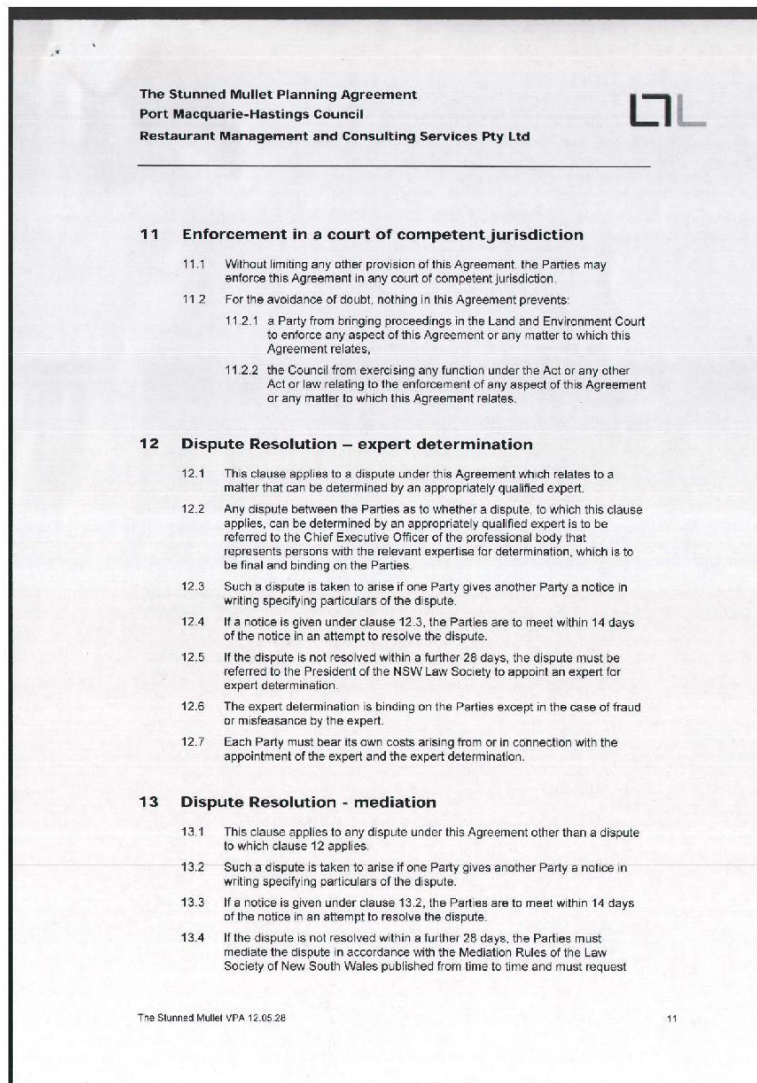


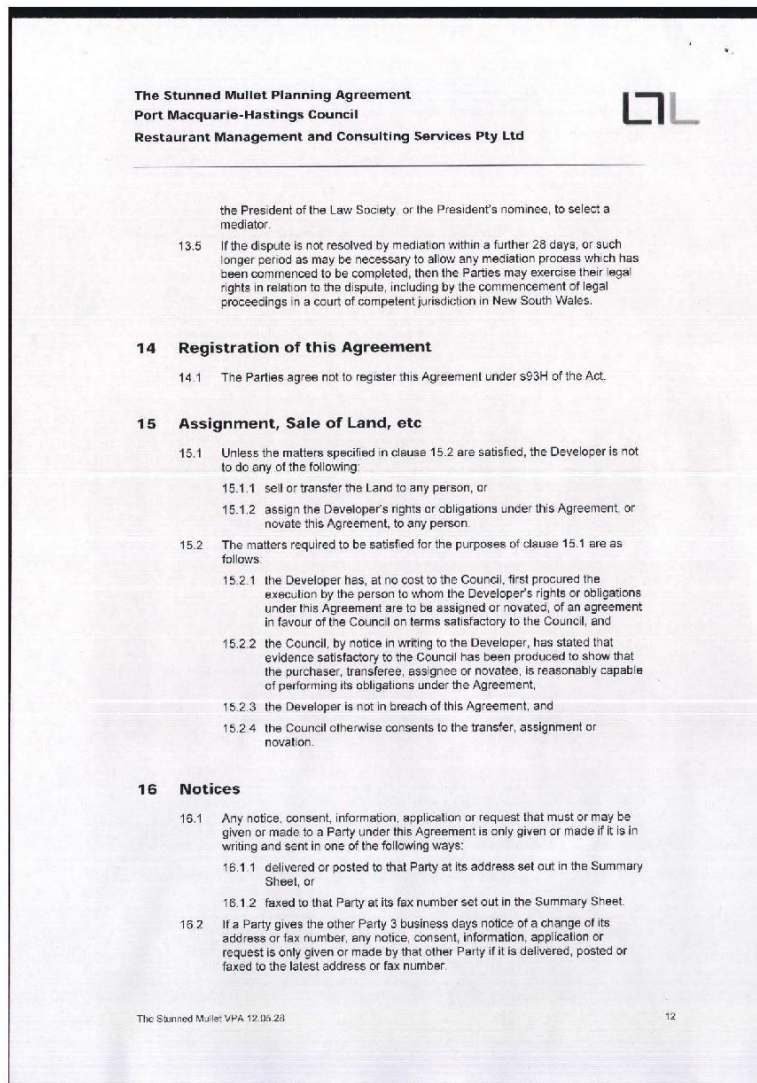












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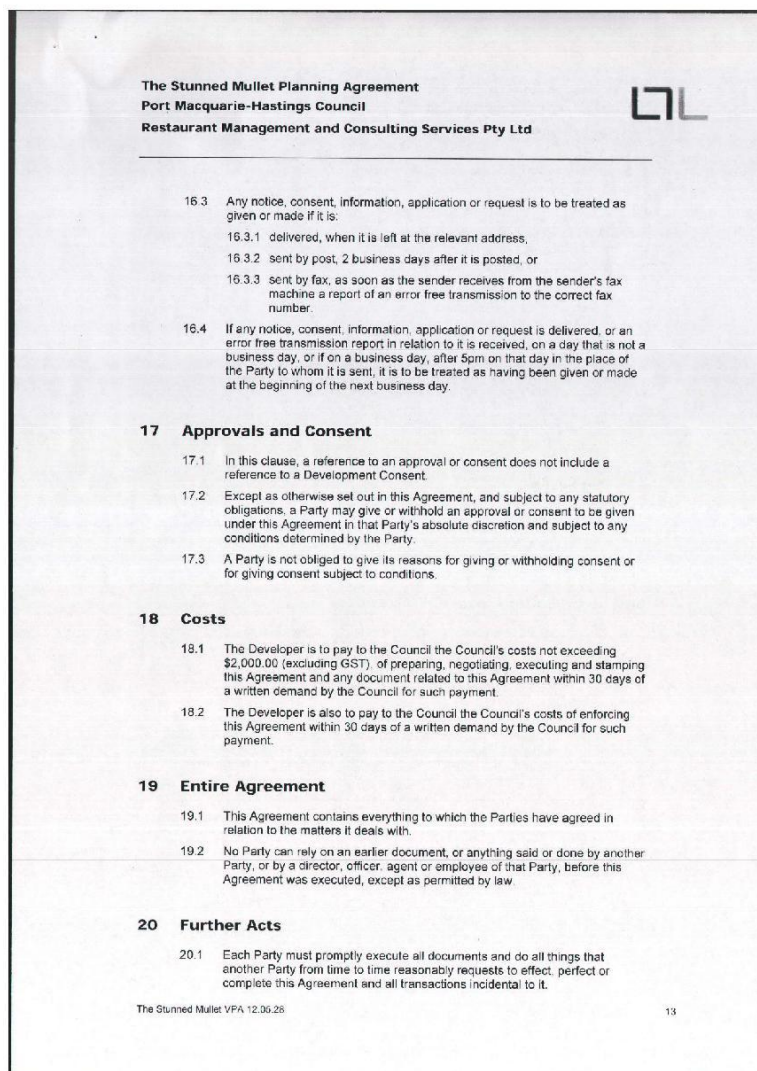


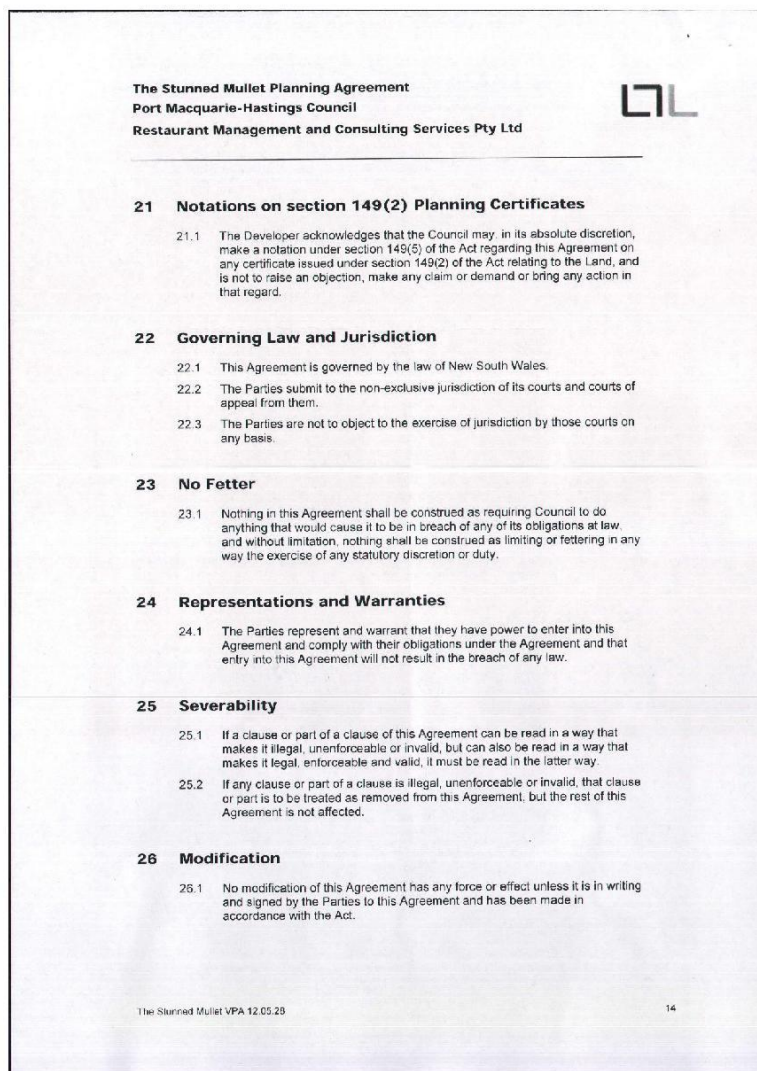
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**The Stunned Mullet Planning Agreement**  
**Port Macquarie-Hastings Council**  
**Restaurant Management and Consulting Services Pty Ltd**



## **27 Waiver**

27.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.

27.2 A waiver by a Party is only effective if it is in writing.

27.3 A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

## **28 GST**

28.1 In this clause:

**Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice** have the meaning given by the GST Law.

**GST Amount** means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.

**GST Law** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Input Tax Credit** has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

**Taxable Supply** has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

28.2 Subject to clause 28.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.

28.3 Clause 28.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Agreement to be GST inclusive.

28.4 No additional amount shall be payable by the Council under clause 28.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.

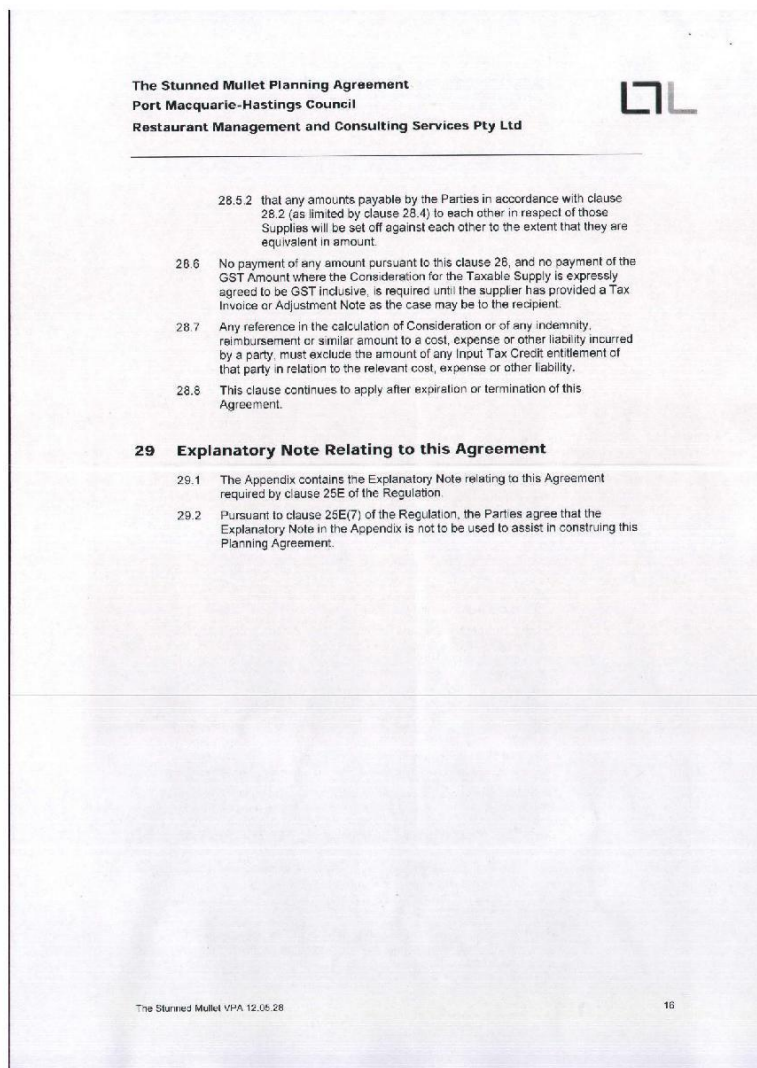
28.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Agreement by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:

28.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;

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The Stunned Mullet Planning Agreement  
Port Macquarie-Hastings Council  
Restaurant Management and Consulting Services Pty Ltd

**Execution**

Executed as an Agreement

Dated:

Executed by the Council:

General Manager

Witness/Name/Position:

Executed by the Developer:

Developer

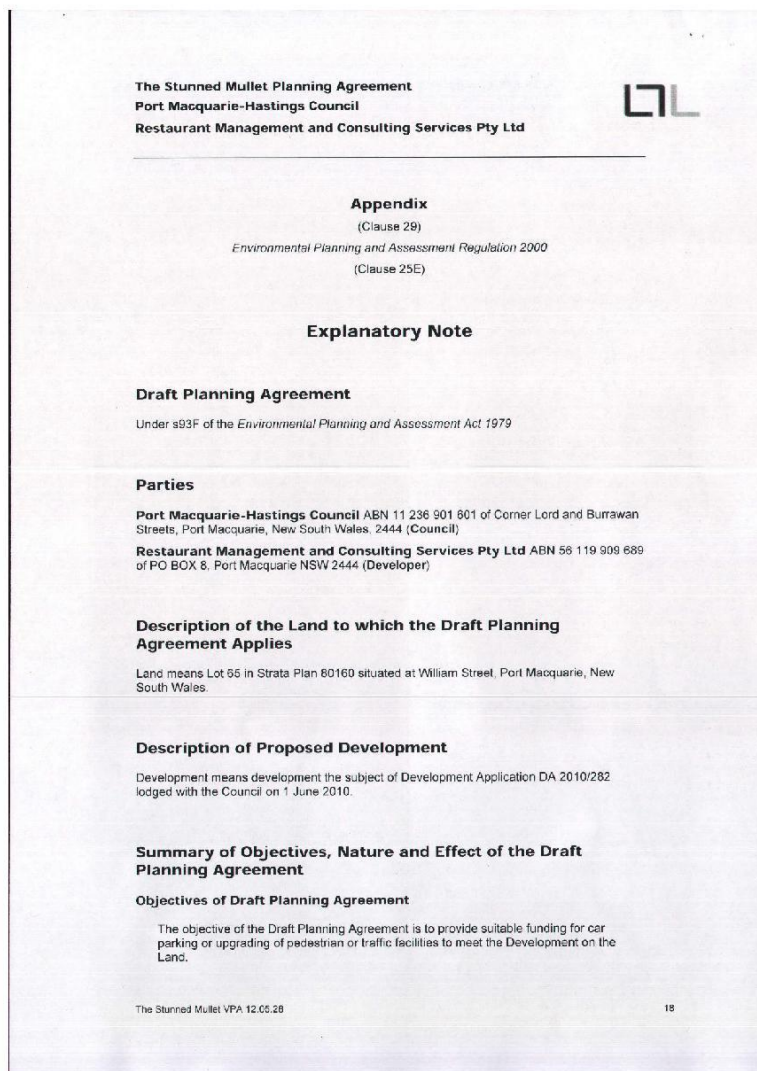
Witness

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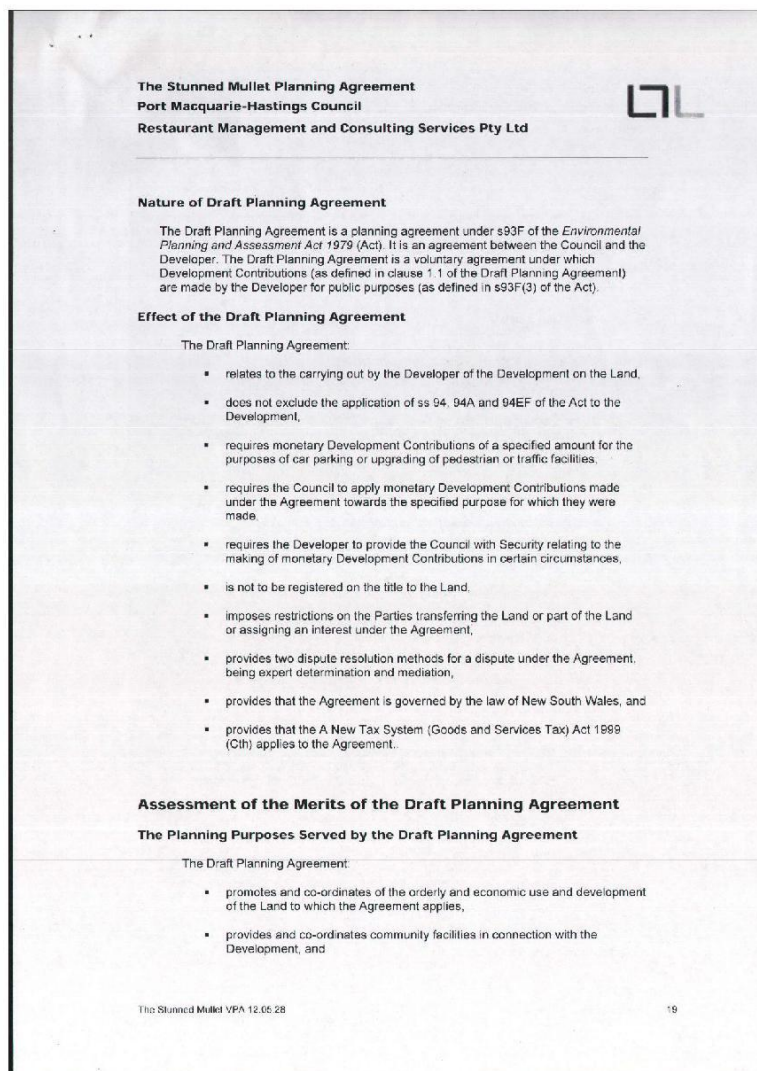
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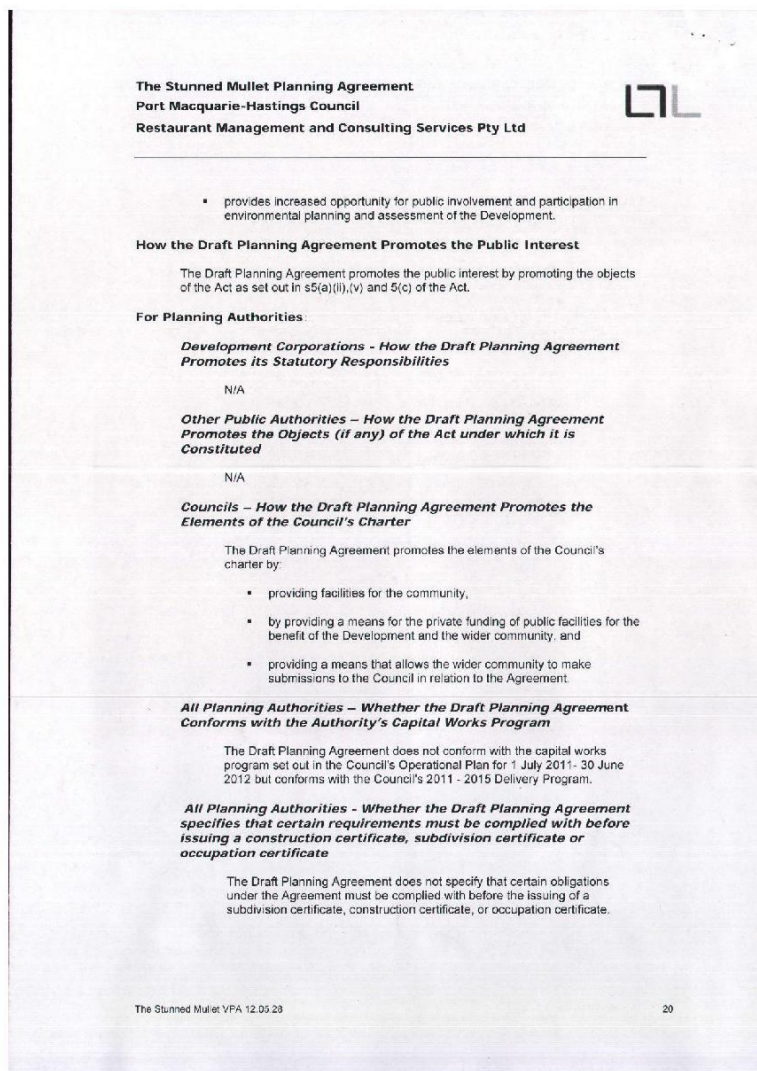


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FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011

NOTE: THESE ARE DRAFT ONLY

DA NO: 2010/282

DATE: 14 November 2012

## PRESCRIBED CONDITIONS

Part 6 – Division 8A of the *Environmental Planning & Assessment Regulations 2000*

- (1) (P001) All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) (P003) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - a. showing the name, address and telephone number of the principal certifying authority for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.
 Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

## A – GENERAL MATTERS

- (1) (A001) The development is to be carried out in accordance with the plans and supporting documents set out in the following table, as stamped and returned with this consent, except where modified by any conditions of this consent.

Plan / Supporting Document	Reference	Prepared by	Date
Floor Plan	Dwg No 7310	Beukers & Ritter Consulting	6 September 2012

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
  - a. the appointment of a Principal Certifying Authority; and
  - b. the date on which work will commence.
 Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
- (3) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.

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**B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

- (1) (B001) Approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
  - Position and depth of the sewer (including junction)
  - Stormwater drainage termination point
  - Easements
  - Water main
  - Proposed water meter location
- (2) (B011) To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of Australian Standard 4874-2004 – 'Design, Construction and Fit-Out of Food Premises', Food Act 2003, the provisions of the Food Safety Standards Code (Australia) and the conditions of development consent. Details demonstrating compliance are to be submitted prior to release of Construction Certificate.
- (3) (B057) The existing sewer including junction and/or stormwater drainage shall be located on the site and the position and depth indicated on the plans which accompany the application for the Construction Certificate.
- (4) (B195) Pursuant to section 93(3) of the Environmental Planning and Assessment Act 1979, prior to the issuing of the first certificate under Part 4A, of that Act relating to the development, the applicant is to enter into and perform the Stunned Mullet Planning Agreement between Port Macquarie Hastings Council ABN 11 236 901 601, of PO Box 84, Port Macquarie, New South Wales 2444 (Council) and Restaurant.
- (5) (B196) A Building Certificate shall be submitted and issued by Council prior to the issue of a Construction Certificate to complete works required under this consent approval.
- (6) (B010) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution, prior to the issue of a Construction Certificate, of the Section 64 contributions, as set out in the 'Notice of Payment – Developer Charges' schedule attached to this consent is required. The contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plan towards the following:
  - augmentation of the town water supply headworks
  - augmentation of the town sewerage system headworks

**C – PRIOR TO ANY WORK COMMENCING ON SITE**

- (1) (C012) Prior to the commencement of work, the location and depth of the sewer main and connection point in relation to the floor level shall be confirmed to ensure that appropriate connection to the sewer can be achieved.

**D – DURING WORK**

- (1) (D014) Work on the project being limited to the following hours, unless otherwise permitted by Council:-
  - Monday to Saturday from 7.00am to 6.00pm
  - No work to be carried out on Sunday or public holidays

The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.

- (2) (D032) A garbage receptacle for the reception of all waste materials from the site shall be provided prior to building work commencing and shall be maintained and serviced for the duration of the work.

**E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE**

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E051) Prior to occupation or the issuing of any Occupation Certificate provision to the Principal Certifying Authority of a Water Authority and/or Section 68 Sanitary Plumbing and/or Stormwater Drainage Final Certificate issued by Port Macquarie-Hastings Council.
- (3) (E056) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of any occupation or subdivision certificate.

**F – OCCUPATION OF THE SITE**

nil

[illegible]

Figure 11.2

15/11/20'2

[illegible]

Developed and Co. and James C. Caldwell in Shaw, DC 200082, Stage No. Total = 4000000

Fig. 21.7



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**Item: 06****Subject: DA2012 - 0460 - MIXED USE BUILDING COMPLEX - LOTS 5 AND 6  
DP 874058, 122 - 124 HASTINGS RIVER DRIVE, PORT MACQUARIE****Report Author: Patrick Galbraith-Robertson**

---

<b>Property:</b>	<b>Lots 5 and 6 DP 874058, 122 - 124 Hastings River Drive, Port Macquarie</b>
<b>Applicant:</b>	<b>G Chapman CARE Collins W Collins</b>
<b>Owner:</b>	<b>G Chapman</b>
<b>Application Date:</b>	<b>12 September 2012</b>
<b>Date Formal:</b>	<b>12 September 2012</b>
<b>Estimated Cost:</b>	<b>\$947,856</b>
<b>Location:</b>	<b>Port Macquarie</b>
<b>File no:</b>	<b>DA2012 - 0460</b>
<b>Parcel no:</b>	<b>25959 &amp; 35124</b>

---

**Alignment with Delivery Program**

4.9.2 Undertake development assessment in accordance with relevant legislation.

4.9.3 Implement and maintain a transparent development assessment process.

**RECOMMENDATION**

**That DA2012 - 0460 for a mixed use building complex at Lot 5 and 6, DP 874058, No. 122 and 124 Hastings River Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions.**

**Executive Summary**

This report considers a Development Application for a mixed use development at the subject site.

This report provides an assessment of the application in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

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

**1. BACKGROUND****Existing sites features and Surrounding development**

The site has an area of 2290.9m<sup>2</sup>.

The site is zoned B5 Business Development in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



The site is located on Hastings River Drive, Port Macquarie. Hastings River Drive is a classified road.

The site comprises two (2) lots with a combined area of 2290.9m<sup>2</sup>.

There are 11 existing trees within reasonable proximity to the west boundary of the development site on the adjoining lot - Melaleuca Caravan Park.

The existing subdivision pattern and location of existing development within the immediate locality is shown in the following aerial photo (2009 aerial):



Key aspects of the application proposal include the following:

- Construction of a 5 bay mixed use building complex with 24 parking spaces including double disabled parking (shared space adjoining), landscaping and advertising signage.
- Plans identify indicative potential uses as bulky goods and light industrial with industrial retail outlets.
- Each of the tenancies have internal partitioned office or retail space and mezzanine floor areas.
- The Applicant has advised during the assessment of the DA that the owner is unsure exactly what businesses will occupy the complex and agree to suggestion for conditioning proposed first use DA consent requirement.

Refer to attachments at the end of this report.

- 12 September 2012 - DA lodged
- 18 September 2012 - Referral to NSW Roads and Maritime Services
- 21 September to 8 October 2012 - Public exhibition via neighbour notification
- 22 October 2012 - Site inspection
- 11 October 2012 - RMS advice received
- 26 October 2012 - Additional information received
- 9 November 2012 - Additional information received
- 27 November 2012 - Additional information received
- 12 December 2012 - Additional information requested
- 17 December 2012 - Submission received
- 19 December 2012 - Additional information requested

- 8 February 2013 - Additional information received

### 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:

#### State Environmental Planning Policy No. 44 - Koala Habitat Protection

In accordance with clause 6, taking into consideration of the adjoining site to the west having existing trees that will likely be impacted upon the combined sites have an area greater than 1 hectare triggering the need to consider this SEPP.

In accordance with clause 7, an ecological impact assessment (Darkheart report) prepared by Darkheart Eco-Consultancy has been submitted during the assessment of the DA. In summary, the Darkheart report concludes the following:

- Swamp Mahogany is the only Schedule 2 Primary Koala Browse Species recorded on the site. This consisted of a single tree on the mid-eastern boundary about 20m high with a trunk diameter at breast height of approximately 35cm.
- The site overall does not meet the criteria to qualify as Potential Koala Habitat.

A review of the report and site inspection confirms the conclusions of the report are reasonable and correct.

The requirements of this SEPP are therefore satisfied.

Refer additional comments under flora and fauna impacts addressed later in this report.

#### State Environmental Planning Policy No.55 – Remediation of Land

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

The requirements of this SEPP are therefore satisfied.

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

The proposed development includes proposed advertising signage which is assumed based upon the plans submitted (reference only made to 'signage') that all signage will be business identification signage only.

In accordance with clause 7, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

The following assessment table provides an assessment checklist against requirements of this SEPP:

Applicable clauses for consideration	Comments	Satisfactory
Clause 8(a) Consistent with objectives of the policy as set out in Clause 3(1)(a).	The signage is compatible with the existing amenity and character of the Hastings River Drive precinct. The signage will provide effective communication to identify future intended businesses which will occupy the	Yes



Schedule 1(1) Character of the area.	tenancies.	Yes
Schedule 1(2) Special areas.	N/A	N/A
Schedule 1(3) Views and vistas.	The proposed signage will not result in any identifiable adverse impacts on view sharing within the immediate locality.	Yes
Schedule 1(4) Streetscape, setting or landscape.	The scale and number of signage proposed is compatible with the existing setting with frontage to Hastings River Drive. There are a number of other commercial businesses including car yards with frontage to Hastings River Drive which have significantly more signage than proposed.	Yes
Schedule 1(5) Site and building.	The scale and siting of the proposed signage relates satisfactorily to the existing context fronting Hastings River Drive and proposed building forms.	Yes
Schedule 1(6) Associated devices and logos with advertisements and advertising structures.	N/A	N/A
Schedule 1(7) Illumination.	No illumination identified to be proposed.	N/A
Schedule 1(7) Safety.	No safety concerns identified with the proposed signage fronting a classified road being Hastings River Drive.	Yes

The requirements of this SEPP are therefore satisfied.

**State Environmental Planning Policy No. 71 – Coastal Protection and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011**

The site is located within a coastal zone as defined in accordance with clause 4 of SEPP 71. The site is further identified as being partly within a sensitive coastal location.

In accordance with clause 7, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

Having regard to clauses 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:

- a) any restricted access (or opportunities for access) to the coastal foreshore;
- b) any identifiable adverse amenity impacts along any coastal foreshore and on the scenic qualities of the coast;

- c) any identifiable adverse impacts on any known flora and fauna (or their natural environment) noting the existing trees on the adjoining land are required to be removed however justified ecological impacts are not adverse;
- d) subject to any identifiable adverse coastal processes or hazards noting the flood hazard requirements have been satisfactorily addresses;
- e) any identifiable conflict between water and land based users of the area;
- f) any identifiable adverse impacts on any items of archaeological/heritage; and
- g) reduce the quality of the natural water bodies in the locality.

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

The requirements of this SEPP are therefore satisfied.

**State Environmental Planning Policy (Infrastructure) 2007**

The application has been referred to the NSW Roads and Maritime Services (RMS) and the comments provided from the RMS require consideration under clause 104(3)(a). The RMS's advice and other matters requiring consideration under clause 104(b)(i), (ii) and(iii) are considered in the assessment of access, traffic and parking impacts addressed later in this report.

The requirements of this SEPP are therefore satisfied.

**Port Macquarie-Hastings Local Environmental Plan 2011**

In accordance with clause 2.2, the subject site is zoned B5 Business Development.

In accordance with clause 2.3(1) and the B5 zone landuse table, the proposed development for bulky good premises, light industry and industrial retail outlet (indicative uses) are permissible landuses with consent.

The objectives of the B5 zone are as follows:

- To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in location that are close to and that support the viability of, centres.
- To minimise conflict between land uses within the zone and with adjoining zones.
- To ensure that new developments make a positive contribution to the public domain and streetscape.

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 proposed development comprises a maxi of potential tenancy uses which are permissible.
- The proposal will make a positive contribution to the public domain and streetscape of Hastings River Drive including incorporating adjusted landscaping works along the street front.

In accordance with clause 4.3, the maximum overall height of the proposal above ground level (existing) is 9.354m which complies with the standard height limit of 11.5m applying to the site.

In accordance with clause 5.4, the floor area of possible industrial retail outlets are capable of complying with the 43% gross floor area restriction. Note separate DAs to be lodged for first use - condition recommended for first use DAs.

In accordance with clause 5.9, trees exist on the adjoining site to the west which have been assessed to likely be impacted upon by the proposal.

In accordance with clause 7.1, the site has class 3 potential acid sulfate soils. The proposed development fill with no excavation extending 1m below the natural surface level is proposed. No adverse impacts are expected to occur to any acid sulfate soils found on the site.

In accordance with clause 7.3, the site is land within a mapped "flood planning area" (Land subject to flood discharge of 1:100 annual recurrent interval flood event plus 0.5m freeboard) or is land at or below the flood planning level. In this regard, the following comments are provided which incorporate consideration of Council's Interim Flood Policy:

- The proposal is compatible with the flood hazard of the land.
- The proposal will not result in a significant adverse affect on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties.
- The proposal incorporates measures to manage risk to life from flood.
- The proposal is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.
- The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding
- Council's current Interim Flood Policy (as amended March 2010) requires industrial or commercial type development to be at the 1:100 level of 3.3m with 25% of the development at or above the Flood Planning Level (FPL). Some of the tenancies may not achieve the 25% storage requirement above the FPL however this can be addressed at Construction Certificate stage.
- Consent authorities must consider the effects of sea level rise on coastal and flooding hazards when considering planning and development approval decisions. The development must consider the effects of sea level rise and allow for an adaptable approach to be implemented over the life of the development. Final adopted finished floor levels comply with Council's current Interim Policy which factors in potential sea level rise.

The requirements of this LEP are therefore satisfied.

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

No draft instruments apply to the site.

**(iii) any Development Control Plan in:**

**Port Macquarie Hastings Development Control Plan 2011**

(a) (iii) Any DCP in force		
DCP 2011 Requirement	Proposed	Complies
Part 3 Signage		

DP1.1 Signage complies with SEPP 64	Refer to SEPP 64 notes above.	Yes
DP 2.1 Signs identifying products or services are not acceptable. Council may allow 1/3 of sign to contain product or service advertising but must relate to what is undertaken onsite.	Condition recommended to require all signage to be business identification signage only.	N/A – via condition recommended
DP 2.2 Artificial illuminated signs within residential areas must cease at 9pm.		N/A
DP 2.3 Reflective, luminous and flashing signs not permitted as with signs in trees and signs made of canvas/calico.	The sign for the front of the complex is designed to be a masonry wall with a rendered finish. No illumination or flashing signage proposed	Yes
DP 2.4 Signage not permitted outside of property boundaries, except where mounted upon buildings and clear of pedestrians/traffic.	Proposed front sign is within boundary of the proposed development. Signs will also be mounted on each bay.	Yes
DP 2.5 On premise chalkboard signs allowed when no larger than 1.5m2 and contain heading of premises.		N/A
DP 2.6 On premise signs not to project above or to the side of building facades.	Individual signage areas are provided on the awnings over each bay entrance.	Yes
DP 3.1 Restrictions on signage on the Pacific Highway		N/A
DP 3.3 Tourism signs shall indicate location of the facility.		N/A
DP 4.1 Tourism signs no greater than 6m long x 3m high (ie 18m2)		N/A
DP 4.2 Tourism signs may require lower 0.5-0.6m be used for a local tourism slogan.		N/A
DP 4.3 Council may permit the use of both sides of a sign.		N/A
<b>Crime Prevention</b>		
DP 1.1 CPTED principles considered.	The proposed development will be unlikely to create any new concealment/entrapment areas or crime spots that would result in a loss of safety or security in the area. Design orientation to internal carpark and Hastings River Drive.	Yes
<b>Environmental Management</b>		



DP 1.1-3.1 Heritage considerations	Refer to comments on this component in the body of the report. No impact.	N/A
DP 4.1-7.4 Cut & Fill & Retaining Wall requirements	Fill proposed which is line with external building form along the south and west side of site. Fill on east side of site for carparking area will line up with adjoining site to east and south. The site the east has been recently developed with a carpark which included filling the site.	Fill outside building footprint within carparking area in part greater than 1m however levels will relate to existing developments on the site to the south and east.
<b>Tree Management</b>		
DP 1.1-3.9 Management of trees and associated removal.	Existing Tuckerroo Tree within Hastings River Drive road reserve to be relocated/replanted. Trees on adjoining property will likely be impacted upon. Refer to comments later in this report. Note that offset planting not recommended to be required by Darkheart ecological assessment submitted during the assessment of the DA.	Yes – conditions recommended
<b>Hazards Management</b>		
DP 12.1 Stormwater complies with Auspec	Refer to stormwater comments later in this report.	Yes - capable
<b>Transport, Traffic Management, Access and Car Parking</b>		
DP 2.1-2.3 New direct access to arterial or distributor road not permitted and existing accesses rationalised where possible.	New vehicle entry proposed to connect to Hastings River Drive which is only means of access to site.  Single vehicle crossing limited in width.	No – DA has been referred to Roads and Maritime Services. Refer to comments under access, transport and traffic addressed later in this report.
DP 3.1-3.3 Off street parking is provided in accordance with Table 2. Bulky goods premises = <500m2 Gross Floor Area = 1 per 70m2 GFA Industrial retail outlet = 1 per 30m2 GFA	Using indicative uses shown on plans Bay 1 = 205m2/70m2 bulky goods + 33m2/ office/retail = 2.93 + 1.1 spaces Bay 2 = 176m2/70m2 light industry + 27m2/30m2 office = 2.51 + 0.9 spaces	Yes

Light industry = 1 per 70m2 GFA Office = 1 per 30m2 GFA	Bay 3 = 176m2/70m2 light industry + 27m2/30m2 office = 2.51 + 0.9 spaces Bay 4 = 322m2/70m2 light industry (no retail shown in specific floor area + 23/30m2 office = 4.6 + 0.77 spaces Bay 5 = 188m2/70m2 + 30m2/30m2 = 2.69 + 1 spaces Total required = 19.91 rounded up to 20 spaces Proposed = 24 spaces including disabled parking space	
DP 7.1-9.3 Visitor parking must be: <ul style="list-style-type: none"> <li>Identifiable from the street.</li> <li>Line marked.</li> <li>Behind the building line unless stacked in driveway (or as per DP 7.5), results in improved open space or screened by minimum 3m landscape.</li> <li>Designed in accordance with AS 2890 1&amp;2 and AS 1428 (disabled)</li> <li>Include bicycle &amp; motorcycle parking.</li> </ul>	Parking visible from Hastings River Drive Parking designed in accordance with AS 1428 and AS 2890.1	Yes - conditions recommended
DP 12.1-12.5 Landscaping of parking areas should: <ul style="list-style-type: none"> <li>Include tiered landscaping design.</li> <li>Provided throughout the car park and perimeter.</li> <li>Provide shade.</li> <li>Provide screening.</li> <li>Not affect sight lines, especially near entry/exit points.</li> </ul>	Satisfactory landscaping proposed within front setback area  A parking space has been removed during the assessment of DA to introduce landscaping - tree planting	Yes  Yes
DP 14.1-14.2 Car parking seal requirements.	Parking areas to be sealed	Yes
DP 15.1-15.2 Driveway grades for the 6m shall not exceed 1 in 20 (5%) with transitions being minimum 2m long.	Entry driveway grades acceptable	Yes
DP 17.1 & 18.1 Parking areas should avoid concentrated runoff and be drained to swales, rain gardens etc.	Parking areas drained to swale	Yes
DP 17.2 Vehicle washing facilities are provided on permeable or	N/A	N/A

grassed areas. Where there is risk of runoff/pollution a roofed and bunded wash bay will be required.		
DP 19.2-20.3 Loading bays: <ul style="list-style-type: none"> <li>• Min 3.5m wide x 6m long &amp; 5m high.</li> <li>• Separate from visitor parking.</li> <li>• Limited number of employee parking may be utilised.</li> <li>• Must allow vehicles to stand onsite and not impact on surrounding area.</li> <li>• Must ultimately be designed to suit the vehicles intended to use them.</li> <li>• External bays require 1 bay for 500m<sup>2</sup> floor space or 1 bay for 1000m<sup>2</sup> site area.</li> <li>• Commercial &lt;500m<sup>2</sup> do not require bay.</li> <li>• Commercial 1 bay for first 1000m<sup>2</sup> floor space and 1 bay for every 2000m<sup>2</sup> after.</li> <li>• Integrate into the design and be setback/screened.</li> </ul>	Floor areas less than 500m <sup>2</sup> loading bay not required	N/A
DP 21.1-21.3 Detailed plans of turning areas are to be provided to show that the site can accommodate the vehicles that use it	N/A	N/A
DP 13.4 Rainwater tanks and dual reticulation utilised where possible.	Water supply conditions recommended	Yes
<b>Part 4 Business and Commercial Development</b>		
<b>Requirements/Objectives</b>	<b>Proposed</b>	<b>Complies</b>
<b>Setbacks:</b> <ul style="list-style-type: none"> <li>• A zero metre setback to ground floor is preferred in all business zone developments.</li> </ul>	1.37m to front awning over and 4m to main building frontage	No - Preference not achieved however minimal front setback and consistent with objectives and existing developments front Hastings River Drive.
<ul style="list-style-type: none"> <li>• Where a zero setback cannot be achieved, such as where parking can only be provided between the building and the street, a minimum 3.0m</li> </ul>	N/A – landscaping provided within front setback	N/A

<p>pedestrian setback is provided between the edge of the car park and the building.</p> <ul style="list-style-type: none"> <li>The 3.0m pedestrian setback must be: open and accessible for pedestrians for its entire length and width;</li> <li>clear of columns (other than awning posts where provided) and other obstructions;</li> <li>has a pavement matching the gradient of the adjoining footpath and connects pedestrian areas on neighbouring sites; and</li> <li>connects without any lip or step to adjoining footpaths or abutting pedestrian areas on neighbouring sites.</li> </ul>		
<ul style="list-style-type: none"> <li>Steps, escalators, ramps or lifts are set back a further 1.2m to maximise pedestrian flow and safety and allow for adequate waiting space.</li> </ul>	N/A	N/A
<ul style="list-style-type: none"> <li>Automatic Teller machine within front Setback:                             <ul style="list-style-type: none"> <li>Must be set back 1.5m in addition to the building line;</li> <li>Must be well illuminated at all times.</li> </ul> </li> </ul>	N/A	N/A
<p><b>Roof Form:</b></p> <ul style="list-style-type: none"> <li>Variations in roof form including the use of skillions, gables and hips are to be provided in the development.</li> <li>Variations in roof materials shall be used.</li> <li>Parapets and flat roofs should be avoided.</li> <li>In an established street, roof form and materials shall be consistent or complementary to those developments in that street.</li> <li>Lift over-runs and service plant shall be concealed within roof structures.</li> <li>All roof plant must be represented on plans and elevations.</li> <li>Outdoor recreation areas on</li> </ul>	<p>Parapet roof design with angled walls to create articulation and individual signage areas.</p>	<p>Yes</p>



<p>flat roofs shall be landscaped and incorporate shade structures and wind screens to encourage use.</p> <ul style="list-style-type: none"> <li>Roof design shall generate an interesting skyline and be visually interesting when viewed from adjoining developments.</li> </ul>		
<p><b>Building Facades, Materials &amp; Finishes:</b></p> <ul style="list-style-type: none"> <li>Colours, construction materials and finishes shall be predominately pale in colour and textured, tonal and subtle.</li> <li>Dark saturated 'synthetic' colours are to be reserved for small areas of contrast or occasional architectural elements.</li> <li>A materials and colour palette will be required for any commercial development within business zones.</li> </ul>	<p>Applicant provided details that finishes and colours will create a tonal contrast that is visually interesting and harmonious</p>	<p>Yes - acceptable</p>
<ul style="list-style-type: none"> <li>Shopfront widths are to be between 15 and 20metres.</li> <li>Widths up to a maximum of 30metres may be considered where the building achieves superior built design and streetscape outcomes.</li> <li>The maximum length of any similar façade treatment is 22m.</li> <li>Side and rear facades are to be treated with equivalent materials and finishes to the front façade.</li> <li>Building facades are to incorporate a range of complementary building materials and glazing.</li> <li>An articulation zone of between 1.8-4.0m is provided for the front façade of all floors containing residential and tourist uses.</li> </ul>	<p>16m bulky goods shopfront to Hastings River Drive Treatment of facades all similar Range of glazing and materials proposed</p>	<p>Yes  Yes Yes</p>
<ul style="list-style-type: none"> <li>Architectural detailing is to be provided to promote articulation, character and visual interest in the streetscape.</li> <li>Facades shall be designed to</li> </ul>	<p>Architectural details provided Entry awning provided at front</p>	<p>Yes Yes</p>





reflect the orientation of the site incorporating environmental control devices, e.g. sun shades, ventilation vents, overhangs, building recesses, eaves, as an integrated design feature of the building.		
<ul style="list-style-type: none"> <li>Any security grilles shall be provided inside the building, behind glazing and designed to ensure transparency to the interior.</li> </ul>	N/A	N/A
<ul style="list-style-type: none"> <li>Where traditional frontages and facades set the architectural theme for parts of a Centre, infill buildings or alterations respect and reflect the architectural qualities and traditional materials of those buildings, but do not necessarily imitate historical architectural styles.</li> </ul>	N/A	N/A
<p><b>Active Frontages:</b> Note: An <i>active street frontage</i> if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.</p> <ul style="list-style-type: none"> <li>Ground floor levels shall not be used for residential purposes in B1, B2, B3 and B4 zones.</li> <li>High quality, continuous, non-slip pavement must be provided along the entire active frontage.</li> <li>The pavement is consistent with the adjoining site and connects the active frontage to car parking areas.</li> <li>Pavement must be provided along the active frontage even if it is outside the property boundary and in the road reserve.</li> </ul>	Active frontage provided to front of building fronting Hastings River Drive Pavement follows the whole development and is connected to the car parking area	Yes  Yes
<ul style="list-style-type: none"> <li>A minimum of 50% of the ground floor level front facade is to be clear glazed.</li> <li>Active frontages must consist of one or more of the following: <ul style="list-style-type: none"> <li>A shop front.</li> </ul> </li> </ul>	>50% glazing Shopfront provided	Yes Yes



<ul style="list-style-type: none"> <li>• Commercial and residential lobbies.</li> <li>• Café or restaurant if accompanied by an entry from the street.</li> <li>• Public building if accompanied by an entry from the street.</li> <li>• Active ground floor uses are to be accessible and at the same level as the footpath.</li> <li>• Restaurants, cafés and the like shall provide openable shop fronts to the footpath but must not encroach into footpath.</li> <li>• Colonnade structures shall not be used unless it is demonstrated that the design would not restrict visibility into the shop or commercial premise or limit natural daylight along footpaths and do not create opportunities for concealment.</li> </ul>		
<p><b>Arcades:</b></p> <ul style="list-style-type: none"> <li>• Arcades are to;</li> <li>• House active uses (e.g. shop, commercial, public building and residential lobbies, cafés or restaurants.</li> <li>• Be obvious and direct through-ways for pedestrians.</li> <li>• Have a minimum width of 3m clear of all obstructions.</li> <li>• Provide public access from at least 7am-9pm daily.</li> <li>• Where practical, have access to natural light for part of their length and at openings at each end.</li> <li>• Where air-conditioned, have clear glazed entry doors at least 50% of the entrance.</li> <li>• Have signage at the entry indicating public accessibility and to where the arcade leads. <ul style="list-style-type: none"> <li>• Have clear sight lines</li> </ul> </li> </ul>	N/A	N/A



<p>and no opportunities for concealment.</p> <ul style="list-style-type: none"> <li>Where arcades or internalised shopping malls are proposed, those shops at the entrance must have direct pedestrian access to the street.</li> <li>Non slip pavements are provided throughout arcades.</li> </ul>		
<p><b>Awnings:</b></p> <ul style="list-style-type: none"> <li>Continuous shelter from the weather is to be provided for the full extent of the active street frontage.</li> </ul>	<p>Entry awnings provided however within the site</p>	<p>No - Inappropriate to require awning over road reserve on Hastings River Drive</p>
<ul style="list-style-type: none"> <li>Any awnings are to be horizontal or near horizontal (maximum pitch of 10%).</li> <li>Awnings are to be between 3.2m and 4.2m from the finished front property boundary level at the building edge to the underside of the awning.</li> <li>A minimum awning width of 2.5m is required unless this cannot be achieved because of narrow pavements and street tree planting, traffic signals, traffic signage or utility poles.</li> <li>New awnings shall be set back at least 1.0m from the kerb line.</li> <li>Awnings along sloping streets shall step down in horizontal steps (a maximum of 700mm per step) to follow the slope of the street.</li> <li>All contiguous awnings must be of consistent height and depth and of complementary design and materials.</li> <li>Awnings and/or canopies shall be provided elsewhere to define public entrances to buildings, including residential flat buildings.</li> <li>Awning shall wrap around street corners and contribute</li> </ul>		<p>N/A</p>

<p>to the articulation and focal design of corner buildings.</p> <ul style="list-style-type: none"> <li>Materials shall ensure high quality design and amenity in the public domain.</li> <li>New awning fascias must be coordinated with adjacent awning fascias where they exist. In all other instances fascias are to be solid, flat and between 300mm and 700mm in height.</li> </ul>		
<ul style="list-style-type: none"> <li>Skylights may be provided in the awning for a maximum depth of 1/3 of the total awning depth.</li> </ul>		N/A
<ul style="list-style-type: none"> <li>Under awning lighting shall comply with AS/NZS1158.</li> </ul>		N/A
<ul style="list-style-type: none"> <li>Awnings are designed and constructed to encourage pavement dining in areas identified for pavement dining, along the foreshore and in piazzas.</li> </ul>		N/A
<p><b>Landscaping:</b></p> <ul style="list-style-type: none"> <li>A landscape plan shall be submitted with the development application and include: <ul style="list-style-type: none"> <li>Existing vegetation; and</li> <li>Existing vegetation proposed to be removed; and</li> <li>Proposed general planting and landscape treatment; and</li> <li>Design details of hard landscaping elements and major earth cuts, fills and any mounding; and</li> <li>Street trees; and</li> <li>Existing and proposed street furniture including proposed signage.</li> </ul> </li> </ul>	<p>Landscape planting proposed along the Hastings River Drive street frontage</p>	Yes
<ul style="list-style-type: none"> <li>Vegetation is provided on top of podium levels, on tops of car parks, and on balconies and verandahs fronting the street below podium level.</li> </ul>	N/A	N/A
<ul style="list-style-type: none"> <li>All street plantings are to be selected from Council's Indigenous Street and Open Space Planting List from the</li> </ul>	<p>Tuckeroo tree within road blister to be relocated/replanted within Hastings River Drive</p>	Yes



relevant vegetation community adjacent to the Development.		
<ul style="list-style-type: none"> <li>Large trees and spreading ground covers are provided in all landscape areas within the site.</li> </ul>	Landscaping satisfactory	Yes
<ul style="list-style-type: none"> <li>Large screening shrubs of an appropriate density and size to complement the scale and bulk of the subject building are provided in areas where screening is a priority.</li> </ul>		
<ul style="list-style-type: none"> <li>Where car parking cannot be provided under or behind the building and Council has agreed to permit some or all of the parking in the front setback, a landscaped strip with a minimum width of 3.0m is provided along the entire frontage/s of the site.</li> </ul>	Extent of varied depth landscaping across frontage is sufficient to soften impact of carparking and building presentation to Hastings River Drive	Yes
<ul style="list-style-type: none"> <li>At grade car parking incorporate water sensitive urban design principles to drain pavement areas.</li> </ul>	Parking areas drained to swales	Yes
<ul style="list-style-type: none"> <li>Fencing for security or privacy shall not be erected between the building line and the front boundary of a site.</li> </ul>	N/A	N/A
<ul style="list-style-type: none"> <li>Where fences are erected, landscaping of an appropriate height and scale shall be provided to screen the fence and achieve an attractive appearance to the development when viewed from the street or other public place.</li> </ul>	N/A	N/A
<ul style="list-style-type: none"> <li>Street furniture, including seats, bollards, grates, grills, screens and fences, bicycle racks, flag poles, banners, litter bins, telephone booths and drinking fountains are coordinated with other elements of the streetscape.</li> </ul>	N/A	N/A
<ul style="list-style-type: none"> <li>Any ramps are to be integrated into the overall building and landscape design.</li> <li>The development complies with AS1428—Design for Access and Mobility.</li> </ul>	Where required ramps will be integrated within the overall building. Disabled standards to be complied with	Yes - capable  Yes - capable





<ul style="list-style-type: none"> <li>Tactile surface treatments are used to promote interest and variety in the Centre and to aid people with sensory disabilities.</li> </ul>		
<b>Gateways &amp; landmark Sites:</b> <ul style="list-style-type: none"> <li>The design of buildings on corner sites or at the ends of business or commercial zones, shall emphasise the importance of the corner as a focal point.</li> <li>Corner sites or at the ends of business or commercial zones shall be constructed to boundary or with a minimal setback with no car parking or servicing between the site boundary and the building.</li> <li>Design devices such as; <ul style="list-style-type: none"> <li>increased wall heights,</li> <li>splayed corner details,</li> <li>expression of junction of building planes,</li> <li>contrasting building materials; and</li> <li>other architectural features; shall be used to reinforce the way finding attributes and significance of focal points.</li> </ul> </li> <li>Shopfronts shall wrap around corners and entrances located centrally to the corner.</li> <li>The tallest portion of the building shall be on the corner.</li> </ul>	N/A	N/A
<b>Waste management:</b> <ul style="list-style-type: none"> <li>A waste management plan for the construction and/or occupation of the development is provided that: <ul style="list-style-type: none"> <li>Recycles and reuses demolished materials where possible;</li> <li>Integrates waste management processes into all stages of the project;</li> <li>Specifies building materials that can be reused and recycled at the end of their life;</li> </ul> </li> </ul>	Details provided that individual bins to be provided for each bay and will be stored internally within the bays. A communal bulk recycle bin will be provided for items such as cardboard.	Yes



<ul style="list-style-type: none"> <li>• Uses standard components and sizes to reduce waste and facilitate update in the future.</li> </ul>		
<ul style="list-style-type: none"> <li>• Separate storage bins for collection for organic waste and recyclable waste are provided in the development.</li> </ul>		
<ul style="list-style-type: none"> <li>• Bulk waste facilities must be stored in a designated area that is physically and visually integrated into the development at ground or sub-basement level that:                             <ul style="list-style-type: none"> <li>• is not visible from the street or public domain;</li> <li>• is easily accessible to businesses;</li> <li>• may be serviced by collection vehicles;</li> <li>• has water and drainage facilities for cleaning and maintenance; and</li> <li>• does not immediately adjoin onsite employee recreation area; and</li> <li>• be maintained to be free of pests.</li> </ul> </li> <li>• Cardboard compactors are provided for large retail and commercial developments.</li> </ul> <p>Where waste facilities cannot be collected at the street, evidence that the site can be serviced by a waste collection service must be provided.</p>		
<p><b>Vehicular Access Location and Design:</b></p> <ul style="list-style-type: none"> <li>• No direct vehicular access to at grade or basement car parking from the active street frontage will be permitted in B1 zones.</li> <li>• 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.</li> <li>• Any car park ramps are located largely within the building footprint.</li> <li>• Underground car parks must</li> </ul>	<p>1 x Max. 6m driveway crossover from Hastings River Drive</p> <p>Sufficient landscaping provided to carpark fronting Hastings River Drive to soften impact</p>	<p>Yes</p> <p>Yes</p>



<ul style="list-style-type: none"> <li>be designed to enable all vehicles to access and egress in a forward direction.</li> <li>• Vehicular entrances to underground car parks are to be; <ul style="list-style-type: none"> <li>• Located on minor streets;</li> <li>• Have a maximum crossover of 6.0m;</li> <li>• Shall be signed and lit appropriately;</li> <li>• Shall be designed so that exiting vehicles have clear sight of pedestrians and cyclists.</li> </ul> </li> <li>• At-grade / surface car parking areas adjacent to streets shall be generally avoided or at least adequately softened by appropriate landscaping.</li> <li>• All stairs and elevators in the parking structure are clearly visible.</li> </ul>		
<ul style="list-style-type: none"> <li>• The street level frontage of car parking structures (including multi level car parks) where adjoining public places, including streets, share ways and laneways, shall present an active frontage along the entire frontage less any car park entry.</li> </ul>	Active frontage provided	Yes
<ul style="list-style-type: none"> <li>• Internal finishes of underground car parks are to be consistent with the external materials where they are visible from the public realm.</li> <li>• Underground car parks shall generally be designed for natural ventilation. Ventilation ducts/grilles shall integrate with the streetscape, be unobtrusive and/or appropriately screened.</li> <li>• Garage doors to underground parking shall be designed to complement the materials used elsewhere on the development.</li> <li>• Garage doors are to achieve</li> </ul>	N/A	N/A



a minimum of 25% transparency.		
<b>Pedestrian Entries &amp; Access:</b> <ul style="list-style-type: none"> <li>The development complies with AS1428—Design for Access and Mobility.</li> </ul>	Proposed bays are at ground level with ramp access only required between carpark level and footpaths.	Yes
<ul style="list-style-type: none"> <li>The development complies with AS1428—Design for Access and Mobility.</li> <li>Open parking areas have clearly delineated, convenient walkways through them, suitable for use by wheelchairs, scooters and trolleys.</li> </ul>	Details submitted that proposal will be constructed in accordance with AS1428 with regards to access, carparking and amenities including provision of tactile surface treatments installed to AS1428.	Yes
<ul style="list-style-type: none"> <li>Pedestrian and vehicle movement areas are separated to minimise conflict.</li> <li>Changes in pavement material, levels, lining or tactile treatments are used to distinguish changes between vehicle and pedestrian access ways.</li> </ul>		
<ul style="list-style-type: none"> <li>Street numbers and building names are clearly displayed (Note: Signage must comply with the Part 3 of this DCP, the provisions in the PMHLEP2011 and relevant State Environmental Planning Policies).</li> <li>Parking areas are adequately illuminated (naturally and/or artificially) during the time period the centre is open.</li> <li>Signage is provided at the entries to the development detailing the services available within the centre and where they are located.</li> <li>Signage to key public spaces accessible from the centre such as car parks, food courts must be provided within the centre.</li> <li>Signage to key facilities such as rest rooms, Centre Management, baby change rooms must be provided within the centre.</li> </ul>	<p>Street numbers can be provided</p> <p>No illumination of carparking details</p>	<p>Yes – capable</p> <p>N/A</p>

<ul style="list-style-type: none"> <li>Secure and convenient parking/storing for bicycles is provided close to the entrance of the development and with good surveillance.</li> </ul>	Bicycles can be stored within building	Yes – capable
<p><b>Outdoor Dining:</b></p> <ul style="list-style-type: none"> <li>A minimum footpath clearance width (Note: Footpath clearance measurements are taken from the edge of the building (shoreline) or property boundary to the back of the chair (at a distance out from the table to equate with someone seated in the chair). An outdoor dining area includes all items such as umbrellas, tables and chairs, planter boxes associated with the use) of: <ul style="list-style-type: none"> <li>1.8m for high volume pedestrian areas; or</li> <li>1.5m in all other circumstances;</li> </ul> </li> </ul> <p>is to be maintained between the immediate front of the building (shoreline) and the proposed outdoor dining area.</p>	N/A	N/A
<ul style="list-style-type: none"> <li>A risk assessment must accompany any application for footpath dining that considers the risk of conflict between vehicles and diners. The assessment must recommend adequate measures to minimise any risk identified.</li> </ul>	N/A	N/A
<ul style="list-style-type: none"> <li>The suitability of the footpath for outdoor dining is at Council's discretion.</li> </ul>	N/A	N/A
<ul style="list-style-type: none"> <li>Commercial Development Adjoining Residential Land uses:</li> <li>The development is designed so that all vehicle movement areas and servicing areas are located away from adjoining residential areas.</li> <li>Where this cannot be achieved visual and acoustic treatment of the interface is required.</li> </ul>	<p>Internal design of development orientated away from adjoining Residential Park</p> <p>Unreasonable to require building elevation to be set back given the adjoining residential park enjoys existing use rights as same B5 zoning applies.</p>	Yes/No



<ul style="list-style-type: none"> <li>The building elevation adjoining the residential area must be;             <ul style="list-style-type: none"> <li>Articulated, with changes in setback at intervals no greater than 10m;</li> <li>Use a variety of materials and treatments;</li> <li>Be setback a minimum of half the height of the wall or a minimum of 3.0metres whichever is greater.</li> </ul> </li> </ul>		
<ul style="list-style-type: none"> <li>Waste areas are located and managed to minimise pests, noise and odour.</li> </ul>	Communal bin storage area siting acceptable	Yes
<b>Hastings River Drive area precinct</b> DP 2.1/2.2 – Development to provide streetscape improvement  DP 2.5 – Flush wall and pole or pylon signs preferred	Existing streetscape improvements to be modified  1 freestanding sign + flush wall sign per tenancy	Yes – condition recommended Yes

(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 relating to the site.

iv) **any matters prescribed by the Regulations:**

#### NSW Coastal Policy 1997

The proposed development is consistent with the objectives and strategic actions of this policy.

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:**

N/A

(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 and setting

The site has a general north street frontage orientation to Hastings River Drive.

Adjoining the site to the east is an existing caryard.

Adjoining the site to the south is an existing storage unit complex.

Adjoining the site to the west is an existing Residential Park occupied by existing mobile homes.

The site is low and requires filling about 1 metre to bring the surface level to the 1% flood level.

The proposal will be unlikely to have any adverse impacts to existing adjoining properties (noting tree removal on adjoining property necessary), satisfactorily addresses the public domain and adequately addresses planning controls for the area.

There is no adverse overshadowing impacts identified noting the block alignment to the north.

**Roads**

Hastings River Drive is a classified road and although Council is the Road Authority, Roads and Maritime Services (RMS) concurrence is required for any proposed works that impact Hastings River Drive. Adjacent to the site, Hastings River Drive is a four-lane divided road with marked cycleway lanes, footpath paving and on-street parking. Immediately west of the site, a pedestrian refuge has been installed crossing Hastings River Drive.

In front of the site, a landscaped island containing a street tree has been planted between parallel parking spaces. In addition Hastings River Drive west of the landscape island has been modified to provide an exclusive left turn lane into the existing Caravan Park directly west of the site. This island is anticipated to be impacted by the proposed site development access and will require shifting toward the west and relocated outside the required turn lane area.

**Traffic**

Anticipated traffic impacts were determined for the proposed development (1,082.3 sq. m bulky goods development) were determined based upon the RMS' (fka RTA) *Guide to Traffic Generating Development*. Due to variations in the data, this guide could not recommend average generation rates, however did state that generation rates were generally less than those of average retail shops. In general average generation rates in the evening peak period (Thursday) were determined to be 2.5 vehicles per hour (vph) per 100 sq. m gross leasable floor area and 6.6 vph per 100 sq. m for a mean peak rate on weekends.

Based upon the information above, it is anticipated that the proposed development will generate the following traffic impacts:

- 27 vph during the evening peak period (Thursday)
- 71 vph during the weekend peak period

**Roads and Maritime Services (RMS)**

RMS have raised concerns during the assessment of the DA with the possible impact of the proposal on the safety and efficiency of the classified road network.

Specific concerns raised by the RMS determined:

- Traffic generated by the development may warrant a AUL(S) deceleration lane.
- Concerns associated with the close proximity of on-site parking impacting vehicle entry into the development (vehicles standing in the travel lanes).
- The disabled space being inappropriately located away from the building.

- Design and manoeuvring paths for facility in accordance with AS 2890.2.
- Design shall require entry and exit in a forward manner

Review of concerns raised by the RMS and additional comments:

- Although the development may satisfy the AUL(s) deceleration lane warrant criteria, adjacent to the development, Hastings River Drive has been designed as a four-lane divided roadway with on-street adjacent parking. Current road geometry is designed to encourage maintaining capacity in a slow speed environment and activate the active street frontage with on-street parking. If required in the future, deceleration lanes can be reviewed by Council though restriction of on-street parking in appropriate locations along Hastings River Drive.
- Due to the anticipated traffic generation and site constraints, Council staff believes the parking layout provides is acceptable.
- Consistent with RMS request, disabled parking has been relocated in front of the building.
- It is recommended that a condition be applied to the development to comply with Australian Standards.

Based upon Council staff review of RMS comments, the application is recommended to be approved subject to conditions with relevant standards.

### **Access**

Access is proposed with a two-way single heavy duty driveway (6 metre wide). As the access is proposed to be 6m wide and is also proposed to provide access to service vehicles, access to the site can only cater to Small Rigid Vehicles (SRV) as noted in Figure 3.1, AS 2890.2. A condition is recommended that a "Restriction as to User" restricting site access to vehicles of greater size than SRV.

The proposed driveway sits in front of a tree and island. This tree will require moving toward the west (10 metres). The tree shall be replaced to the requirements of Council's Building and Recreation section (minimum 75 litre tree). Details shall be provided as part of the Roads Act (Section 138) application, prior to any Construction Certificate for building works.

As the site will require significant fill, and the proposed building is proposed as slab on ground construction, additional information was requested during the assessment of the DA with regard to a driveway long section and design contours of the parking field be provided to verify development can conform with relevant Australian Standards (including AS 2890, AS 1428). It should be noted that AS 2890.2 limits the design grades for SRV to 1:6.5 (15.4%) with a maximum rate of change of 1:12 (8.3%). The applicant has provided this long section which is generally acceptable.

In addition, pedestrian and vehicle splays are to be constructed consistent with AS 2890.2. Conditions of consent are recommended to require splays to be incorporated consistent with relevant standards (AS 2890.2).

### **Parking**

Parking is proposed in a single "blind aisle" (dead end) carpark facility providing 24/25 carpark spaces (including a disabled space). Due to the location of service vehicle doors, a vehicle turning areas has been provided toward the back of the site.

Further details are provided as requested in the “Access” and “Manoeuvring” sections to verify geometric conditions within the facility can be accommodated in accordance with Australian Standards (AS 2890, AS 1428).

**Manoeuvring**

The carpark layout is designed as a blind aisle (“dead end”), and will provide access for both customers and service vehicles.

Consistent with Council staff and RMS concerns, additional information has been requested by the applicant providing swept paths for customer and service vehicles outside proposed parking areas. Swept paths now show the site can accommodate small rigid vehicles.

**Pedestrians**

Pedestrian facilities are available along the south side of Hastings River Drive. In addition, on street parking is available. Council shall require pedestrian facilities along the Hastings River Drive be connected with proposed buildings.

**Water**

Lot 5 can be serviced with water from the 250mm PVC water main on the same side of Hastings River Drive. The site does not currently have a water service.

Final water service sizing for the proposed development will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development site as a whole, as well as addressing fire service and backflow protection requirements.

**Sewer**

Sewer is available, from a 250 dia main in Hastings River Drive, with junctions to each lot. Currently both lots are vacant and the junctions should have been capped in conjunction with the demolition of buildings formerly on the site.

As the development will create a sewer load exceeding 2ET Council’s policy requires connection from a manhole.

Council record indicates that the junction to lot 6 is from MH 22P005 approximately 1.6m deep. This junction may suit the development if both lots are consolidated. A road widening has caused the sewer main to be approximately 8m from the new lot boundary into the road reserve. Consequently it may be necessary to extend the junction side line into the property and provide a new manhole as the side line extension exceeds 6m. The existing junction to Lot 5 will need to be capped off at the main to Council requirements.

If the lots are not consolidated, each lot is to have a separate connection to Council sewer from a manhole wholly within the lot being served. Consequently, two additional manholes will be required for a junction to serve Lot 5 and one new manhole for a junction to serve Lot 6. It is therefore more practical to consolidate the lots.

**Stormwater**

Detention is provided in the paved car park areas. Refer David Johnson Plan 2012 – 181 Amendment A Plan sheet CO1. Discharge to the kerb after bioretention using 2 off 125 x 75 RHS to the existing kerb and gutter in Hastings River Drive.

Stormwater shall be required to discharge directly into Council's piped drainage system. Extension of Council's piped drainage system from the east terminating in a kerb inlet pit located along Hastings River Drive near the northeast corner of the property. Details to be provided with Section 138 application, prior to any Construction Certificate for building works.

**Other Utilities**

Electricity and Telecommunications are available.

**Earthworks**

Additional filling is anticipated to be required and the existing fill has no compaction history or contamination assessment. Will need contamination testing prior to Issue of the construction Certificate.

**Heritage**

Following a site inspection (and a search of Council records), no known items of Aboriginal or European heritage significance exist on the property. No adverse impacts anticipated.

**Other land resources**

No adverse impacts anticipated. The site is within an established urban context and will not sterilise any significant mineral or agricultural resource.

**Water cycle**

The proposed development will be unlikely to have any adverse impacts on water resources and the water cycle.

**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 and microclimate**

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. Light industry uses are proposed to operate within 4 of the 5 premises.

**Flora and fauna - including tree removal on adjoining lot to west**

On the site itself, construction of the proposed development will not require any removal/clearing of any significant vegetation.

During the assessment of the DA however it was identified that the construction of the building works could possibly impact on the structural integrity and health of existing trees within reasonable proximity to the west boundary of the development site on the adjoining lot - Melaleuca Caravan Park.

Refer below image:





The subject trees are identified as follows:

- 7 x Camphor Laurel (exotic from China)
- 2 x Bastard Mahogany/Tallowwoods
- 1 x Swamp Mahogany
- 1 x River Oak

The Applicant was initially requested to provide an Arborist Assessment to determine whether the trees could be retained. A report was provided from JKL Consultants which concluded that all 11 trees will be impacted upon by the proposal with the tree's Structural Root Zones (SRZ) being adversely encroached upon.

Subsequently it was determined appropriate during assessment to request further additional information with an ecological assessment to assess the value of these trees particularly given the native/endemic species which would be impacted upon. An ecological impact assessment report was provided from Darkheart Eco-Consultancy. A summary of the Darkheart report findings is as follows:

- The native/endemic trees offer potential forage for the koala however no scats were identified.
- The Camphor Laurels offer no significant habitat value to any threatened species and are an invasive weed which needs removal.
- The extent of habitat/potential habitat loss is relatively small in a local and regional context and the potential impacts are considered unlikely to be directly significant to the long term survival of koala in the locality.

- No hollow bearing trees were recorded on-site and no Endangered Ecological Communities.

The assessment and conclusions made in the Darkheart report are considered to be well reasoned and appropriate. Therefore the proposal will be unlikely to have any significant adverse impacts on biodiversity or threatened species of flora and fauna. Section 5A of the Act is considered to be satisfied.

With regard to the removal of the trees on the neighbours property it is noted that the owner has raised objection to this and not granted owner's consent to their removal.

Whilst it is noted that the owner of trees has raised concern it is considered unreasonable for the development proposal to be amended to the extent of ensuring a suitable buffer to the SRZ being retained around the trees which would require a significant increase in western setback in this instance. It is noted that the trees may offer some amenity to the residents of the Caravan Park however it is considered unreasonable to impose the retention of the trees particularly given the B5 Business Development zoning which applies to both sites i.e. there is no landuse zone interface which could dictate some change in design along the western boundary in any difference to a typical expectation to build to the boundary. Should the Caravan Park be also redeveloped in the future (Caravan Park assumed to have 'existing use rights') it would be expected that the owner at that time may wish to remove the trees also and build to the common boundary.

A condition is recommended to be imposed to require the trees to be removed prior to issue of a Construction Certificate. The Applicant may be required to obtain their own legal advice to obtain permission to access the adjoining site to enable the trees to be physically removed to act upon the requirement for the trees to be removed. If access is not agreed to by the neighbour then the matter could most probably be resolved either through the *Access to Neighbouring Land Act 2000 (Local Court hearing)* or *Trees (Disputes Between Neighbours) Act 2006 (Land and Environment Court)*.

**Waste**

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. No adverse impacts anticipated.

**Energy**

The proposal includes measures to address energy efficiency and will be required to comply with the requirements of Section J of the Building Code of Australia. No adverse impacts anticipated.

**Noise and vibration**

No adverse impacts anticipated.

Separate DA required for first use of each tenancy as condition of consent approval. Proposed hours of operation and nature of actual use to be considered at that stage.

Condition recommended to restrict construction to standard construction hours.

**Bushfire**

The site is identified as being partly on bushfire prone land at the rear of the site. Given the nature of the proposed uses, separation to the hazard to the south and water supply the proposal meets the aims and objectives of Planning for Bushfire Protection 2006.

**Safety, security and crime prevention**

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area.

**Social impacts 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 of flooding 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 has been received following completion of the required public exhibition of the application.

Key issues raised in the submissions received and comments in response to these issues are provided as follows:



Submission Issue/Summary	Planning Comment/Response
<p>No objection to the establishment of the bulky goods on the land however concern regarding the proposal to remove the vegetation located on the boundary between the development site and existing Melaleuca Caravan Park.</p> <p>Consider that the trees provide significant amenity to the occupants of the cabins and caravans sites within the park. Oppose remove of the trees during the life of the Park.</p>	<p>Whilst it is noted that the owner of trees has raised concern it is considered unreasonable for the development proposal to be amended to the extent of ensuring a suitable buffer to the SRZ being retained around the trees which would require a significant increase in western setback in this instance. It is noted that the trees may offer some amenity to the residents of the Caravan Park however it is considered unreasonable to impose the retention of the trees particularly given the B5 Business Development zoning which applies to both sites ie. there is no landuse zone interface which could dictate some change in design along the western boundary in any difference to a typical expectation to build to the boundary. Should the Caravan Park be also redeveloped in the future (Caravan Park assumed to have 'existing use rights') it would be expected that the owner at that time may wish to remove the trees also and build to the common boundary.</p> <p>Refer to additional comments earlier in this report under flora and fauna impact - including tree removal on adjoining lot to west.</p>

**(e) The Public Interest:**

The proposed development satisfies relevant planning controls and is not expected to impact on the wider public interest.

**Ecologically Sustainable Development and Precautionary Principle**

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes.

The four principles of ecologically sustainable development are:

- the precautionary principle,
- intergenerational equity,
- conservation of biological diversity and ecological integrity,
- improved valuation, pricing and incentive mechanisms.

The principles of ESD require that a balance needs to be struck between the man-made development and the need to retain the natural vegetation where appropriate. Based on the assessment provided in the report and with recommended conditions of consent, it is considered an appropriate balance has been struck particularly as it is unreasonable to require retention of the existing trees on the neighbouring property.

**Climate change**

Refer to comments provided earlier in this report under Hastings LEP addressing climate change.

**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 have been calculated based upon indicative uses shown on plans and will be subject to review when first use DAs are submitted.
- Development contributions will be required under Section 94A of the Environmental Planning and Assessment Act 1979 towards new and upgraded road networks, traffic management facilities, carparking and town centre improvement works.

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. Consequently, it is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.

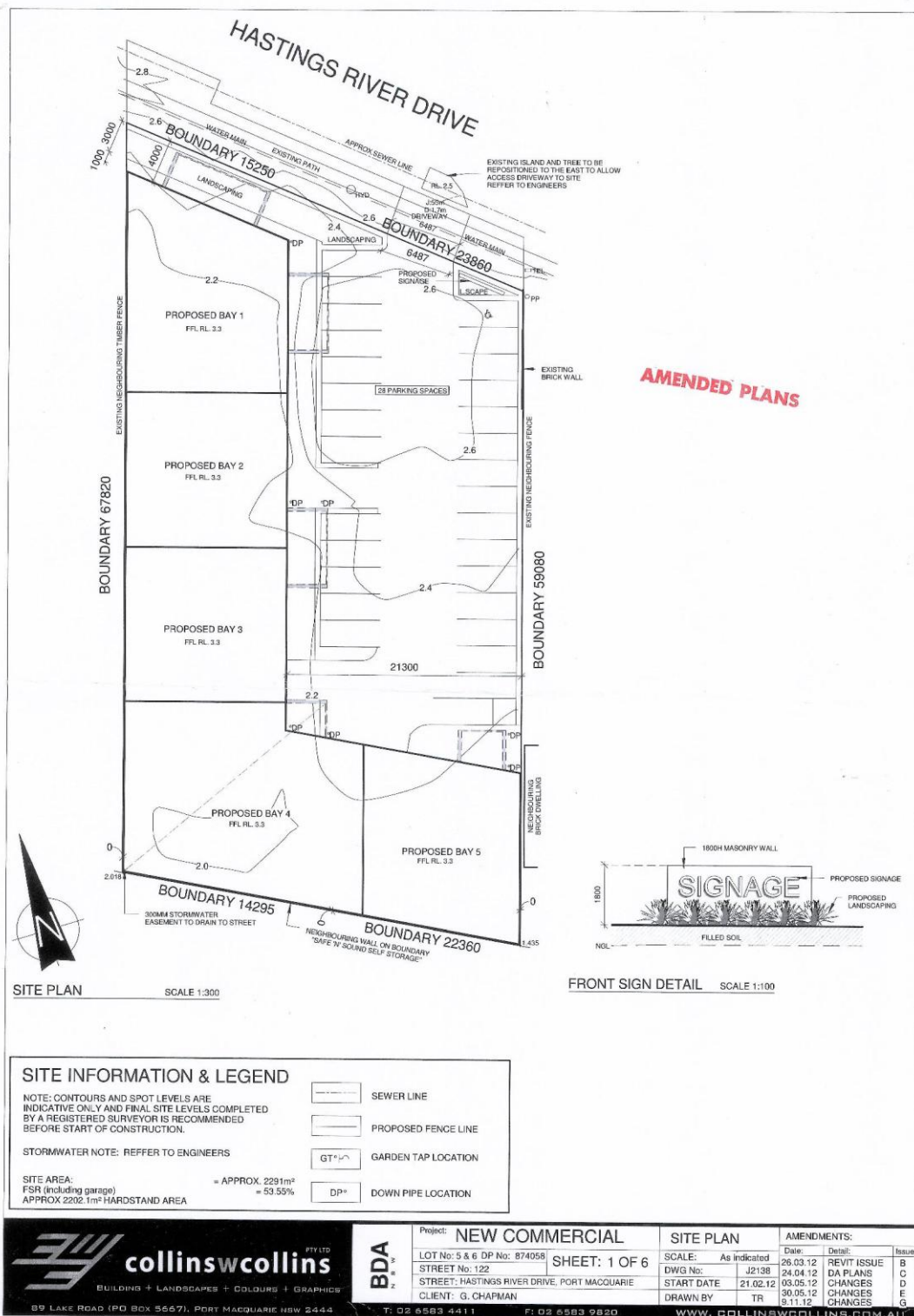
**Attachments**

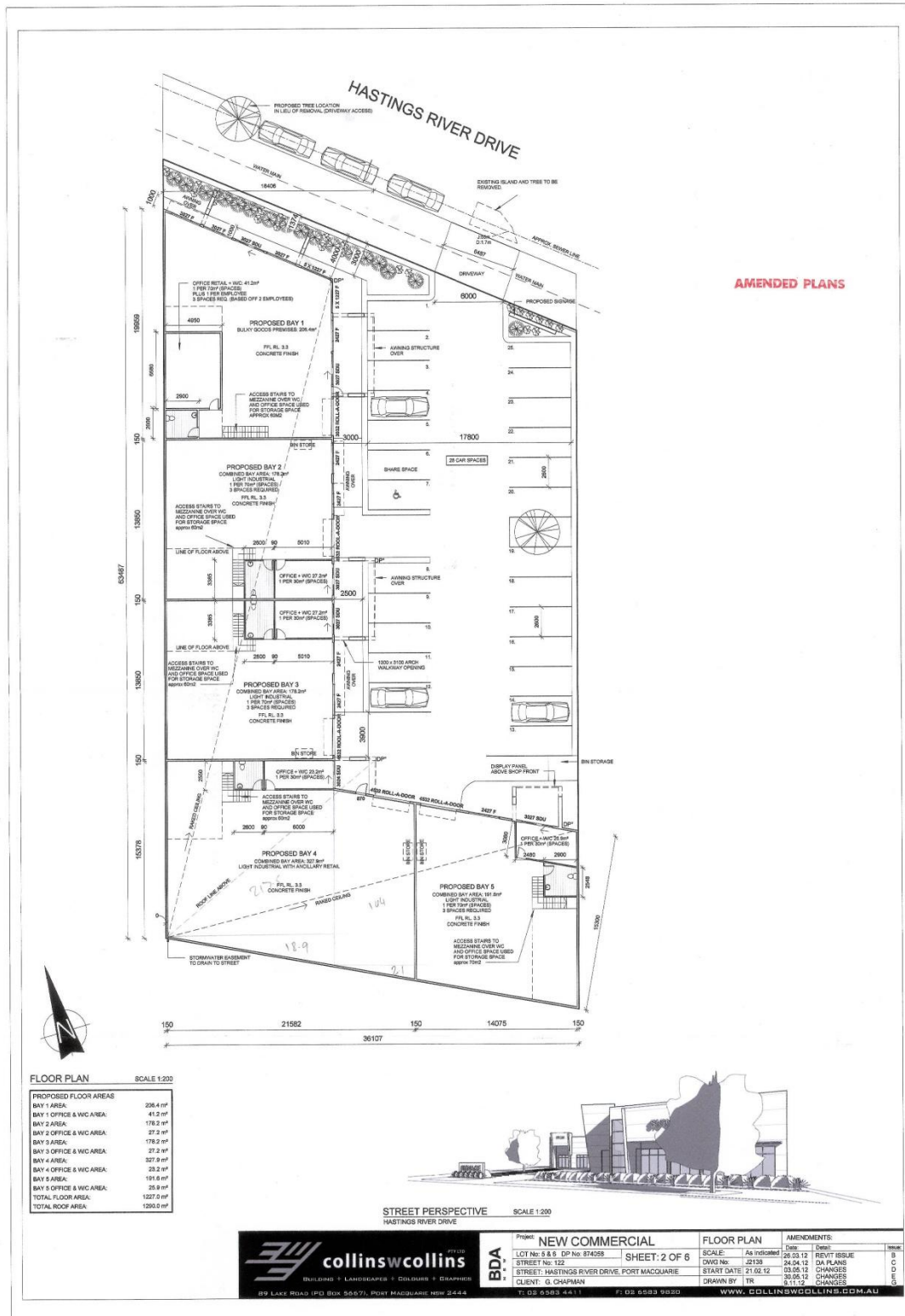
1 [View](#). DA2012 - 0460 Plans

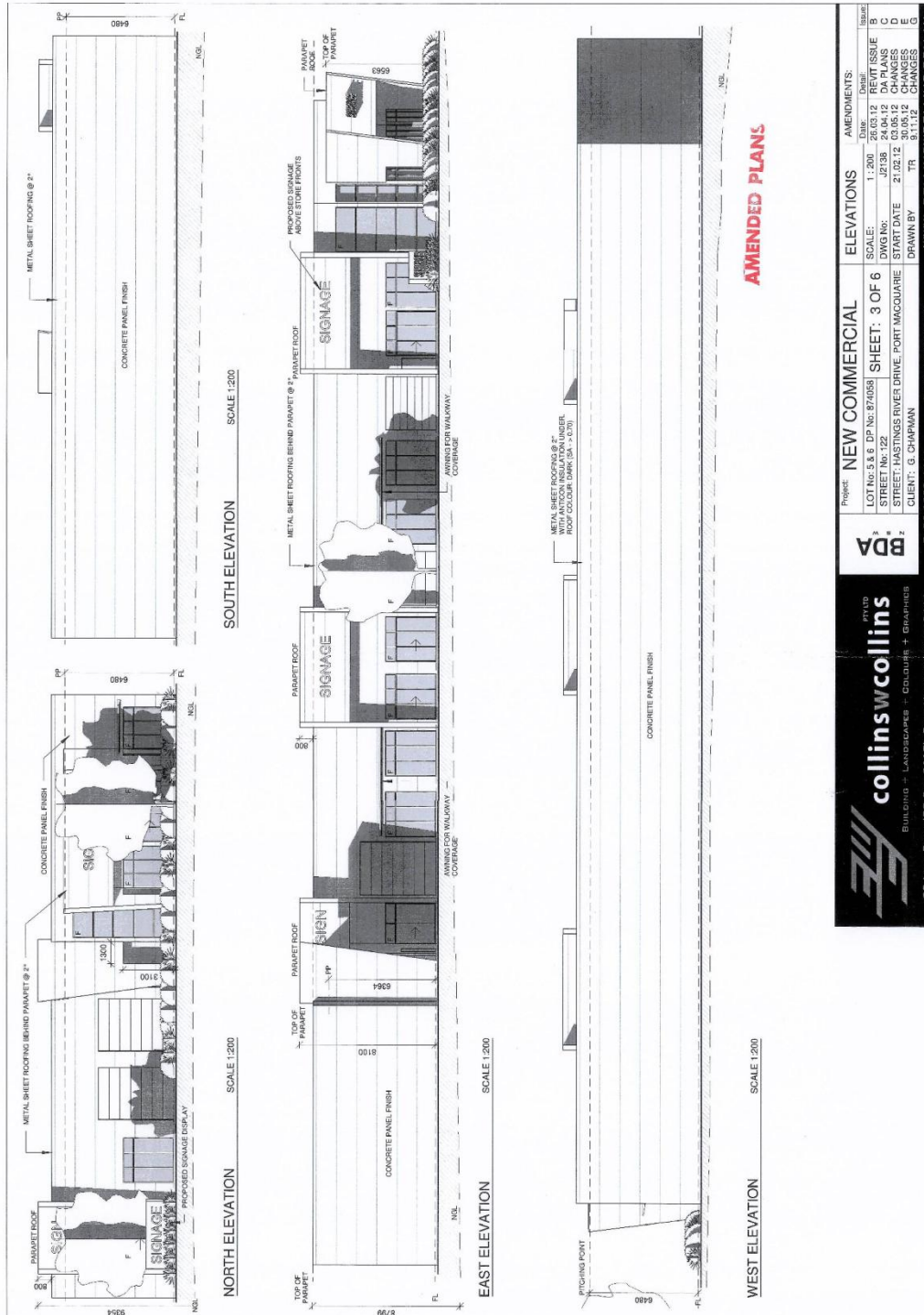
2 [View](#). DA2012 - 0460 Recommended DA Conditions

3 [View](#). DA2012 - 0460 Development Contributions Calculation Sheet









FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011

NOTE: THESE ARE DRAFT ONLY

DA NO: 2012/460

DATE: 19 February 2013

## PRESCRIBED CONDITIONS

Part 6 – Division 8A of the *Environmental Planning & Assessment Regulations 2000*

- (1) (P001) All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) (P003) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - a. showing the name, address and telephone number of the principal certifying authority for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

## A – GENERAL MATTERS

- (1) (A001) The development is to be carried out in accordance with the plans and supporting documents set out in the following table, as stamped and returned with this consent, except where modified by any conditions of this consent.

Plan / Supporting Document	Reference	Prepared by	Date
Site Plan	Sheet 1	Collins W Collins	9 November 2012
Floor Plan	Sheet 2	Collins W Collins	9 November 2012
Elevations	Sheet 3	Collins W Collins	9 November 2012

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
  - a. the appointment of a Principal Certifying Authority; and
  - b. the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

- (3) (A004) An application for a Construction Certificate will be required to be lodged with Council prior to undertaking subdivision works and a Subdivision Certificate is required to be lodged with Council on completion of works. Construction Certificate with Council required for sewer manhole & SC required for registration of 88B restricting access to larger vehicles.



- (4) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications and Port Macquarie-Hastings Council DCP 2011 which are prescribed at the time of commencement of engineering works.
- (5) (A012) This consent does not provide for staging of the development. Any staging will require a separate consent or an amendment to this consent.
- (6) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (7) (A019) Prior to preparation of any engineering design plans, the consultant preparing the design plans will need to contact Council's Engineering Development Section within Infrastructure Division to discuss the extent and scope of all works and details required on the design plans to conform to Council's Development Control Plans, Codes, Policies and AUSPEC Specifications. Some of the issues to be discussed and incorporated in the design plans include, but are not limited to the following:
- Sewer
- (8) (A030) The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's current AUSPEC Specifications and Standards. All works must be approved by Council pursuant to Section 138 of the Roads Act.
- (9) (A031) Approval pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be obtained from Port Macquarie-Hastings Council.
- Such works include, but not be limited to:
- Civil works
  - Traffic management
  - Work zone areas
  - Hoardings
  - Concrete foot paving (width)
  - Footway and gutter crossing
  - Functional vehicular access
  - Moving traffic island west along Hastings River Drive (approx 10 metres)
- (10) (A032) The developer is responsible for any costs relating to minor alterations and extensions of existing roads, drainage and Council services for the purposes of the development.
- (11) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
- a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
  - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
  - c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

Such security is to be provided to Council prior to the issue of the Subdivision Certificate/Construction Certificate or Section 138 of the Roads Act, 1993.



The security is to be for such reasonable amount as is determined by the consent authority, being an amount that is 10% of the contracted works for Torrens Title subdivision development/the estimated cost plus 30% for building development of public works or \$5000, whichever is the greater of carrying out the development by way of:

- i. deposit with the Council, or
- ii. an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred to above and on application being made to the Council by the person who provided the security any balance remaining is to be refunded to, or at the direction of, that person. Should Council have to call up the bond and the repair costs exceed the bond amount, a separate invoice will be issued. If no application is made to the Council for a refund of any balance remaining of the security within 6 years after the work to which the security relates has been completed the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

- (12) (A040) Provision shall be made for a separate sewer line for each dwelling/unit to Council's sewer main.

If the dwellings are to be located on separately titled blocks, then Council's main sewer line (which is a minimum of 150mm diameter) will need to be extended to a point within each block.

- (13) (A042) In respect of applications for other than separate Class 1 buildings, applicants are required to furnish the following information from an approved Hydraulic Consulting Engineer with the application for the water service:

- a. Hydraulic calculations that address flow, pressure and velocity requirements of AS 3500.1.
- b. A plan to a scale of not less than 1:100 that clearly indicates the position of the water meter on the property, the type of materials and nominal size of all water service pipes, the position of all stop valves, stop taps, backflow prevention devices and other valves, any water storage to be provided including air gap requirements, overflow pipe arrangement and any booster pumps.
- c. Complete details of any fire service, booster pump or irrigation system installation.

- (14) (A045) Extension or modification of the town sewerage system where necessary to serve the development, at no cost to Council.

- (15) (A050) All water, sewer and stormwater services necessary to service the development must be provided in accordance with Council's requirements. All services are to be designed and constructed in accordance with Council's AUSPEC Specifications.

- (16) (A056) One (1) metre clear distance is required around any vertical inspection shaft and any manhole.

- (17) (A064) All works shall be in accordance with the current Port Macquarie-Hastings Council Flood Policy.

- (18) (A195) An existing garden island with a small tree is located in front of a proposed driveway in the Hastings River Drive road pavement. The island is to be demolished and non road materials plus extra excavation and the existing tree is to be removed to spoil. The replacement pavement is to be reconstructed with pavement thickness 1.5 times the existing thickness and equivalent compaction and roadbase material quality. Bond securities will be required (during and after construction) consistent with Council's policy with

the Roads Act approval to ensure restoration does not depress differentially with the existing heavy duty highway construction. A new garden island of identical dimensions is to be constructed to the west (approximately 10 metres) of the existing island to the satisfaction of Council. A new tree shall be one 75 litre Natspec Cupaniopsis anacardioides (tuckeroo) mulched and watered until establishment to the satisfaction and direction of Councils Tree Inspection Officer.

- (19) (A196) Filling has occurred on the site prior to this development application. The applicant shall test and certify fill materials for contamination prior to any work commencing on the site. Certification shall be provided to the PCA prior to Construction Certificate.
- (20) (A197) A non approved stormwater drainage pit exists at the rear of this development that drains site water into the public storage unit development. This drainage pit and stormwater connection is to be removed and capped off to the requirements of Councils Section 68 Local government Act plumbing inspection officer.
- (21) (A198) Council shall require stormwater to discharge directly into Council's piped drainage system. Extension of Council's piped drainage system from the east terminating in a kerb inlet pit located along Hastings River Drive near the northeast corner of the property. Details to be provided with Section 138 application, prior to any Construction Certificate for building works.
- (22) (A199) A separate DA is to be lodged for the first use of each tenancy prior to Occupation/First use.

#### **B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

- (1) (B001) Approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
  - Position and depth of the sewer (including junction)
  - Stormwater drainage termination point
  - Easements
  - Water main
  - Proposed water meter location
- (2) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
  - 1. Road works along the frontage of the development.
  - 2. Public parking areas including:
    - a. Driveways and access aisles;
    - b. Parking bays;
    - c. Delivery vehicle service bays & turning areas in accordance with AS2890.1, 2890.2 and 2890.6.
  - 3. Sewerage reticulation.
  - 4. Retaining walls.
  - 5. Stormwater systems.
  - 6. Erosion & Sedimentation controls.

7. Location of all existing and proposed utility services including:
- Conduits for electricity supply and communication services (including fibre optic cable).
  - Water supply
  - Sewerage
  - Stormwater
8. Landscaping.
9. Detailed driveway profile in accordance with Australian Standard Drawings ASD D1, ASD 202 & 207, AS 2890.1, 2890.2, Port Macquarie-Hastings Council current version.
- (3) (B005) Approved design plans by the RTA of the proposed engineering works detailed below shall be submitted to the Principal Certifying Authority for approval prior to the issue of a Construction Certificate.
- Driveway and island road, extension of Council drainage and garden construction plus road restoration*
- (4) (B007) If engineering works are of a value equal to or greater than \$25,000, a detailed estimate of cost of the civil engineering works and documentary proof of payment of the levy required by the Building and Construction Industry Long Service Payments Act must be provided to Council prior to any approval of engineering plans.
- (5) (B009) Payment to Council, prior to the issue of the Construction Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
- Hastings River Drive S94 Contributions Plan for Traffic Facility Works
- The plans may be viewed during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.
- The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.
- (6) (B010) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution, prior to the issue of a Construction Certificate, of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent is required. The contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plan towards the following:
- augmentation of the town water supply headworks
  - augmentation of the town sewerage system headworks
- (7) (B024) Submission to Council of an application for water meter hire, which is to be referred to the Water Supply section so that a quotation for the installation can be prepared and paid for prior to the issue of a Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.



- (8) (B030) An application under Section 138 of the Roads Act 1993 is to be submitted to and approved by Council for works associated with the development on or within the Public Road. Concurrence shall be obtained from the Roads & Maritime Services (RMS) for construction works along Hastings River Drive.
- (9) (B033) An Erosion and Sediment Control Management Plan shall be submitted to and approved by the Principal Certifying Authority with the application for Construction Certificate.
- The plan shall include measures to:
- Prevent site vehicles tracking sediment and other pollutants from the development site.
  - Dust control measures.
  - Safety measures for temporary and permanent water bodies including fencing and maximum batter slopes.
  - Contingencies in the event of flooding.
- (10) (B034) The submission of details to Council for the disposal of any spoil gained from the site and/or details of the source of fill, heavy construction materials and proposed routes to and from the site, including, but not limited to:
- The pavement condition of the route/s proposed (excluding collector, sub-arterial and arterial roads) for the haulage of fill material to the site and/or haulage of excess material from the site. The condition report shall include photographs of the existing pavement and pavement deflection test results taken in the travel lanes;
  - Recommended load limits for haulage vehicles and;
  - A procedure for monitoring the condition of the pavement during the haulage;
  - Bond to guarantee public infrastructure is not damaged as a result of construction activity,
- and;
- Council shall determine the need for and extent of any rectification work on the haulage route/s considered attributable by the haulage of materials to and/or from the site.
- (11) (B042) A certificate from an approved practising chartered professional civil and/or structural engineer certifying the structural adequacy of the proposed retaining wall on the western boundary of this site and the caravan park due to substantial differential levels is to be submitted with the application for the Construction Certificate.
- (12) (B053) The design of the carpark and accesses is to be in accordance with Australian Standard 2890.1. Certification of the design by a suitably qualified consultant is to be provided prior to issue of the Construction Certificate.
- (13) (B054) Where a vehicular access is provided, a longitudinal section in accordance with Council's adopted AUSPEC Design and Construction Guidelines must be supplied with engineering design plans.
- (14) (B056) Prior to the issue of any Construction Certificate plans, the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.

- (15) (B062) All of the trees identified on the adjoining property in the submitted DarkHart Ecological Assessment report will be structurally compromised by the development and shall be removed.
- (16) (B067) Details shall be submitted with the Construction Certification application which demonstrate compliance with Council's interim Flood Policy.
- (17) (B195) The lots should be consolidated to enable a single sewer side line to serve the development. This can be achieved by extension of the existing side line to lot 6 from the existing Manhole in Hastings River Drive into the property and provide a new manhole at the end of the extension, as the side line extension exceeds 6m and the discharge exceeds 2ET. The existing junction to Lot 5 will need to be capped off at the main to Council requirements. Engineering plans for this work are to be submitted with the application for Construction Certificate.
- (18) (B196) Final water service sizing for the proposed development will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development site as a whole, as well as addressing fire service and backflow protection requirements.
- (19) (B197) The carpark layout is to be in accordance with Sheet 2 floor plan. Amended site plan to be submitted with Construction Certificate.

#### C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.
- (2) (C004) Erosion and sediment controls in accordance with the approved management plan shall be in place prior to the commencement of any works or soil disturbance and maintained for the entirety of the works until the site is made stable by permanent vegetation cover or hard surface.
- (3) (C005) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.  
Each toilet provided must:
  - a. be a standard flushing toilet, connected to a public sewer, or if connection to a public sewer is not available, to an on-site effluent disposal system approved by the Council, or
  - b. an approved temporary chemical closet.The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.
- (4) (C007) Provision of a hoarding, fence or other measures to restrict public access to the site during the course of works. Where the hoarding will encroach upon public land an application for approval under section 138 of the Roads Act, 1993 is to be lodged with Council.
- (5) (C012) Prior to the commencement of work, the location and depth of the sewer main and connection point in relation to the floor level shall be confirmed to ensure that appropriate connection to the sewer can be achieved.

#### D – DURING WORK

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold



points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:

- a. at completion of installation of erosion control measures
- b. at completion of installation of traffic management works
- c. when the sub-grade is exposed and prior to placing of pavement materials;
- d. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
- e. at the completion of each pavement (sub base/base) layer;
- f. before pouring of kerb and gutter;
- g. prior to the pouring of concrete for sewerage works and/or works on public property;
- h. on completion of road gravelling or pavement;
- i. during construction of sewer infrastructure;
- j. prior to sealing and laying of pavement surface course.

All works at each hold point shall be certified as compliant in accordance with the requirements of AUSPEC Specifications for Provision of Public Infrastructure and any other Council approval, prior to proceeding to the next hold point.

- (2) (D003) The slope of the cut/fill batter shall be in accordance with Council's adopted AUSPEC Design and Construction Guidelines. Adequate safety fencing is to be provided if maximum batter slope is exceeded.
- (3) (D004) The capacity and effectiveness of erosion and sediment control measures shall be maintained at all times in accordance with the approved management plan until such time as the site is made stable by permanent vegetation cover or hard surface.
- (4) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (5) (D014) Work on the project being limited to the following hours, unless otherwise permitted by Council: -
  - Monday to Saturday from 7.00am to 6.00pm
  - No work to be carried out on Sunday or public holidays
 The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (6) (D019) Building equipment and/or materials shall be contained wholly within the site and shall not be stored or operated on the footpath or roadway, unless specific written approval has been obtained from Council beforehand.
- (7) (D025) The sewer junction shall be capped off with an approved fitting in conjunction with demolition works and Council notified to carry out an inspection prior to backfilling of this work.
- (8) (D032) A garbage receptacle for the reception of all waste materials from the site shall be provided prior to building work commencing and shall be maintained and serviced for the duration of the work.
- (9) (D035) Stockpiles of topsoil, sand, aggregates, spoil or other material shall be stored clear of any natural drainage path, trees (nominated for retention) constructed drainage systems, easement, water bodies, or road surface and

located wholly within the site with measures in place to prevent erosion or movement of sediments in accordance with the approved management plan. All spillage of materials, as a result of delivery or handling, must be removed as soon as practicable and placed into suitable receptacles for reclamation or disposal in a manner that does not cause pollution of the environment.

- (10) (D036) Open and piped drains, gutters, roadways and access ways shall be maintained free of sediment for the duration of the work. When necessary, roadways shall be swept and drains and gutters cleaned of sediment build up.

**E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE**

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E004) Consolidation of the allotments comprising the site of the proposed development prior to issue of the Occupation Certificate or proposed as part of the application for a Subdivision Certificate.
- (3) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (4) (E010) Driveways, access aisles and parking areas shall be provided with an approved surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended).
- (5) (E030) Vehicle ramps, driveways, turning circles and parking spaces being paved, sealed and line marked prior to occupation or the issue of the Occupation Certificate or commencement of the approved land use.
- (6) (E034) Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (7) (E036) Certification by a suitably qualified consultant is to be submitted to Council that the construction of the car park and internal accesses is to be in accordance with Council's Development Control Plan 2011 and Australian Standard 2890.1 prior to occupation or issue of the Occupation Certificate.
- (8) (E039) An appropriately qualified and practising consultant is required to furnish a Compliance Certificate to the Principal Certifying Authority confirming:
- a. all drainage lines have been located within the respective easements, and
  - b. any other drainage structures are located in accordance with the Construction Certificate.
  - c. all stormwater has been directed to a Council approved drainage system
  - d. all conditions of consent/ construction certificate approval have been complied with.
  - e. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
- (9) (E041) At the completion of works on private property certification is to be provided to Port Macquarie-Hastings Council from a practising civil or structural engineer that all stormwater works have been undertaken in accordance with the approved plans and Australian Standard 3500.
- (10) (E044) The applicant will be required to submit prior to occupation or the issue of the Occupation Certificate, certification by a Registered Surveyor that the

development has met the necessary flood planning levels specified in this consent.

- (11) (E049) Submission of a Compliance Certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.
- (12) (E051) Prior to occupation or the issuing of any Occupation Certificate provision to the Principal Certifying Authority of a Water Authority and/or Section 68 Sanitary Plumbing and/or Stormwater Drainage Final Certificate issued by Port Macquarie-Hastings Council.
- (13) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant in accordance with the requirements of AUSPEC in accordance with the Council's *Interim Requirements for the Maintenance and Certification of Public Infrastructure Provided Through Land Developments* (dated 6 September 2010) prior to issue of the release of the security bond to guarantee completion of public works.
- (14) (E056) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of any occupation or subdivision certificate.
- (15) (E065) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to Council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (16) (E066) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:
  - a. The relocation of underground services where required by civil works being carried out.
  - b. The relocation of above ground power and telephone services
  - c. The relocation of street lighting
  - d. The matching of new infrastructure into existing or future design infrastructure
- (17) (E072) Lodgement of a security deposit with Council upon practical completion of the public infrastructure works, works in accordance with the Council's *Interim Requirements for the Maintenance and Certification of Public Infrastructure Provided Through Land Developments* (dated 6 September 2010).
- (18) (E076) The plan of subdivision and Section 88B instrument shall establish the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release, vary or modify these covenants. Wherever possible the extent of the land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.
  - a. Prohibiting site access by any vehicle larger than a "small rigid vehicle (SRV)". Evidence of registration to be provided prior to any Occupation Certificate.

**F – OCCUPATION OF THE SITE**

- (1) (F001) On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development for use by both staff and patrons.
- (2) (F006) The basin of the outflow control pit and the debris screen must be cleaned of debris and sediment on a regular basis by the owner.

DRAFT



21/02/2013

Development Contributions Calculation Sheet - Final Consent Issue									
<b>Development Details</b>			<b>Contributions Plans Applicable</b>						
DA No.	2012	0460	<b>General S94 Plans</b>		<b>Applies</b>	<b>ET Chargeable</b>	<b>RatePer ET</b>	<b>Contribution Amount</b>	
Address:	122 & 124 Hastings River Drive, Port		Major Roads		No				
Dev Description:	Bulky Goods Premises		Open Space		No				
Lot Number(s):	5 & 6		Community Cultural & Emergency Services		No				
DP Number(s):	874058		Admin Building		No				
Stage No:	Total		Bushfire - Specific		No				
Applicant:	G J Chapman C/- Collins W Collins		Kings Creek		No				
Contribution Area:	<input type="checkbox"/> Camden Haven <input type="checkbox"/> Innes Peninsula <input type="checkbox"/> Kings Creek <input type="checkbox"/> Lake Cathie/Bonny Hills <input checked="" type="checkbox"/> Port Macquarie <input type="checkbox"/> Rural <input type="checkbox"/> Sancroft/Thrumster <input type="checkbox"/> Wauchope		Admin Levy		Yes	2.2% of S94	\$46,360.50	\$1,019.90	
(Planner must Select Contribution Area. Click Once with Mouse)			<b>Specific Contribution Plans and DSPs (Planner Must Select if Plans are Applicable)</b>						
			<b>S94A Levy Development Cost</b>		\$947,866	no			
			PMQ CBD Car Parking Contribution		<input type="checkbox"/> Applies				
			PMQ Gordon Street Car Parking Contribution		<input type="checkbox"/> Applies				
			Hastings River Drive Traffic Works - 3(s) Zone		<input checked="" type="checkbox"/> Applies	2166.17	\$21.40	\$46,360.50	
			Bushfire Additional		<input type="checkbox"/> Applies				
			Select Rate		<input type="checkbox"/> Applies				
DA Lodged Date:	12/09/2012		Water 1.6% Levy:		0	<input type="checkbox"/> Applies			
Prepared By:	Jesse D		Sewer		<input type="checkbox"/> Applies				
DA Consent Date:									
Issue No.	1								
Calc Sheet Date:	5-Oct-2012								
FINAL CONSENT CALCULATION	<input checked="" type="checkbox"/> Tick for FINAL Consent Calculation		<b>Car Parking CP</b>		<b>Contribution Total:</b> \$47,380.40				
			<b>No. of Spaces Short:</b>		<b>Notice of Payment Re-Issue Fee:</b> <input type="checkbox"/> Applies				
<b>ET Calculator for New Development (Proposed)</b>									
<b>Commercial &amp; Industrial New Development</b>			<b>Rate</b>	<b>Units</b>	<b>Water Rate</b>	<b>Sewer Rate</b>	<b>ET Water</b>	<b>ET Sewer</b>	<b>Traffic Facilities m<sup>2</sup></b>
INDUSTRIAL LOW SERVICE LOADING			m2	1227	0.00125	0.00025	1.53375	0.30675	
INDUSTRIAL LOW SERVICE LOADING			m2	203.74	0.00125	0.00025	0.254675	0.050935	
HASTINGS RIVER DRIVE TRAFFIC FACILITIES			Site m2	2166.17	0	0	0	0	2166.17
N/A			m2	0	0	0	0	0	
					<b>Total Commercial ETs:</b> 1.788425 0.357685 2166.17				
<b>New Residential Development</b>			<b>Units</b>	<b>Sec 94 ET</b>	<b>Water ET</b>	<b>Sewer ET</b>			
Number of newresidential lots greater than 450m <sup>2</sup> (excluding Dual Occ & Int Housing)			0	0	0	0			
Number of newresidential lots greater than 2000m <sup>2</sup> (excluding Dual Occ & Int Housing)			0	0	0	0			
1 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
2 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
3 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
4 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
1 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
2 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
3 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
4 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
Motel Unit - Partially Self Contained (Own ensuite but shared facilities for cooking & laundry)			0	0	0	0			
Motel Unit - Self Contained (Own ensuite and kitchen)			0	0	0	0			
Caravan Park - Not Self Contained Site (permanent or transient)			0	0	0	0			
Caravan Park - Partially Self Contained Site (permanent or transient)			0	0	0	0			
Nursing Homes High Dependency/Residential Care Facility (per bed)			0	N/A	0	0			
Nursing Homes LowDependency/Hostel (per bed)			0	0	0	0			
Aged Unit - Self Contained 1 bedroom with ensuite & kitchen (SEPP - Seniors Living)			0	0	0	0			
Aged Unit - Self Contained 2 bedroom with ensuite & kitchen (SEPP - Seniors Living)			0	0	0	0			
Aged Unit - Self Contained 3 bedroom with ensuite & kitchen (SEPP - Seniors Living)			0	0	0	0			
Boarding House per 1 Occupancy Bedroom Not Self Contained (shared facilities for cooking, laundry & bathrooms)			0	0	0	0			
Boarding House per 1 Occupancy Bedroom Partially Self Contained (Own ensuite - shared cooking & laundry facilities)			0	0	0	0			
Boarding House - Not Self Contained Per Bed (for dormitories/bunkrooms, shared cooking, laundry and bathroom)			0	0	0	0			
Boarding House - Self Contained Per Bed (for dormitories/bunkrooms, Own ensuite per bedroom/dorm/bunkroom, with shared cooking and laundry)			0	0	0	0			
<b>New Residential Unit Total:</b>			0	0	0	0			

21/02/2013

ET Calculation for Existing Development (Credits)							
Commercial & Industrial Existing Development	Rate	Units	Water Rate	Sewer Rate	ET Water	ET Sewer	Traffic Facilities m <sup>2</sup>
N/A	m2	0	0	0	0	0	
N/A	m2	0	0	0	0	0	
N/A	m2	0	0	0	0	0	
N/A	m2	0	0	0	0	0	
Total Commercial ETs:					0	0	0
Existing Residential Development	Units		Sec 94 ET	Water ET	Sewer ET		
Number of existing residential lots greater than 450m <sup>2</sup> (excluding Dual Occ & Int Housing)	2		2	2	2		
Number of existing residential lots greater than 2000m <sup>2</sup> (excluding Dual Occ & Int Housing)	0		0	0	0		
1 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)	0		0	0	0		
2 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)	0		0	0	0		
3 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)	0		0	0	0		
4 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)	0		0	0	0		
1 Bedroom Units (High Density - 3 or more storeys)	0		0	0	0		
2 Bedroom Units (High Density - 3 or more storeys)	0		0	0	0		
3 Bedroom Units (High Density - 3 or more storeys)	0		0	0	0		
4 Bedroom Units (High Density - 3 or more storeys)	0		0	0	0		
Motel Unit - Partially Self Contained (Own ensuite but shared facilities for cooking & laundry)	0		0	0	0		
Motel Unit - Self Contained (Own ensuite and kitchen)	0		0	0	0		
Caravan Park - Not Self Contained Site (permanent or transient)	0		0	0	0		
Caravan Park - Partially Self Contained Site (permanent or transient)	0		0	0	0		
Nursing Homes High Dependency/Residential Care Facility (per bed)	0		N/A	0	0		
Nursing Homes LowDependency/Hostel (per bed)	0		0	0	0		
Aged Unit - Self Contained 1 bedroom with ensuite & kitchen (SEPP - Seniors Living)	0		0	0	0		
Aged Unit - Self Contained 2 bedroom with ensuite & kitchen (SEPP - Seniors Living)	0		0	0	0		
Aged Unit - Self Contained 3 bedroom with ensuite & kitchen (SEPP - Seniors Living)	0		0	0	0		
Boarding House per 1 Occupancy Bedroom Not Self Contained (shared facilities for cooking, laundry & bathroom)	0		0	0	0		
Boarding House per 1 Occupancy Bedroom Partially Self Contained (Own ensuite - shared cooking & laundry facilities)	0		0	0	0		
Boarding House - Not Self Contained Per Bed (for dormitories/bunkrooms, shared cooking, laundry and bathroom)	0		0	0	0		
Boarding House - Self Contained Per Bed (for dormitories/bunkrooms, Own ensuite per bedroom/dorm/bunkroom with shared cooking and laundry)	0		0	0	0		
Existing Residential Unit Total:		2	2	2	2		

C:\Dev\Env\DEV AND BUILDING CONTROLS\DA\2012\DA2012-0460\Development Contributions Calculation Sheet, DA 2012-0460, Stage No. Total, Issue No.1

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**Item: 07****Subject: DA 2012/0531 - STAGED FIVE (5) LOT SUDIVISION, LOT 1 DP  
593025, 126 OLD KING CREEK ROAD, KING CREEK****Report Author: Clint Tink**

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<b>Property:</b>	<b>Lot 1 DP 593025, 126 Old King Creek Road, King Creek</b>
<b>Applicant:</b>	<b>Hopkins Consultants Pty Ltd</b>
<b>Owner:</b>	<b>M J &amp; S A Doran</b>
<b>Application Date:</b>	<b>24 October 2012</b>
<b>Date Formal:</b>	<b>29 January 2013</b>
<b>Estimated Cost:</b>	<b>N/A</b>
<b>Location:</b>	<b>King Creek</b>
<b>File no:</b>	<b>DA 2012/0531</b>
<b>Parcel no:</b>	<b>15641</b>

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**Alignment with Delivery Program**

- 4.9.2 Undertake development assessment in accordance with relevant legislation.
- 4.9.3 Implement and maintain a transparent development assessment process.

**RECOMMENDATION**

**That DA 2012/0531 for a staged five (5) lot subdivision at Lot 1 DP 593025, No. 126 Old King Creek Road, King Creek, be determined by granting consent subject to the recommended conditions.**

**Executive Summary**

This report considers a Development Application for staged five (5) lot subdivision at the subject site.

This report provides an assessment of the application in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

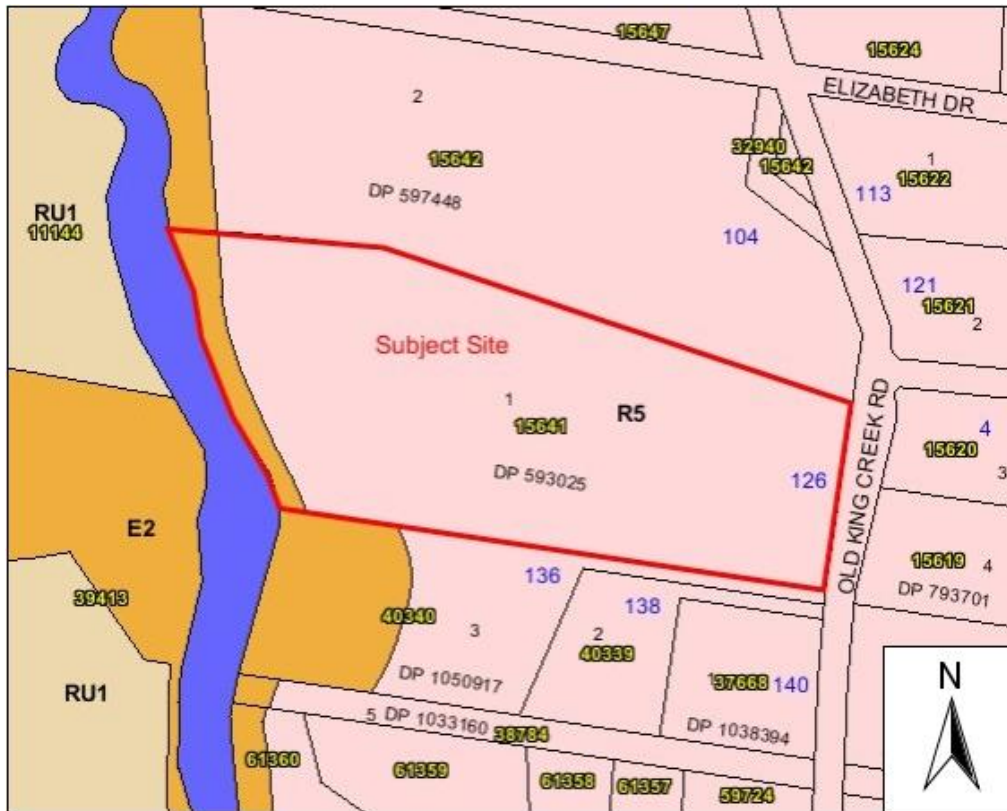
Subsequent to exhibition of the application, three (3) submissions have been received. It should be noted that two (2) of the three (3) submissions are considered to be related in that one is from an objecting property owner and the other is from a solicitor acting on behalf of the objecting property owner.

## 1. BACKGROUND

## Existing sites features and Surrounding development

The site has an area of 7.076ha.

The site is zoned R5 Large Lot Residential and E2 Environmental Conservation in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



The site has frontage to Old King Creek Road to the east and King Creek to the west. North of the site is undeveloped rural residential zoned land, while south and east of the site comprise developed rural residential land with associated housing. Further west of King Creek is rural zoned land and the east coast railway line.

The site contains an existing dwelling and is in a relatively disturbed state, containing limited vegetation. Traversing north south around the rear third of the property is a drainage line.

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





## 2. DESCRIPTION OF DEVELOPMENT

Key aspects of the application proposal include the following:

- Staged five (5) lot subdivision.
- Only (2) trees are nominated to be removed.
- No works are proposed within 40m of a watercourse.
- The E2 zoned land will not be impacted and will be retained in one area attached to proposed Lot 1.
- A vegetation management plan has been submitted with the ecological report, outlining a revised replanting schedule to that contained within the existing King Creek Koala Plan of Management (KPOM) October 2009.
- The proposal is bushfire prone and therefore becomes integrated development requiring an s100B approval under the Rural Fire Act 1997.

Refer to attachments at the end of this report.

## Application Chronology

- 24/10/2012 - Application lodged with Council.
- 29/10/2012 - Application put on hold pending outcome of rezoning.
- 8 to 22/11/2012 - Notification period.
- 15/11/2012 - Council staff requested additional information on compliance with the King Creek Koala Plan of Management, driveway numbers and tree removal.
- 29/11/2012 - Council staff requested additional information on heritage.
- 12/12/2012 - Applicant responded to Council staff requests dated 15 and 29 November 2012.
- 17/12/2012 - Applicant provided further detail on heritage.
- 21/12/2012 - The rezoning for the land was gazetted.

- 4/1/2013 - In relation to the applicant's responses, Council staff requested further information on the KPOM and driveway aspect.
- 29/1/2013 - Applicant amended subdivision design to provide a central driveway for proposed lots 4 and 5 between proposed lots 2 and 3. Ecological assessment also submitted.

### **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 44 - Koala Habitat Protection**

A Koala Plan of Management (KPOM) has previously been prepared and applies to the King Creek area, including the subject property. The development is partially located in an area not designated for building envelopes but rather protection/vegetation enhancement. In accordance with Clause 5.4, 5.5 and 8.2 of the KPOM, the applicant submitted an ecological report, which outlined that the development within the hatched replant areas would create no adverse impact. In particular, the development did not require any vegetation removal within the replant areas (i.e. all existing trees in the replant area will be maintained), the E2 zoned land will be retained in one lot, offset planting could still be undertaken, the drainage corridor should be replanted (done through conditions of consent), the replanted drainage corridor and E2 zoned land maintains the koala corridor link. Based on the findings in the ecological report, it is considered that the development remains consistent with the KPOM, subject to implementation of the recommendations in the ecological report being adopted. The recommendations will therefore form part of the conditions of consent.

#### **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.

The requirements of this SEPP are therefore satisfied.

#### **State Environmental Planning Policy 62 - Sustainable Aquaculture**

In accordance with clause 15C, the development will be conditioned to provide stormwater controls in accordance with relevant AUSPEC standards. There are also suitable buffers to the watercourse and King Creek onsite to enable the storm water controls to be provided that will ultimately maintain the water quality entering the Hastings River. In this regard, there is unlikely to be any adverse impact on existing aquaculture industries within the Hastings River.

#### **State Environmental Planning Policy (Infrastructure) 2007**

The development does not trigger any of the clauses or thresholds in the SEPP.

#### **State Environmental Planning Policy (Major Development) 2005**

The development does not trigger any of the clauses or thresholds in the SEPP.

**State Environmental Planning Policy (Rural Lands) 2008**

Refer to attached assessment at the end of this report.

**Port Macquarie-Hastings Local Environmental Plan 2011**

In accordance with clause 2.2, the subject site is zoned R5 Large Lot Residential and E2 Environmental Conservation.

In accordance with clause 2.3(1) and the R5 & E2 zone landuse tables, the proposed development for subdivision is a permissible landuse with consent.

The objectives of the R5 & E2 zones are as follows:

**R5**

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

**E2**

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect coastal wetlands and littoral rainforests.
- To protect land affected by coastal processes and environmentally sensitive land.
- To prevent development that adversely affects, or would be adversely affected by, coastal processes.
- To enable development of public works and environmental facilities where such development would not have an overall detrimental impact on ecological, scientific, cultural or aesthetic values.

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 landuse;
- the development will allow residential housing in a rural setting without impacting on scenic qualities or the environment as shown in the ecological assessment.
- the site has been identified and zoned for such a purposes and should not significantly impact on services or urban development.
- the SEPP (Rural Lands) 2008 assessment shows that minimal conflict will occur between the rural residential zoned land and the rural zoned land to the west.
- the ecological report identified little flora and fauna onsite, but recommended replanting to ensure the viability of the KPOM.
- the ecological report showed that minimal impact would occur on flora and fauna as a result of the subdivision.

In accordance with clause 4.1, the lot sizes within the proposed subdivision range from 1.2ha to 2.8ha. All proposed lots comply with the minimum lot size standard of



1.2ha identified in the Lot Size Map relating to the site. In terms of the E2 zoned land and associated 40ha minimum lot size standard - refer to comments on clause 4.1B below.

In accordance with clause 4.1B (minimum lot sizes for split zones), the development has shown that the E2 zoned land (40ha minimum lot size standard) will be contained in one lot, with that lot also containing enough R5 zoned land to meet the minimum lot size standard for the R5 zone. The E2 zoned land equates to approximately 3600m<sup>2</sup>. Therefore, proposed Lot 1 with a total area of 2.8ha - 3600m<sup>2</sup> of E2 zoned land, still leaves around 2.4ha of R5 zoned land, which meets the minimum lot size standard. The development therefore complies with Clause 4.1B and the 40ha minimum lot size standard for the E2 zone is not required to be complied with.

In accordance with clause 5.9, no listed trees in Development Control Plan 2011 are proposed to be removed.

Clause 5.10 – Heritage = The site does not contain or adjoin any known heritage items or sites of significance. The applicant also carried out an AHIMS search for aboriginal items and sites of significance, which failed to identify anything onsite. The site also substantially cleared (especially areas to be developed) and therefore shows signs of being disturbed by past activities. In this regard, it is considered highly unlikely that any heritage will be discovered onsite and the need for a formal assessment to be carried out by a suitably qualified person is not justified in this case. Conditions will also be imposed requiring work cease, should in the unlikely event, something be discovered during works.

In accordance with clause 7.1, the site has minor areas of class 5 potential acid sulfate soils around the King Creek area, which will not be disturbed. No further investigation work or conditions required in this case.

In accordance with clause 7.3, the site contains minor areas of land within a mapped “flood planning area” down near King Creek. No development is proposed in such an area, with the flood prone land to be contained within the E2 zoned land. Access is also not required across King Creek. Based on the above, further consideration of flooding is not warranted in this case as no impact will occur.

Clause 7.5 – Koala Habitat = The subject clause applies to land and requires the development be consistent with any existing KPOM applicable to the land. Furthermore, that any subdivision of such land also factor in building envelopes for future dwellings/development to ensure the KPOM is complied with. In this case, the King Creek KPOM applies to the site. Compliance with the KPOM has been addressed above in this report under the State Environmental Planning Policy 44 - Koala Habitat Protection section of this report.

In accordance with clause 7.13, satisfactory arrangements are in place for provision of essential public utility infrastructure including stormwater, water and on-site sewage management to service the development. Provision of electricity will be subject to obtaining satisfactory arrangements certification prior to the issue of a Subdivision Certificate as recommended by a condition of consent.

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

None relevant.

**(iii) any Development Control Plan in:**

**Port Macquarie Hastings Development Control Plan 2011**



DCP 2011 Requirement	Proposed	Complies
<b>Notification/Advertising</b>		
Development has been notified in accordance with DCP 2011	In accordance with the DCP, adjoining property owners were notified of the application and provided a minimum of fourteen (14) days to comment.	Yes
DP 6.1 Social Impact Assessment required	The development did not trigger any of the thresholds in the policy.	N/A
<b>Crime Prevention</b>		
DP 1.1 CPTED principles considered.	Refer to comments on "Safety, Security & Crime Prevention" in the main body of the assessment report.	Yes
<b>Environmental Management</b>		
DP 1.1-3.1 Heritage considerations	Refer to comments on "Heritage" in the main body of the assessment report.	Yes
DP 4.1-7.4 Cut & Fill & Retaining Wall requirements	Minor cut and fill works will be required for driveways. Erosion and sediment controls will minimise any erosion issues.	Yes
DP 10.1 Habitat offset requirements where vegetation removed. VMP required for any environmental land.	Conditions will be imposed to cover vegetation removal including the need for a vegetation management plan.	Yes
DP 11.1- 12.5 Hollow Bearing Tree Requirements & Offsets	No hollow bearing trees were identified for removal within the developable area.	N/A
<b>Tree Management</b>		
DP 1.1-3.9 Management of trees and associated removal.	The removal of the two (2) trees in the driveway will form part of the vegetation management plan.	Yes
<b>Hazards Management</b>		
DP 3.1-4.1 Development within Clause 7.7 LEP area not to be bird attracting, dust etc emission producing.	The development is not located within a Clause 7.7 area.	N/A
DP 5.1 Lighting requirements within Clause 7.7 LEP area	The development is not located within a Clause 7.7 area.	N/A
DP6.1 – Development to comply with Planning for Bushfire Protection Guidelines 2006	Refer to comments on "Bushfire" in the main body of the assessment report.	Yes
DP 7.1 APZ's outside environmental zones and contained within private property.	APZ's are located outside of the E2 zone.	Yes
DP 7.2-7.3 Perimeter roads to all	Perimeter road not required	N/A.

urban areas adjoining environmental zones and design requirements	for a rural residential subdivision of this small scale.	
DP 10.1 Development complies with LEP flood clauses and Floodplain Management Plan.	Refer to comments on flooding the LEP 2011 section of this report.	Yes
DP 12.1 Stormwater complies with Auspec	Refer to comments on "Stormwater" in the main body of this assessment report.	Yes
<b>Transport, Traffic Management, Access and Car Parking</b>		
DP 1.1-1.3 New roads are designed in accordance adopted specifications.	Council's Engineers have assessed the application and raised no concerns in relation to the driveways or access points.	Yes
DP 2.1-2.3 New direct access to arterial or distributor road not permitted and existing accesses rationalised where possible.	The site does not propose any new access to an arterial or distributor road.	N/A
DP 13.1-13.2 Landscaping requirements on Council land.	None proposed or required in this case.	N/A
<b>Subdivision</b>		
DP1.1 Provision of suitable site analysis in accordance with listed requirements.	Site plan submitted with the application.	Yes
DP3.1 Battleaxe lots discouraged, and if applicable, justified in accordance with DP3.2	The clause is more relevant to urban residential zoned land. Battleaxe lots are acceptable in small scale rural residential developments such as this where a full design road and access to each lot is not required or practical.	Yes
DP4.1 Lots designed to create dwellings with no more than 1m cut and fill outside building walls.	Cut and fill for the site will be minimal and consistent with the DCP.	Yes
DP5.1-5.2 Solar access considered through: <ul style="list-style-type: none"> <li>Minimal creation of narrow north facing blocks;</li> <li>Blocks generally created with north-south orientation &amp; in accordance with fig. 12;</li> </ul>	Being rural residential lots, sufficient access to solar access exists within each lot.	Yes
DP5.3 Lots ensure future dwelling has ample opportunity for solar passive design.	Refer to above comment.	Yes
DP6.1 & DP6.2 <ul style="list-style-type: none"> <li>Provision of suitable street plan derived from site analysis (see DP1.1);</li> </ul>	Streets not proposed in this case.	N/A



<ul style="list-style-type: none"> <li>Street Plan provided in accordance with requirements listed in DP6.2</li> </ul>		
<b>DP6.3</b> <ul style="list-style-type: none"> <li>Kerb and guttering provided, or alternative solution demonstrated.</li> <li>Acceptable drainage techniques demonstrated</li> </ul>	Kerb and guttering not required for rural residential.	N/A
<b>DP6.4</b> Size of blocks may vary provided acceptable ease of movement demonstrated.	Size of lots are acceptable.	Yes
<b>DP7.1 &amp; DP7.2</b> Subdivisions close to urban centres, or along arterial roads serviced by public transport achieve >35 dwellings per hectare (high – medium yield)	The development is not close to an urban centre or located along an arterial road. Lots sizes are in accordance with the LEP and not too dissimilar from adjoining areas. Thereby density is also acceptable and consistent with the existing area.	Yes
<b>DP 42.1</b> Minimum gate width of 3.6m to allow for fire utilities.	Application has been assessed against relevant bushfire legislation with conditions on access proposed by the NSW RFS.	Yes
<b>DP 43.2</b> Rural areas and provisions relevant to rural residential should contain building envelopes, suitable driveways sensitive to environment, comply with bushfire provisions, be above flood level, access to solar and not impact on rural activities.	The previous comments provided on these aspects throughout this report show the development has had regard and complies with these requirements.	Yes
<b>DP 43.2</b> maximum number of lots off a right of way not to exceed 2.	The number of lots off a right of way does not exceed 2.	Yes
<b>DP 43.4</b> Battleaxe handles to be of a suitable width to allow access etc in accordance with Council design standards.	The battleaxe handles have been accepted by Council's Engineering Section.	Yes
<b>DP 44.1</b> Lot boundaries to have regard for site features, topography etc.	The subdivision is considered acceptable. Habitat areas will be maintained and protected.	Yes
<b>DP 45.1-46.2</b> Rural roads servicing rural residential to be designed in accordance with Council design specifications with pathways and cycle ways to be provided in large lot residential.	No new rural roads are proposed. In this regard, cycle ways or pathways do not apply.	Yes
<b>King Creek</b>		

DP 1.1 Dwelling houses and effluent not on slopes >15 degrees.	The slope is suitable for future dwellings and effluent disposal areas.	Yes
DP 2.1 Building envelopes below 45m AHD for water supply.	Building envelopes are below 20m AHD.	Yes
DP 3.1 Max 60 dwelling below dam break	Development not located in dam break area.	N/A
DP 4.1-5.1 Habitat areas	The development is proposed within a habitat area. Refer to comments on SEPP 44, which outline an alternative revegetation strategy has been proposed and deemed acceptable. The revegetation will be reinforced via a vegetation management plan.	Yes

(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:

None relevant.

iv) any matters prescribed by the Regulations:

None relevant.

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:

None relevant.

(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 frontage to Old King Creek Road to the east and King Creek to the west. North of the site is undeveloped rural residential zoned land, while south and east of the site comprise the developed rural residential aspects with associated housing. Further west of King Creek is rural zoned land and the east coast railway line.

The site contains an existing dwelling and is in a relatively disturbed state, containing limited vegetation. Traversing north south around the rear third of the property is a drainage line.

The subdivision is to occur in three (3) stages.

The proposal will be unlikely to have any adverse impacts on existing adjoining properties and is consistent with the rural residential setting of the locality.



**Access, Transport & Traffic**Roads

Existing Old King Creek is a dedicated bitumen sealed two (2) lane rural road maintained by Council.

Traffic

The subdivision will have minimal effect on the road network, with Council staff being mindful of the cumulative effect of vehicular trips within the road network.

Access

The proposed subdivision will require an additional three (3) crossings to serve the development. There is currently one existing rural driveway. These driveways will need to be constructed to Council's rural design standard, being bitumen sealed from the edge of existing seal in Old King Ck Rd to the property boundary and piped culvert. Each lot shall have a sealed access road from Old King Creek Road to a point 3m distance within each lot. The road access handles shall be constructed to the requirements of RFS Planning For Bushfire Publication 2006 (or current edition if later) with appropriate passing bays provided in accordance with this publication.

**Public Domain**

The development is contained within the site and is unlikely to impact on the public domain. Being a rural residential area, the public domain is limited in this case.

**Utilities**

Existing utilities are available in the area and will need to be extended to serve the development.

**Stormwater**

Being a rural residential area, stormwater can easily be managed within the existing property.

**Water**

Contrary to the indication in the application that there is no reticulated water supply in this area, there is a 150mm PVC watermain on the same side of King Creek Road that will be able to serve the development and in addition, there is an existing 20mm water service on the site.

Council records indicate that the site has a 20mm water service that may be suitable for retention for use by the existing dwelling on proposed lot 1. 20mm sealed water services will be required for proposed lots 2, 3, 4 & 5 and provided by Council at the proponent's cost from the 150mm PVC water main on the same side of Old King Creek Road. In addition, a minimum 25mm copper (or 32mm blue stripe PN16 polyethylene) water service pipe will be required along the length of the access handles of proposed lots 4 & 5. Details are to be shown on the engineering plans.

**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**

The applicant commissioned an ecological assessment be carried out on the subject property. The report concluded that the proposed development will not require any removal/clearing of any significant vegetation and therefore will be unlikely to have any adverse impacts on biodiversity or threatened species of flora and fauna.

Drainage lines are to be protected by buffer setbacks and will be further revegetated via the conditioning of a vegetation management plan.

Impact on koalas has been addressed above in this report under the State Environmental Planning Policy 44 - Koala Habitat Protection section of this report.

Section 5A of the Act is considered to be satisfied.

**Waste**

Satisfactory arrangements can be conditioned to ensure suitable storage and collection of waste and recyclables. The applicant has submitted an onsite waste management report, which shows each lot is capable of supporting a dwelling while also maintaining suitable buffers to drainage lines.

**Noise & Vibration**

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

**Heritage**

The site does not contain or adjoin any known heritage items or sites of significance. The applicant also carried out an AHIMS search for aboriginal items and sites of significance, which failed to identify anything onsite. The site also substantially cleared (especially areas to be developed) and therefore shows signs of being disturbed by past activities. In this regard, it is considered highly unlikely that any heritage will be discovered onsite and the need for a formal assessment to be carried out by a suitably qualified person is not justified in this case. Conditions will also be imposed requiring work cease, should in the unlikely event, something be discovered during works.

**Natural Hazards****Bushfire**

The applicant has submitted a bushfire report as required under Section 100B of the Rural Fires Act 1997, which has been forwarded to the NSW Rural Fire Service.

The NSW Rural Fire Service have assessed the application and issued a Bushfire Safety Authority consisting of a series of conditions that are recommended to be incorporated into the conditions of consent.

**Contamination Hazards**

Refer to comments on SEPP 55 above in this report.

**Safety, Security & Crime Prevention**

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. The increase in housing density will improve natural surveillance within the locality.

**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. The area has been zoned for rural

residential purposes to which the development is consistent with. The development of the site is likely to create work/jobs, which creates positive flow on effects within the community through increased expenditure.

**Economic Impact in the Locality**

Positive economic impacts will occur from the construction of the development through increased employment and the associated flow on effects that can be created (i.e. increased expenditure).

**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 long term impacts will occur from the construction process. There may be some short term noise and disruption, which can be managed through conditions pertaining to noise.

**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.

**Ecologically Sustainable Development and Precautionary Principle**

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes.

The four principles of ecologically sustainable development are:

- the precautionary principle,
- intergenerational equity,
- conservation of biological diversity and ecological integrity,
- improved valuation, pricing and incentive mechanisms.

The principles of ESD require that a balance needs to be struck between the man-made development and the need to retain the natural vegetation. Based on the assessment provided in the report and with recommended conditions of consent, it is considered an appropriate balance has been struck.

**(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:**

Three (3) written submissions have been received following completion of the required public exhibition of the application.

It should be noted that the lot numbers vary on a number of the reports/plans submitted. For the purposes of the submissions, the lots have been considered as follows:

- Lot 1 = The rear lot containing the existing dwelling.

- Lots 2 & 3 = The two (2) front lots facing and with direct access to Old King Creek Road. Lot 2 is the northern lot while Lot 3 is the southern property.
- Lots 4 & 5 = The two (2) middle lots. Lot 4 being the northern lot and Lot 5 being the southern property.

Key issues raised in the submissions received and comments in response to these issues are provided as follows:

Submission Issue/Summary	Planning Comment/Response
The southern vehicular access to proposed Lots 4 & 5 is not supported as it will create visual, safety and noise impacts on residents to the south. The access also requires tree removal.	The vehicular access to proposed Lots 4 & 5 has been amended and is now located between proposed Lots 2 & 3. This will provide over 50m separation to the southern boundary. This coupled with only two (2) lots being accessed of the driveway, will ensure there is no significant noise or visual impact on neighbours. The number of driveways has also been accepted by Council Engineering staff as being suitable for the location. Two (2) trees are proposed to be removed, which have been accepted from an ecological aspect by the flora and fauna report that was completed with the application.
The building envelope for proposed Lot 5 is not suitable. The building envelope requires tree removal for bushfire protection purposes and will create drainage into the central watercourse.	The applicant has demonstrated that a dwelling can be erected on proposed Lot 5 without requiring any tree removal. It should be noted that trees are allowed to be retained in Asset Protection Zones without compromising bushfire protection. This was also confirmed in the ecological report, which nominated that only two (2) trees required removal when factoring in building envelopes, bushfire protection measures, driveways etc. The two (2) trees to be removed are in the driveway to proposed Lot 5 and comprise a bloodwood and cheese tree only. A minimum 40m buffer will be retained to the drainage line, which ensures protection.
Anomalies exist in the Bushfire Report such as: <ul style="list-style-type: none"> <li>• The break in canopy created from powerlines cannot be guaranteed to continue into the future.</li> <li>• The dry sclerophyll forest to the west is closer than 27m to the building envelope of proposed Lot 5.</li> <li>• The Rural Fires Act 1997 has been replaced with the Rural Fire Regulation 2008</li> </ul>	The bushfire assessment can only consider what is in place at the time of assessment. Furthermore, revegetation of the area will be conditioned to comply with a vegetation management plan. Calculations suggest that the report is accurate in terms of distances to fire threats and applicable APZ's. The Rural Fires Act 1997 still applies and is the relevant legislation to trigger the bushfire assessment. The Regulation supports the Act.
The application has not considered SEPP 44,	The application is considered to have addressed these matters. Initially some of the information was



Environmental protection Zones, riparian corridors and aboriginal heritage.	insufficient, but has since been updated with further ecological reports etc.
Tree removal is proposed within the Clause 7.5 Koalas Habitat area.	Only two (2) trees are proposed to be removed onsite. Neither are koala food trees and have been accepted by the submitted ecological report.
Ecology and impacts on the environment have not been suitably addressed. A qualified person did not assess the koala habitat situation. Furthermore, the value of koala food trees being removed cannot be replaced	Agreed the original information was not acceptable for determining impacts on koala habitat and ecology/environment. Council subsequently requested the applicant submit an ecological report prepared by a suitably qualified person addressing relevant legislation. The applicant has since provided such information, which confirms the development can occur without impact, subject to conditions. In particular, a vegetation management plan will be required. Tree removal is addressed in the above point with no koala food trees to be removed.
The onsite waste management system for proposed Lot 5 does not comply with Council's Code. In particular, the bushfire report states that the building envelope is 27m from the drainage line, while Council's code requires a 40m setback to watercourses.	A building envelope is an indicative area for a dwelling. This does not necessarily mean the dwelling will be located 27m from the watercourse. Measurements suggest a dwelling can be built on proposed Lot 5 while still maintaining a 40m setback. Further to the above, the bushfire report is dealing with a building envelope/dwelling. An onsite waste management system does not have to be considered in a bushfire report. In this regard, the onsite waste management report needs to be considered. The subject report submitted by the applicant shows that the onsite system will be located 40m from the drainage line.
Heritage has not been suitably addressed in the application.	Refer to comments on Heritage in the Port Macquarie Hastings Local Environmental Plan 2011 section of this report.

**(e) The Public Interest:**

The proposed development satisfies relevant planning controls and is not expected to impact on the wider public interest. The proposed development will be in the wider public interest by facilitating appropriate additional housing in a zoned rural residential area.

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

- Development contributions will be required towards augmentation of town water supply 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, King Creek, 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.

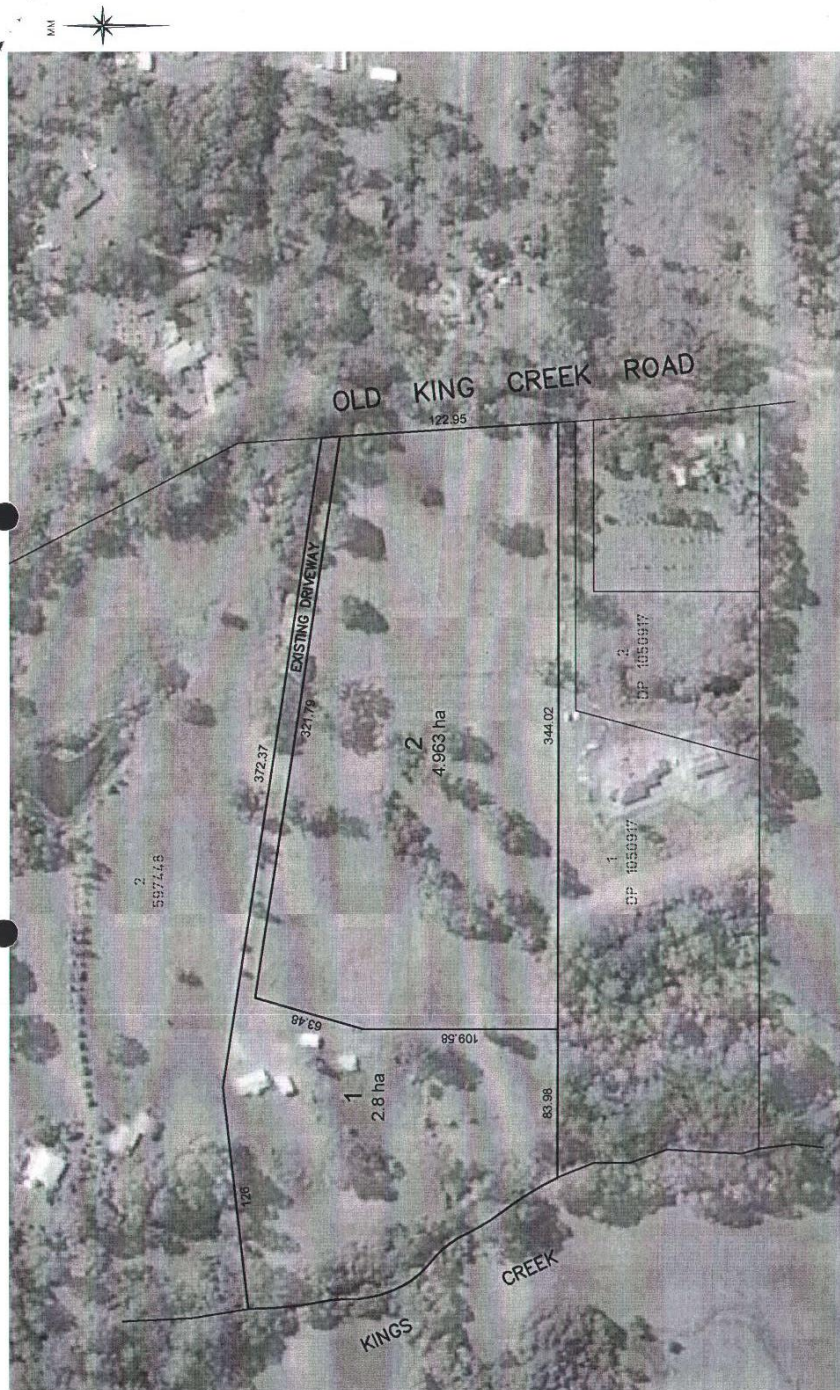
Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

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. Consequently, 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](#). DA2012 - 0531 Plans
- 2[View](#). DA2012 - 0531 SEPP (Rural Lands) 2008 assessment
- 3[View](#). DA2012 - 0531 Recommended Conditions
- 4[View](#). DA2012 - 0531 Development Contributions Calculation Sheet

27/02/2013



Drawing Number/Reference	Rev.
6461-003-11	
Author	DB
Origin of Levels	22-10-2012
Height	Sheet Size
Surveyor	A3
GA	Sheet No
Approved	1
Scale	1:2000
Total	3

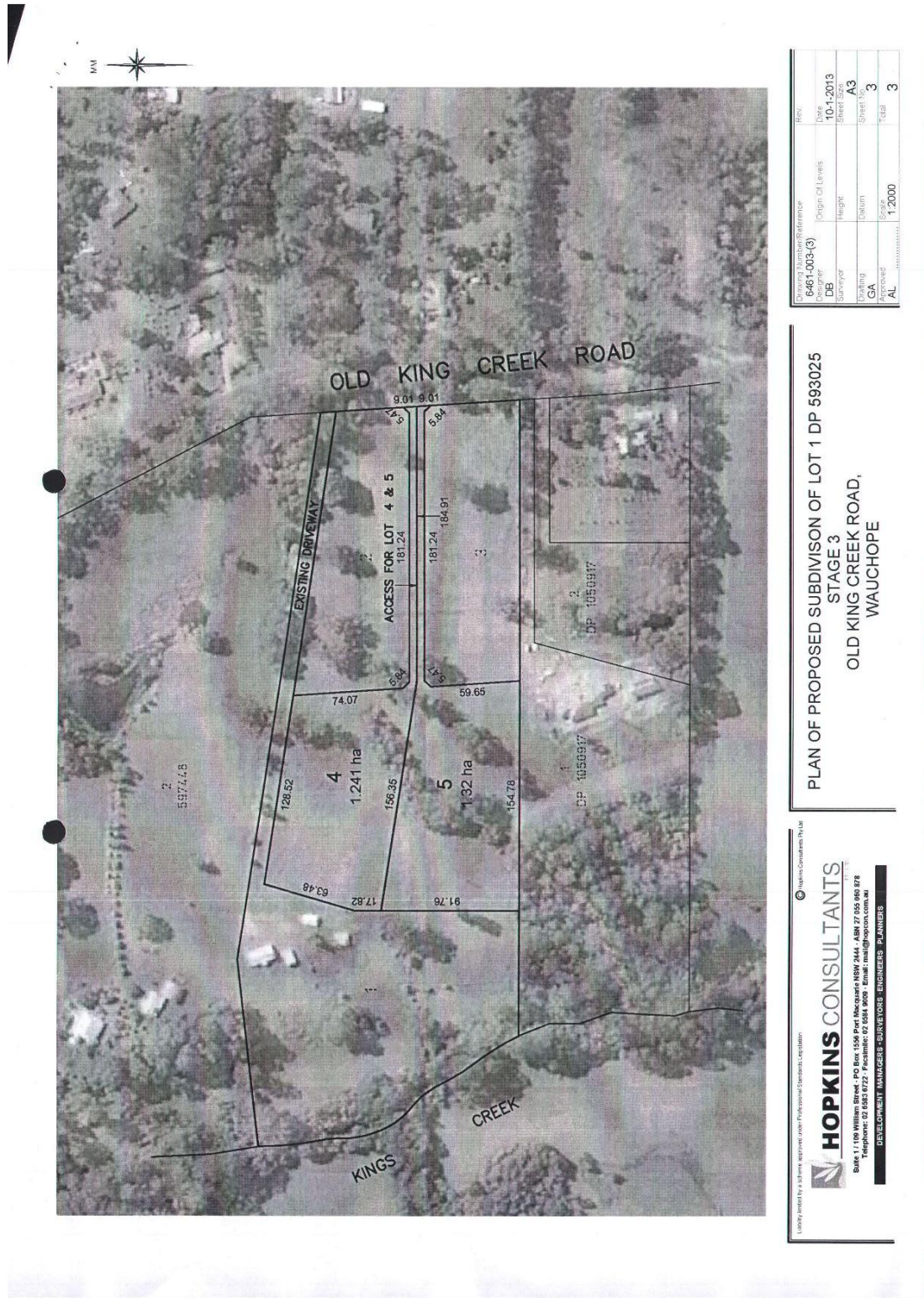
PLAN OF PROPOSED SUBDIVISION OF LOT 1 DP 593025  
STAGE 1  
OLD KING CREEK ROAD,  
WAUCHOPE

**HOPKINS CONSULTANTS**  
 Suite 1 / 109 William Street - PO Box 1558 Port Macquarie NSW 2444 - ABN 27 655 969 878  
 Telephone: 02 6553 8722 - Facsimile: 02 6554 8009 - Email: mail@hopkins.com.au  
 DEVELOPMENT MANAGERS - SURVEYORS - ENGINEERS - PLANNERS









SEPP requirement	Comment	Complies
<b>Objectives</b>		
2(a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,	The area to be developed has been identified through a recent rezoning. Previous studies completed on the property, plus those completed as part of the rezoning and development application confirm that the site is suitable for rural residential purposes and is suitably serviced. The rural zoned land is also well separated from the site via a 50m+ buffer comprising King Creek and E2 zoned land. This will minimise any conflict along with the rural zoned land not being used for any substantial rural pursuits.	Yes
2(b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,	Refer to above comments.	Yes
2(c) to implement measures designed to reduce land use conflicts,	It is considered that there would be limited conflict between the development and any surrounding rural uses. This is based on the limited rural pursuits being carried out in the area. The King Creek and E2 buffer area will also provide further protection.	Yes
2(d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,	The area to be developed would not impact on State significant agricultural land.	Yes
2(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.		N/A
<b>Rural Planning Principles</b>		
7(a) the promotion and protection of opportunities for current and potential productive and sustainable	The development will not impact on the current or potential productive and economic activities in the area as per comments on Clause 2(a) above.	Yes

economic activities in rural areas,		
7(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,	Refer to all comments above.	Noted
7(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,	Refer to all comments above.	Noted
7(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,	Based on the comments above and the conclusions from the ecological report accompanying the development application, it is considered that a balance has been met between the relevant aspects.	Yes
7(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,	Refer to comments above. The proposed development will not impact on flora and fauna, watercourses or any known natural resources. In particular, the drainage line onsite is not to be developed and will be replanted to create an improved habitat link.	Yes
7(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,	Refer to comments on 2(a) and 7(d) above.	Yes
7(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,	Refer to comments on 2(a) and 7(d) above.	Yes
7(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.	The site has recently been rezoned for rural residential purposes.	Yes
<b>Rural Subdivision</b>		



<b>Principles</b>		
8(a) the minimisation of rural land fragmentation,	The rural land will not be subdivided or fragmented.	Yes
8(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,	Refer to comments on 2(a) above.	Yes
8(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,	The subdivision complies with minimum lot size standards as established during the rezoning.	Yes
8(d) the consideration of the natural and physical constraints and opportunities of land,	Significant features such as King Creek and the drainage line will not be developed. Only two (2) trees are proposed to be removed, which contain no habitat value.	Yes
8(e) ensuring that planning for dwelling opportunities takes account of those constraints.	Building envelopes have been nominated to show that the subdivision can occur without impacting on flora and fauna or adjoining rural zoned land.	Yes
<b>Rural Subdivision for Agricultural Purposes</b>		
9(1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.	Not relevant to this application.	N/A
9(2) Land in a rural zone may, with consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size otherwise permitted for that land.		
9(3) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.		



9(4) A dwelling cannot be erected on such a lot.		
9(5) State Environmental Planning Policy No 1—Development Standards does not apply to a development standard under this clause.		
<b>Matters to be considered in determining development applications for rural subdivisions or rural dwellings</b>		
<p>10(1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.</p> <p>10(2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes:</p> <ul style="list-style-type: none"> <li>(a) subdivision of land proposed to be used for the purposes of a dwelling,</li> <li>(b) erection of a dwelling.</li> </ul> <p>10(3) The following matters are to be taken into account:</p> <ul style="list-style-type: none"> <li>(a) the existing uses and approved uses of land in the vicinity of the development,</li> <li>(b) whether or not the development is likely to have a significant impact</li> </ul>	The development and future dwellings (as shown via building envelopes) are unlikely to create any conflict issues with the adjoining rural land by virtue of the buffer provided by the E2 zoned land and King Creek,	Yes

<p>on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,</p> <p>(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),</p> <p>(d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,</p> <p>(e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).</p>		
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FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011

NOTE: THESE ARE DRAFT ONLY

DA NO: 2012/531

DATE: 21/02/2013

## PRESCRIBED CONDITIONS

Part 6 – Division 8A of the *Environmental Planning & Assessment Regulations 2000*

- (1) (P003) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- showing the name, address and telephone number of the principal certifying authority for the work, and
  - showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

## A – GENERAL MATTERS

- (1) (A001) The development is to be carried out in accordance with the plans and supporting documents set out in the following table, as stamped and returned with this consent, except where modified by any conditions of this consent.

Plan / Supporting Document	Reference	Prepared by	Date
Statement of Environmental Effects & Appendix C & D	-	Hopkins Consultants Pty Ltd	October 2012
Plan of Subdivision	Dwg No 6461-003(1) Sheets 1-3	Hopkins Consultants Pty Ltd	22/10/2012
Ecological Report	Project EA-2013-1401	FloraFauna Consulting	January 2013

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

- (A003) The proponent shall submit an application for a Subdivision Certificate for Council certification with all relevant documentation.
- (A004) An application for a Construction Certificate will be required to be lodged with Council prior to undertaking subdivision works and a Subdivision Certificate is required to be lodged with Council on completion of works.
- (A013) The general terms of approval from the following authorities, as referred to in section 93 of the Environmental Planning and Assessment Act

1979, and indicated in Section F of this consent, are attached and form part of the consent conditions for this approval.

- NSW Rural Fire Service

- (5) (A019) Prior to preparation of any engineering design plans, the consultant preparing the design plans will need to contact Council's Engineering Development Section within Infrastructure Division to discuss the extent and scope of all works and details required on the design plans to conform to Council's Development Control Plans, Codes, Policies and AUSPEC Specifications. Some of the issues to be discussed and incorporated in the design plans include, but are not limited to the following:
- Infrastructure construction of sealed footway crossing and piped drainage
- (6) (A028) Construction of functional vehicular accesses to rural allotments in accordance with AUSPEC Specifications D1.31. Details of the construction of the accesses are to be provided with the application for approval pursuant to Section 138 of the Roads Act.
- (7) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
- a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
  - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
  - c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

Such security is to be provided to Council prior to the issue of the Subdivision Certificate/Construction Certificate or Section 138 of the Roads Act, 1993.

The security is to be for such reasonable amount as is determined by the consent authority, being an amount that is 10% of the contracted works for Torrens Title subdivision development/the estimated cost plus 30% for building development of public works or \$5000, whichever is the greater of carrying out the development by way of:

- i. deposit with the Council, or
- ii. an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred to above and on application being made to the Council by the person who provided the security any balance remaining is to be refunded to, or at the direction of, that person. Should Council have to call up the bond and the repair costs exceed the bond amount, a separate invoice will be issued. If no application is made to the Council for a refund of any balance remaining of the security within 6 years after the work to which the security relates has been completed the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

- (8) (A196) Each lot shall have a sealed access road from Old King Creek Road to a point 3 metres distance within each lot. The road access handles shall be constructed to the requirements of RFS Planning For Bushfire Publication 2006 (or current edition if later) with appropriate passing bays provide in accordance with this publication.
- (9) (A195) This development consent approves the development to be completed in three (3) stages.



- Stage 1 = 1 lot plus a residue
- Stage 2 = 2 lots plus a residue
- Stage 3 = 2 lots plus a residue

Unless specified, the conditions of this consent will apply to all stages, with any decision on any discrepancy with the conditions and associated staging resting with Council. Any decision to allow a change to the staging will also rest with Council along with applicable conditions and any contributions payable.

#### B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
  - Position and depth of the sewer (including junction)
  - Stormwater drainage termination point
  - Easements
  - Water main
  - Proposed water meter location
- (2) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
  1. Water supply reticulation.
  2. Water supply plans shall include hydraulic plans for internal water supply services and associated works in accordance with AS 3500, NSW Code of Practice and Port Macquarie-Hastings Council Policies.
  3. Detailed driveway profile in accordance with Australian Standard Drawings ASD 208 & 214, Port Macquarie-Hastings Council current version.
- (3) (B007) If engineering works are of a value equal to or greater than \$25,000, a detailed estimate of cost of the civil engineering works and documentary proof of payment of the levy required by the Building and Construction Industry Long Service Payments Act must be provided to Council prior to any approval of engineering plans.
- (4) (B008) This consent approves the staging of the subdivision subject to:
  - a. the applicant supplying an updated staging plan when lodging a Construction Certificate application showing each of the preceding stages and the proposed stages of the subdivision;
  - b. compliance with any other conditions of consent in relation to the staging of works.
- (5) (B017) Submission to Council of an application for water service connections and compliance with Council's requirements for the provision of such connections. Payments of costs to provide for these connections and/or extensions are to be made prior to the issue of the Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.

- (6) (B030) An application under Section 138 of the Roads Act 1993 is to be submitted to and approved by Council for works associated with the development on or within the Public Road.
- (7) (B033) An Erosion and Sediment Control Management Plan shall be submitted to and approved by the Principal Certifying Authority with the application for Construction Certificate.

The plan shall include measures to:

- a. Prevent site vehicles tracking sediment and other pollutants from the development site.
  - b. Dust control measures.
  - c. Safety measures for temporary and permanent water bodies including fencing and maximum batter slopes.
  - d. Contingencies in the event of flooding.
- (8) (B056) Prior to the issue of any Construction Certificate plans, the provision of water services to the land are to be approved by the relevant Water Authority and relevant payments received.
- (9) (B195) Council records indicate that the site has a 20mm water service that may be suitable for retention for use by the existing dwelling on proposed lot 1. 20mm sealed water services will be required for proposed lots 2, 3, 4 & 5 and provided by Council at the proponent's cost from the 150mm PVC water main on the same side of Old King Creek Road. In addition, a minimum 25mm copper (or 32mm blue stripe PN16 polyethylene) water service pipe will be required along the length of the access handles of proposed lots 4 & 5. Details are to be shown on the engineering plans.
- (10) (B196) A vegetation management plan shall be submitted and approved by Council prior to the release of the subdivision construction certificate application. The plan shall outline, but not be limited to the following:
- Details of plantings of endemic species to provide compensation for the loss of potential habitat on-site.
  - Vegetation removal associated with construction works, proposed dwelling sites and asset protection zones.
  - Any proposed vegetation to be installed onsite prior to the release of the subdivision certificate.
  - Process for removing and disposing of felled trees and vegetation.
  - Process of protecting trees to be retained during clearing works.

The plan is to be consistent with/incorporate the recommendations of the ecological report prepared by FloraFauna Consulting dated January 2013 and the approved King Creek Koala Plan of Management. In addition, the vegetation management plan (once approved by Council) will form part of this consent and is to be complied with at all times.

#### C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.
- (2) (C004) Erosion and sediment controls in accordance with the approved management plan shall be in place prior to the commencement of any works

or soil disturbance and maintained for the entirety of the works until the site is made stable by permanent vegetation cover or hard surface.

- (3) (C007) Provision of a hoarding, fence or other measures to restrict public access to the site during the course of works. Where the hoarding will encroach upon public land an application for approval under section 138 of the Roads Act, 1993 is to be lodged with Council.
- (4) (C195) A Qualified ecological consultant is to inspect all native trees approved for removal prior to felling. If there are any koala or other fauna species in the tree, work is to cease until the animal has moved from the area.
- (5) (C196) All measures are to be taken to prevent damage to trees and other vegetation (including root systems) to be retained during site works and construction. Trees and other vegetation to be retained are to be protected by the erection of tree protection fencing compliant with AS4970/2009 Protection of trees on development sites. Protective fencing is to be in place prior to commencement of any works on site and must remain in place until the works are complete. No building materials or other items is to be placed or stored within fenced off areas and certified by project arborist.

#### D – DURING WORK

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:

- a. when the sub-grade is exposed and prior to placing of pavement materials;
- b. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
- c. on completion of road gravelling or pavement;

All works at each hold point shall be certified as compliant in accordance with the requirements of AUSPEC Specifications for Provision of Public Infrastructure and any other Council approval, prior to proceeding to the next hold point.

- (2) (D004) The capacity and effectiveness of erosion and sediment control measures shall be maintained at all times in accordance with the approved management plan until such time as the site is made stable by permanent vegetation cover or hard surface.
- (3) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (4) (D014) Work on the project being limited to the following hours, unless otherwise permitted by Council: -
  - Monday to Saturday from 7.00am to 6.00pm
  - No work to be carried out on Sunday or public holidays
 The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.



- (5) (D019) Building equipment and/or materials shall be contained wholly within the site and shall not be stored or operated on the footpath or roadway, unless specific written approval has been obtained from Council beforehand.
- (6) (D035) Stockpiles of topsoil, sand, aggregates, spoil or other material shall be stored clear of any natural drainage path, trees (nominated for retention) constructed drainage systems, easement, water bodies, or road surface and located wholly within the site with measures in place to prevent erosion or movement of sediments in accordance with the approved management plan. All spillage of materials, as a result of delivery or handling, must be removed as soon as practicable and placed into suitable receptacles for reclamation or disposal in a manner that does not cause pollution of the environment.
- (7) (D036) Open and piped drains, gutters, roadways and access ways shall be maintained free of sediment for the duration of the work. When necessary, roadways shall be swept and drains and gutters cleaned of sediment build up.
- (8) (D047) If any Aboriginal objects are uncovered due to the development activities, all works must halt in the immediate area to prevent any further impacts to the find or finds. A suitably qualified archaeologist and Aboriginal community representatives must be contacted to determine the significance of the find(s). The site is to be registered (refer Section 91) of the NPW Act) in the AHIMS (managed by DECCW) and the management outcome for the site included in the information provided to the AHIMS. It is recommended that local Aboriginal community representatives are consulted in developing and implementing management strategies for all sites, with all information required for informed consent being given to the representatives for this purpose.

#### E – PRIOR TO OCCUPATION OR THE ISSUE OF SUBDIVISION CERTIFICATE

- (1) (E008) Payment to Council, prior to the issue of the Subdivision Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
  - Hastings S94 Administration Building Contributions Plan
  - Hastings Administration Levy Contributions Plan
  - Hastings S94 Major Roads Contributions Plan
  - Hastings S94 Open Space Contributions Plan
  - Kings Creek Contributions Plan
  - Community Cultural and Emergency Services Contributions Plan 2005

The plans may be viewed during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.

The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.

- (2) (E009) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution, prior to the issue of a Subdivision Certificate of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent is required. The



contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plan towards the following:

- augmentation of the town water supply headworks
- (3) (E010) Driveways, access aisles and parking areas shall be provided with a bitumen sealed surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended).
- (4) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant in accordance with the requirements of AUSPEC in accordance with the Council's *Interim Requirements for the Maintenance and Certification of Public Infrastructure Provided Through Land Developments* (dated 6 September 2010) prior to issue of the release of the security bond to guarantee completion of public works.
- (5) (E056) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of any occupation or subdivision certificate.
- (6) (E061) Landscaped areas associated with the vegetation management plan being completed prior to issue of the Subdivision Certificate.
- (7) (E065) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to Council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (8) (E068) Prior to the issue of a Subdivision Certificate, written advice is to be submitted from the relevant service providers confirming that its requirements for the provision of services required by this consent or other approval have been satisfied.
- (9) (E073) The registration of a reciprocal right of carriageway and easement for services and maintenance over those parts of the lots common to both. Details are to be submitted to Council prior to issue of the Subdivision Certificate.
- (10) (E076) The plan of subdivision and Section 88B instrument shall establish the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release, vary or modify these covenants. Wherever possible the extent of the land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.
- a. Establish building envelopes as per the approved plans
  - b. Future development is to comply with King Creek Koala Plan of Management and approved vegetation management plan
- Details are to be submitted to Council prior to issue of the Subdivision Certificate.
- (11) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision Certificate. The copyright for all information supplied, shall be assigned to Council.

- (12) (E195) The applicant shall provide endorsement on the subdivision plan and 88B instrument for each stage of the subdivision for appropriate easements for access and services to provide for each lot in the subdivision.
- (13) (A197) The access road into lot 4 and 5 is to be properly designed so that the table drains are properly draining without ponding. For Stage 3 subdivision certificate linen release the applicant shall provide a Work as Executed survey of the invert level of the table drains every 10 metres both sides for the full length of the access road showing that water will flow from end to end evenly without ponding in the table drains.

**F – NSW RURAL FIRE SERVICE CONDITIONS**

The General Terms of Approval, Reference DA12111485475 AB and dated 12 December 2012 are attached and form part of this consent.

DRAFT

27/02/2013

Copy for DA

D-CT

All communications to be addressed to:

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Headquarters  
Locked Bag 17  
Granville NSW 2142

Telephone: 1300 NSW RFS  
e-mail: csc@rfs.nsw.gov.au

Facsimile: 8741 5433



The General Manager  
Port Macquarie-Hastings Council  
PO Box 84  
PORT MACQUARIE NSW 2444

Your Ref: 2012/531  
Our Ref: D12/2529  
DA12111485475 AB

ATTENTION: Clinton Tink

PORT MACQUARIE HASTINGS	
TRIM No 371769	CRM No 27868
13 DEC 2012	
Keyword	
Activity	
Subject DA 2012-0531	
Folder D12/681	

12 December 2012

Dear Mr Tink

#### Integrated Development for 1/593025, 126 Old King Creek Road King Creek 2446

I refer to your letter dated 5 November 2012 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

1. The development proposal is to comply with the subdivision layout plans, Stages 1-3, identified on the drawing prepared by Hopkins Consultants numbered 6461-003 sheets 1-3, dated 22 October 2012, except where modified by the conditions below.

#### Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. At the issue of subdivision certificate for each stage and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

#### Water and Utilities

ID:85475/79116/5

PROCESSED

Page 1 of 3

Attachment



The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

3. New water, electricity and gas services to each lot (as released), are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

#### Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

4. Property access roads shall be constructed for proposed lots 1, 4 and 5 prior to subdivision certificate being issued for the relevant stage release. The property access road(s) shall comply with the following requirements of section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.
  - Roads do not traverse a wetland or other land potentially subject to periodic inundation (other than a flood or storm surge).
  - A minimum carriageway width of 4 metres for rural residential areas with a distance of greater than 70 metres from the nearest hydrant point to the most external part of a proposed building (or footprint).
  - Any carriageway constriction along the property access road shall be no less than 3.5 metres in width and for a distance of no greater than 30m.
  - A minimum vertical clearance of 4 metres to any overhanging obstruction, including tree branches.
  - Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.
  - The minimum distance between the inner and outer curves is 6 metres.
  - The crossfall is not to exceed 10 degrees.
  - Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

#### Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. Prior to the release of the stage 1 subdivision certificate, a restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on the lots within the subdivision which specifies that a maximum construction standard of BAL 29 under AS3959-2009 'Construction of buildings in bush fire prone areas' for all new habitable buildings on the lots.

#### General Advice – consent authority to note



This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

For any queries regarding this correspondence please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely



John Ball  
Manager

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.

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21/02/2013

Development Contributions Calculation Sheet - Final Consent Issue									
<b>Development Details</b>				<b>Contributions Plans Applicable</b>					
DA No.	2012	0531	General S94 Plans		Applies	ET Chargeable	RatePer ET	Contribution Amount	
Address:	126 Old King Creek Road, King Creek		Major Roads		Yes	4	\$5,091.00	\$20,364.00	
Dev Description:	The (1) into Five (5) Lot Rural Residential S		Open Space		Yes	4	\$4,017.00	\$16,068.00	
Lot Number(s):	1		Community Cultural & Emergency Services		Yes	4	\$4,178.00	\$16,712.00	
DP Number(s):	593025		Admin Building		Yes	4	\$803.00	\$3,212.00	
Stage No:	Total		Bushfire - Specific		Yes	4	\$446.00	\$1,784.00	
Applicant:	Hopkins Consultants Pty Ltd		Kings Creek		Yes	4	\$8,282.00	\$33,128.00	
Contribution Area:	<input type="checkbox"/> Camden Haven <input type="checkbox"/> Innes Peninsula <input checked="" type="checkbox"/> Kings Creek <input type="checkbox"/> Lake Cathie/Bonny Hills <input type="checkbox"/> Port Macquarie <input type="checkbox"/> Rural <input type="checkbox"/> Sancroix/Thrumster <input type="checkbox"/> Wauchope		Admin Levy		Yes	2.2% of S94	\$91,268.00	\$2,007.80	
(Planner must Select Contribution Area. Click Once with Mouse)			<b>Specific Contribution Plans and DSPs (Planner Must Select if Plans are Applicable)</b>						
DA Lodged Date: 24/10/2012			S94A Levy Development Cost		\$1	No			
Prepared By: Clinton Tink			Applies						
DA Consent Date:			Applies						
Issue No. 1			Applies						
Calc Sheet Date: 20-Feb-2013			Water 1.6% Levy: \$742.30		✓ Applies	4.8	\$9,666.00	\$46,396.80	
FINAL CONSENT CALCULATION			Sewer		Applies				
<input checked="" type="checkbox"/> Tick for FINAL Consent Calculation			Car Parking CP					Contribution Total: \$140,414.90	
			No. of Spaces Short					Notice of Payment Re-Issue Fee: <input type="checkbox"/> Applies	
<b>ET Calculation for New Development (Proposed)</b>									
<b>Commercial &amp; Industrial New Development</b>		Rate	Units	Water Rate	Sewer Rate	ET Water	ET Sewer	Traffic Facilities m <sup>2</sup>	
N/A	▼	m2	0	0	0	0	0	0	
N/A	▼	m2	0	0	0	0	0	0	
N/A	▼	m2	0	0	0	0	0	0	
N/A	▼	m2	0	0	0	0	0	0	
			Total Commercial ETs:			0	0	0	
<b>New Residential Development</b>			Units	Sec 94 ET	Water ET	Sewer ET			
Number of newresidential lots greater than 450m <sup>2</sup> (excluding Dual Occ & Int Housing)			0	0	0	0			
Number of newresidential lots greater than 2000m <sup>2</sup> (excluding Dual Occ & Int Housing)			5	5	6	5			
1 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
2 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
3 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
4 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
1 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
2 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
3 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
4 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
Motel Unit - Partially Self Contained (Own ensuite but shared facilities for cooking & laundry)			0	0	0	0			
Motel Unit - Self Contained (Own ensuite and kitchen)			0	0	0	0			
Caravan Park - Not Self Contained Site (permanent or transient)			0	0	0	0			
Caravan Park - Partially Self Contained Site (permanent or transient)			0	0	0	0			
Nursing Homes High Dependency/Residential Care Facility (per bed)			0	N/A	0	0			
Nursing Homes LowDependency/Hostel (per bed)			0	0	0	0			
Aged Unit - Self Contained 1 bedroom with ensuite & kitchen (SEPP - Seniors Living)			0	0	0	0			
Aged Unit - Self Contained 2 bedroom with ensuite & kitchen (SEPP - Seniors Living)			0	0	0	0			
Aged Unit - Self Contained 3 bedroom with ensuite & kitchen (SEPP - Seniors Living)			0	0	0	0			
Boarding House per 1 Occupancy Bedroom Not Self Contained (shared facilities for cooking, laundry & bathrooms)			0	0	0	0			
Boarding House per 1 Occupancy Bedroom Partially Self Contained (Own ensuite - shared cooking & laundry facilities)			0	0	0	0			
Boarding House - Not Self Contained Per Bed (for dormitories/bunkrooms, shared cooking, laundry and bathroom)			0	0	0	0			
Boarding House - Self Contained Per Bed (for dormitories/bunkrooms, Own ensuite per bedroom/dorm/bunkroom, with shared cooking and laundry)			0	0	0	0			
<b>New Residential Unit Total:</b>			5	5	6	5			

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ET Calculation for Existing Development (Credits)							
Commercial & Industrial Existing Development	Rate	Units	Water Rate	Sewer Rate	ET Water	ET Sewer	Traffic Facilities m <sup>2</sup>
N/A	m2	0	0	0	0	0	0
N/A	m2	0	0	0	0	0	0
N/A	m2	0	0	0	0	0	0
N/A	m2	0	0	0	0	0	0
Total Commercial ETs:					0	0	0
Existing Residential Development	Units	Sec 94 ET	Water ET	Sewer ET			
Number of existing residential lots greater than 450m <sup>2</sup> (excluding Dual Occ & Int Housing)	0	0	0	0			
Number of existing residential lots greater than 2000m <sup>2</sup> (excluding Dual Occ & Int Housing)	1	1	1.2	1			
1 Bedroom Units (Low Density - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)	0	<div>JesseD: Credit exists for current Lot (DP 599025) as it was created as a new lot (from Lot 12 DP 754403) along with road widening and acquisition. Existing lot also contains a Dwelling</div>	0	<div>JesseD: Existing lot is currently rated for Water (King Ck not sewer serviced), water credit applies.</div>			
2 Bedroom Units (Low Density - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)	0		0	0			
3 Bedroom Units (Low Density - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)	0		0	0			
4 Bedroom Units (Low Density - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)	0		0	0			
1 Bedroom Units (High Density - 3 or more storeys)	0	0	0	0			
2 Bedroom Units (High Density - 3 or more storeys)	0	0	0	0			
3 Bedroom Units (High Density - 3 or more storeys)	0	0	0	0			
4 Bedroom Units (High Density - 3 or more storeys)	0	0	0	0			
Motel Unit - Partially Self Contained (Own ensuite but shared facilities for cooking & laundry)	0	0	0	0			
Motel Unit - Self Contained (Own ensuite and kitchen)	0	0	0	0			
Caravan Park - Not Self Contained Site (permanent or transient)	0	0	0	0			
Caravan Park - Partially Self Contained Site (permanent or transient)	0	0	0	0			
Nursing Homes High Dependency/Residential Care Facility (per bed)	0	N/A	0	0			
Nursing Homes Low Dependency/Hostel (per bed)	0	0	0	0			
Aged Unit - Self Contained 1 bedroom with ensuite & kitchen (SEPP - Seniors Living)	0	0	0	0			
Aged Unit - Self Contained 2 bedroom with ensuite & kitchen (SEPP - Seniors Living)	0	0	0	0			
Aged Unit - Self Contained 3 bedroom with ensuite & kitchen (SEPP - Seniors Living)	0	0	0	0			
Boarding House per 1 Occupancy Bedroom Not Self Contained (shared facilities for cooking, laundry & bathroom)	0	0	0	0			
Boarding House per 1 Occupancy Bedroom Partially Self Contained (Own ensuite - shared cooking & laundry facilities)	0	0	0	0			
Boarding House - Not Self Contained Per Bed (for dormitories/bunkrooms, shared cooking, laundry and bathroom)	0	0	0	0			
Boarding House - Self Contained Per Bed (for dormitories/bunkrooms, Own ensuite per bedroom/dorm/bunkroom with shared cooking and laundry)	0	0	0	0			
Existing Residential Unit Total:		1	1	1.2	1		

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