



Development Assessment Panel

Business Paper

date of meeting: Wednesday 12 November 2014

location: Function Room,
Port Macquarie-Hastings Council,
17 Burrawan Street,
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

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	09/04/14	28/04/14	14/05/14	25/06/14	09/07/14
Paul Drake	✓	✓	✓	✓	✓
Matt Rogers					
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓	✓	✓	✓
David Fletcher Paul Biron (alternate)	✓	✓	✓	✓	✓
David Troemel Caroline Horan (alternate)	✓	✓	✓	✓	✓

Member	23/07/14	13/08/14	27/08/14	10/09/14	01/10/14
Paul Drake	✓	✓	✓	✓	✓
Matt Rogers					
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓	✓	✓	A
David Fletcher Paul Biron (alternate)	✓	✓	✓	✓	✓
David Troemel (alternate)	✓	✓	✓	✓	✓

Member	22/10/14				
Paul Drake	✓				
Matt Rogers					
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓				
David Fletcher Paul Biron (alternate)	✓				
David Troemel (alternate)	✓				

Key: ✓ = Present
A = Absent With Apology
X = Absent Without Apology



**PORT MACQUARIE
HASTINGS**

Development Assessment Panel Meeting

Wednesday 12 November 2014

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**PORT MACQUARIE
HASTINGS**

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

"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."

Item: 02**Subject: APOLOGIES**

RECOMMENDATION

That the apologies received be accepted.

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

RECOMMENDATION

That the Minutes of the Development Assessment Panel Meeting held on 22 October 2014 be confirmed.

PRESENT

Members:

Paul Drake
Dan Croft
David Fletcher
David Troemel

Other Attendees:

Ben Roberts
Pat Galbraith-Robertson

The meeting opened at 2.04pm.

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

Nil.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 1 October 2014 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

**05 DA2014 - 0418 DUAL OCCUPANCY AND STRATA SUBDIVISION AT LOT 2
DP1195268, NO. 2 BLUE WREN CLOSE, PORT MACQUARIE**

CONSENSUS:

That DA2014 - 418 for a dual occupancy and strata subdivision at Lot 2, DP1195268, No. 2 Blue Wren Close, Port Macquarie, be determined by granting consent subject to the recommended conditions.

**06 DA2014 - 0410 SHOP TOP HOUSING INCLUDING CLAUSE 4.6 OBJECTION TO
CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE-HASTINGS
LOCAL ENVIRONMENTAL PLAN 2011 - LOTS 2 AND 3 DP 18834, 17-19
CLARENCE STREET PORT MACQUARIE.**

CONSENSUS:

That it be a recommendation to Council that DA 2014 - 410 for shop top housing including clause 4.6 objection to clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lots 2 and 3, DP18834, No. 17-19 Clarence Street, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Additional condition in Section F to read ' The plan of management for use of the rooftop space is to be displayed in a prominent position on the rooftop at all times.'

The Chair brought forward item 8 on the Agenda.

**08 DA 2014 - 0257 - CONTINUED USE OF TEMPORARY RESOURCE RECOVERY
FACILITY - LOT 10 DP 1088869, OXLEY HIGHWAY, PORT MACQUARIE**

Speakers:

Tony Thorne (o)

Geraldine Haigh (applicant)

CONSENSUS:

That DA 2014 - 257 for continued use of a temporary resource recovery facility at Lot 10 DP 1088869, Oxley Highway, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Amend condition A1 by replacing 'five (5) years' with 'two (2) years'
 - Amend condition A7 by adding the words 'across the road reserve' after 'the existing vehicle access'.
 - Amend condition F10 to read; 'All delivery vehicles are to enter and exit the approved site of the resource recovery facility via the western access way through Lot 1 DP 514628.'
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-
- 07 DA 2014 - 0717 - ADDITIONS TO AIRCRAFT HANGAR INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.4 (FLOOR SPACE RATIO) OF PORT MACQUARIE HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AT LOT 14 DP 813358, ABBOTT CLOSE, PORT MACQUARIE**
-

CONSENSUS:

That it be a recommendation to Council that DA 2014 - 717 for additions to aircraft hangar including Clause 4.6 variation to Clause 4.4 (Floor Space Ratio) of Port Macquarie Hastings Local Environmental Plan 2011 at Lot 14, DP 813358, Abbott Close, Port Macquarie, be determined by granting consent subject to the recommended conditions.

The meeting closed at 3.04pm.

Item: 04
Subject: DISCLOSURES OF INTEREST

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 Interest:**

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

☐**Non-Pecuniary - Less than Significant Interest:**

May participate in consideration and voting.

For the reason that:

.....

Signed: Date:

(Further explanation is provided on the next page)

Further Explanation

(Local Government Act and Code of Conduct)

A conflict of interest exists where a reasonable and informed person would perceive that a Council official could be influenced by a private interest when carrying out their public duty. Interests can be of two types: pecuniary or non-pecuniary.

All interests, whether pecuniary or non-pecuniary are required to be fully disclosed and in writing.

Pecuniary Interest

A pecuniary interest is an interest that a Council official has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the Council official. (section 442)

A Council official will also be taken to have a pecuniary interest in a matter if that Council official's spouse or de facto partner or a relative of the Council official or a partner or employer of the Council official, or a company or other body of which the Council official, or a nominee, partner or employer of the Council official is a member, has a pecuniary interest in the matter. (section 443)

The Council official must not take part in the consideration or voting on the matter and leave and be out of sight of the meeting. (section 451)

Non-Pecuniary

A non-pecuniary interest is an interest that is private or personal that the Council official has that does not amount to a pecuniary interest as defined in the Act.

Non-pecuniary interests commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

The political views of a Councillor do not constitute a private interest.

The management of a non-pecuniary interest will depend on whether or not it is significant.

Non Pecuniary – Significant Interest

As a general rule, a non-pecuniary conflict of interest will be significant where a matter does not raise a pecuniary interest, but it involves:

- (a) A relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the Council official or of the Council official's spouse, current or former spouse or partner, de facto or other person living in the same household.
- (b) Other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
- (c) An affiliation between a Council official an organisation, sporting body, club, corporation or association that is particularly strong.

If a Council official declares a non-pecuniary significant interest it must be managed in one of two ways:

1. Remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.
2. Have no involvement in the matter, by taking no part in the consideration or voting on the matter and leave and be out of sight of the meeting, as if the provisions in section 451(2) apply.

Non Pecuniary – Less than Significant Interest

If a Council official has declared a non-pecuniary less than significant interest and it does not require further action, they must provide an explanation of why they consider that the conflict does not require further action in the circumstances.

SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

By <i>[insert full name of councillor]</i>	
In the matter of <i>[insert name of environmental planning instrument]</i>	
Which is to be considered at a meeting of the <i>[insert name of meeting]</i>	
Held on <i>[insert date of meeting]</i>	
PECUNIARY INTEREST	
Address of land in which councillor or an associated person, company or body has a proprietary interest (<i>the identified land</i>) ⁱ	
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.
MATTER GIVING RISE TO PECUNIARY INTEREST	
Nature of land that is subject to a change in zone/planning control by proposed LEP (<i>the subject land</i>) ⁱⁱⁱ [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.

-
- 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^{iv} 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.

Item: 05

Subject: DA2013 - 0482 - ADDITIONS OF GLAZED SCREENS AND ROOF ENCLOSURE TO EXISTING COMMERCIAL PREMISES (HAIR DRESSING SALON) AND VOLUNTARY PLANNING AGREEMENT - LOT 60 SP 72688, 12-24 WILLIAM STREET, PORT MACQUARIE

Report Author: Patrick Galbraith-Robertson

Property:	Lot 60 SP 72688, 12-24 William Street, Port Macquarie
Applicant:	2444 Pty Ltd
Owner:	SP72688 & 2444 Pty Ltd
Application Date:	27 August 2013
Estimated Cost:	\$36,000
Location:	Port Macquarie
File no:	DA2013 - 0482
Parcel no:	46080

Alignment with Delivery Program

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

RECOMMENDATION

1. That DAP recommend to the General Manager to exercise the delegation granted by the Council resolution of 22 October 2008 to enter into the William Street Parking Planning Agreement.
2. That DA2013 - 0482 for additions of glazed screens and roof enclosure to existing commercial premises at Lot 60 SP 72688, No. 12-24 William Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for additions of glazed screens and roof enclosure to an existing commercial premises (hair dressing salon) at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition of the application on two occasions, nine (9) submissions have been received.

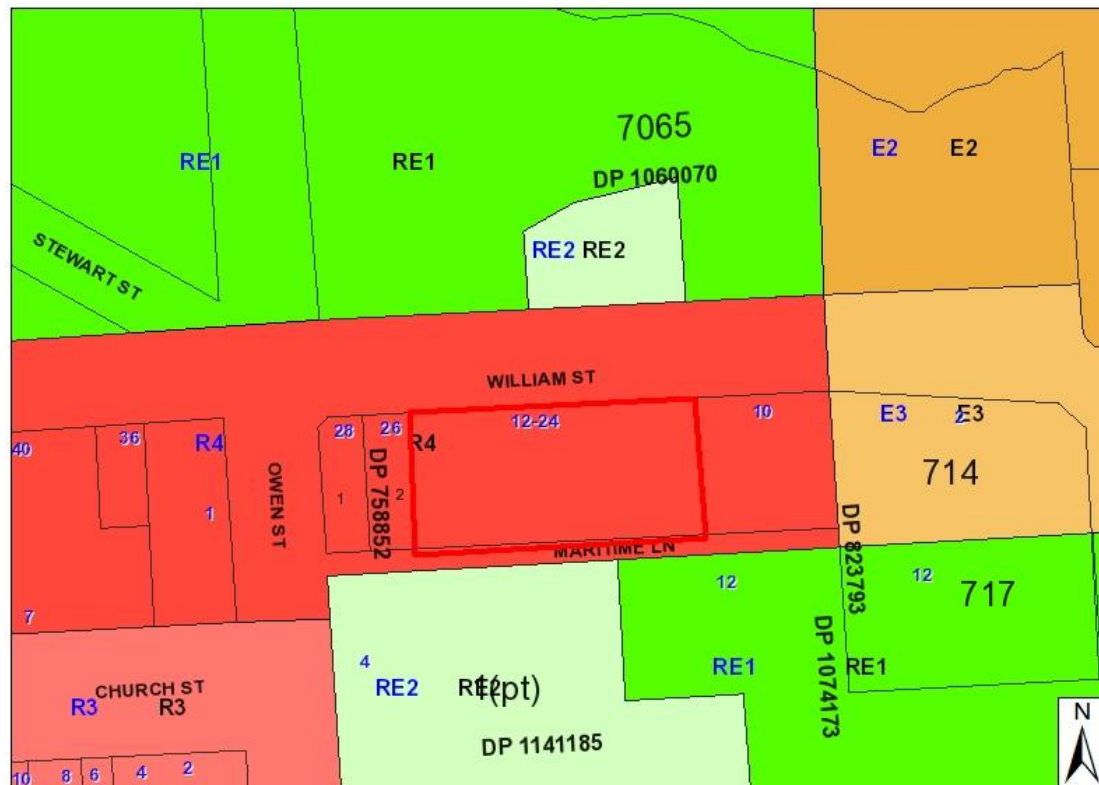
The application has been amended during assessment to include a draft Voluntary Planning Agreement offer to Council.

1. BACKGROUND

Existing sites features and Surrounding development

The site is a strata lot and has an area of 147m².

The site is zoned R4 High Density Residential in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Additions of glazed screens and roof enclosure to existing commercial premises.
- The applicant has clarified that the application does not seek a use of the space or a change of use to the additional enclosed space.
- The structure is to be constructed with anodised aluminium framing, white Polyvinyl Chloride (PVC) roofing to match other structures and 6.38mm clear glass.
- Offer of a draft Voluntary Planning Agreement to provide monetary contribution to address car parking shortfall.

Refer to attachments at the end of this report.

Application Chronology

- 27 August 2013 - DA lodged
- 11 to 25 September 2013 - Neighbour notification of original DA (without draft VPA)
- 11 October 2013 - Additional information requested from Applicant
- 3 November 2013 - Additional information received from Applicant
- 8 November 2013 - Additional information requested from Applicant
- 23 January 2013 - Advice on possible offer of VPA provided to Applicant
- 6 February 2014 - Meeting with Applicant to discuss outstanding assessment issues
- 19 February 2014 - Additional information received from Applicant
- 10 March 2014 - Advice provided to Applicant on VPA
- 17 April 2014 - Advice provided to Applicant on VPA

- 1 May 2014 - Advice provided to Applicant on VPA
- 19 May 2014 - Advice provided to Applicant on VPA
- 20 June 2014 - Advice received from Applicant VPA
- 22 August to 19 September 2014 - Neighbour consultation of draft VPA with DA re-exhibited
- 7 October 2014 - Advice received from Applicant's legal representative
- 21 October 2014 - Advice received from Applicant's legal representative
- 29 October 2014 - Council staff obtained legal opinion on validity of owner's consent

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

Following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated and is suitable for the intended use.

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

Given the nature of the proposed development, the proposal will be unlikely to have any adverse impact on existing aquaculture industries within the nearby Hastings River approximately 500m from the site.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposed development does not include any proposed advertising signage.

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

In accordance with clause 5, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

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

- a) any restricted access (or opportunities for access) to the foreshore
- b) any adverse amenity impacts along the foreshore and on the scenic qualities of the coast particularly noting that the proposed structure is single storey attached to a multi-storey building;
- c) any adverse impacts on flora and fauna;
- d) the development being subject to any adverse coastal processes or hazards;
- e) any significant conflict between water and land based users of the area;

- f) any adverse impacts on any items of archaeological/heritage;
- g) reduction in the quality of the natural water bodies in the locality (due to effluent and stormwater disposal, construction impacts, landuse conflicts);
- h) adverse cumulative impacts on the environment;
- i) a form of development that is unsustainable in water and energy demands;

The site is predominately cleared and located within an area zoned for high density residential purposes with permissible ground floor commercial uses.

Port Macquarie-Hastings Local Environmental Plan 2011

The proposal is consistent with the LEP having regard to the following:

- Clause 2.2, the subject site is zoned R4 High Density Residential. In accordance with clause 2.3(1) and the R4 zone landuse table, the proposed development can best be characterised as a 'business premises' for the extension to the existing hair dresser salon. A business premises is not permissible on its' own in the R4 zone however is permissible with consent when together with 'shop top housing' being *'one of more dwellings located above ground floor retail premises or business premises'*.

The objectives of the R4 zone are as follows:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for tourist and visitor accommodation in key tourist precincts of urban areas of the Council area, while also encouraging increased population levels.
- To encourage development that has regard to the desired future character of streets and supports active and safe uses at pedestrian level.

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 proposal is not inconsistent with the desired character for the area with an additional permissible ground floor commercial use within a residential flat building
- Clause 4.3, the maximum overall height of the additional structure is approximately 3 to 3.5m in height above ground level (existing) which complies with the maximum standard height limit of 26.5m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is less than 2:1.0 which complies with the maximum 2:1 floor space ratio applying to the site.
- Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.13, satisfactory arrangements are in place for provision of essential services including electricity supply and stormwater drainage to service the development.

(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 (as in force at time of lodgement)

Requirement	Proposed	Complies
Part 3 DP1.1 Crime prevention	The proposal satisfactorily addresses the generic principles of crime prevention with casual surveillance maintained and definition of use and ownership with limited potential entrapment areas.	Yes
Part 3 DP3.1 Off Street Parking 1 parking space per 30m2 gross leasable floor area	Additional 30m2 enclosed floor space. Applicant has not nominated use however considered that the structure will create additional gross leasable floor area which will be associated with the existing hairdresser tenancy use. 1 parking space additional required.	No*
Part 4 DP7.1 In established street, the setback shall be within 20% of the average setback of adjoining buildings	Further to the west along William Street are existing multistorey buildings with ground floor level minimal front setbacks. The adjoining Lot 61 to the east has a zero lot line front setback. The proposed glazed enclosure is proposed with a zero front setback consistent with these other developments. Historical DCP requirements permitted a zero front setback.	Yes
Part 4 DP39.1 to 42.3 Mixed use development	The proposal will not contravene any of the applicable requirements for mixed use development.	Yes

The proposal seeks to vary Development Provision Part 3 DP3.1 by having a shortfall of one (1) additional parking space on-site. It is noted that this is in addition to the two space shortfall for the adjoining Lot 61 restaurant 'The Stunned Mullet' which has a Voluntary Planning Agreement entered into with Council to offset the parking shortfall.

The relevant objectives are:

- Adequate provision is made for off-street parking commensurate with volume and turnover of traffic likely to be generated by the development.
- To ensure no adverse impacts on traffic and road function.

Having regard to the development provisions and relevant objectives, the variation is considered acceptable for the following reasons:

- The Sandcastle building does not enjoy surplus calculated parking provision therefore the additional commercial space requires addressing. The VPA proposes to address this matter with a further public contribution to improve public parking or public amenities within the locality.
- The proposal is unlikely to result in adverse impacts on existing traffic and road function within the immediate locality.

(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 VPA provides for the payment to Council by the Developer, in lieu of provision of one parking space, of a development contribution of \$18,435 towards the cost of public car parking, or the upgrading of pedestrian or traffic facilities, in the locality. The contribution amount is commensurate with car parking contributions made in relation to other non-CBD developments.

Council's Car Parking Contributions Plan does not apply to the subject land and therefore a voluntary planning agreement is required where the developer intends to make a monetary contribution to Council. A copy of the draft planning agreement is attached to this report.

Public notification of the draft VPA was undertaken between 22 August and 19 September 2014 including a notice in the Port News newspaper and via neighbour notification letters including owners within The Sandcastle building itself.

Matters raised in submissions in relation to the development application and VPA are discussed later in 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:

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:

No Coastal Zone Management Plan applies to the subject site. The site is outside of the Coastal Zone Management Plan for the Town Beach Coastline.

(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 a general north street frontage orientation to William Street, Port Macquarie.

The subject strata Lot 60 is currently comprised of an existing ground level commercial tenancy occupied by a hair dressing salon. The tenancy has an existing enclosed terrace area to which is crossed to enter the hair dressing premises. The Lot 60 tenancy is within an existing multi storey residential flat building known as 'The Sandcastle'.

The site is opposite Town Beach reserve.

Immediately to the east of the tenancy is an existing restaurant premises (Stunned Mullet) with a similar glazed screen enclosure as proposed in the subject application.

The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain particularly given the existence of the similar single storey enclosure at 'The Stunned Mullet' - Lot 61.

The proposal is considered to be compatible with other residential development in the locality and adequately addresses planning controls for the area.

The proposal will not have adverse impacts on existing view sharing.

The proposal will not have any adverse lighting impacts.

There will be no identifiable privacy impacts.

There will be no adverse overshadowing impacts.

Access, Transport & Traffic

The proposal is considered to create additional commercial floor space which is calculated to require one (1) additional parking space. The Sandcastle building does not enjoy surplus calculated parking provision therefore the additional commercial space requires addressing. The VPA proposes to address this matter with a public contribution to improve public parking or public amenities within the locality.

Any potential addition in traffic associated with the development is unlikely to have any adverse impacts to the existing road network within the immediate locality to warrant refusal of the application.

Pedestrians

The Application does not propose to change any existing pedestrian access arrangements from the public footpath of William Street fronting the site to building and subject tenancy.

Utilities

Telecommunication and electricity services are available to the site.

Stormwater

A detailed site stormwater management plan will be required to be submitted for assessment with the S.68 application and prior to the issue of a Construction Certificate.

Water

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

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.

Air and microclimate

The construction and/or operations of the proposed development will be unlikely to result in any adverse impacts on the existing air quality or result in any pollution. Standard precautionary site management condition recommended.

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. Condition recommended to restrict construction to standard construction hours and the operations of the hair dresser are to remain the same as currently approved under DA 2007 - 319:

Hours of operation of the development are restricted to the following hours:

- 9.30 am to 8.00 pm – Mondays to Saturdays
- No work is to be carried out on Sundays and Public Holidays

Bushfire

The site is not identified as being subject to any known bushfire risk.

Other land resources

The site is within an established urban context and will not sterilise any significant mineral or agricultural resource.

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. The subject area has good casual surveillance from William Street.

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. A likely positive impact is that the development will maintain employment in the construction industry, which will lead to flow on impacts and expenditure in the area.

Site design and internal design

The proposed development design satisfactorily responds to the site attributes and will fit into the locality with insufficient reasoning to warrant refusal of the application. No adverse impacts likely.

Construction

The proposal may not be capable of compliance with the deemed to satisfy provisions of the Building Code of Australia due to the proximity of the new enclosed space to the nearby designated Exits for fire safety from the building. An alternate solution may need to be investigated as part of the Construction Certificate process subsequent to development consent approval being issued.

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 parking on-site have been adequately addressed with a Voluntary Planning Agreement and appropriate conditions of consent recommended.

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

Nine (9) written submissions have been received following public exhibition of the application. All submissions received are from residents residing within 'The Sandcastle' building to which the tenancy is located within.

Key issues raised in the submissions received (both neighbour consultation periods) and comments in response to these issues are provided as follows:

Submission Issue/Summary	Planning Comment/Response
<p>Object to draft planning agreement (VPA) to replace the two designated carparking spaces in Lot 60's garage.</p> <p>The Applicant has not sought any body corporate approval for the VPA. When the body corporate approved installation of the garage door for Lot 60 it was clearly stated that the approval was subject to maintaining the two carparking spaces and Council's DA approval requiring the same.</p> <p>Lot 61 has already given up two parking spaces causing ongoing parking problems with visitor parking usage.</p> <p>What is the justification that the Council has given for giving up another two carparking spaces?</p>	<p>The application does not propose to change the existing two carparking spaces at the rear of the tenancy. The VPA does not propose to change anything in this regard.</p>
<p>Object to VPA as the Applicant cannot generate the additional carparking spaces required to match the level of expansion to Lot 60. The DA should be rejected and not simply approved by payment of fee to create parking space elsewhere. The parking problem is at Town Beach not somewhere else in Port Macquarie.</p>	<p>The Applicant's offer to offset the calculated one space parking shortfall is considered reasonable given the scale and location of the proposal.</p> <p>A planning agreement was previously entered into between Council and the landowner of the adjacent lot occupied by the Stunned Mullet restaurant in connection with DA 2012/0282.</p> <p>There was initial concern that the draft William Street Parking Planning Agreement related to a loss of car parking spaces at the site. The monetary contribution has been offered in relation to a shortfall of on-site car parking as a result of the additional commercial floor space created by the development. Council has accepted parking contributions by way of voluntary planning agreements for developments outside of areas where a contributions plan for car parking does not apply.</p> <p>The monetary contribution proposed under the Agreement will be able to be used by Council to improve pedestrian and traffic facilities in the locality in order to more efficiently use existing parking. A specific project has not been identified at this stage.</p>
<p>After lodging the DA, the Applicant has amended the DA with a VPA to change</p>	<p>The signed strata seal is sufficient for Council to process the application</p>

30m2 terrace area to commercial use which is a change of use. This change and amendment has not been brought to the Executive Committee and not approved by the Executive Committee.	including any amendments to the DA. Council staff have sought legal advice on the validity of owner's consent being provided to the application. This advice concludes that the owner's consent is valid.
The Applicant intends to convert the hair dresser tenancy into another restaurant in the future. Another VPA will be offered to be entered into.	Any future restaurant use would be subject to separate application.
What is the minimum number of carparking spaces that Council will allow for The Sandcastle building? How does Council determine what the number is now and the original requirement for 127 spaces no longer stands with reference to the previous VPA for Lot 61 adjoining?	The proposal is considered to create additional commercial floor space which is calculated to require one (1) additional car parking space. The Sandcastle building does not enjoy surplus calculated parking provision therefore the additional commercial space requires addressing. The VPA proposes to address this matter with a public contribution to improve public parking or public amenities within the locality.
Why do Council set rules and regulations that require car spaces for commercial lots when Council can overturn them by a simple Voluntary Planning Agreement thus impacting on the Sandcastle Apartments residents and visitors?	
Additional carparking should not be permitted because of additional carparking cannot be provided close to where the extra traffic is anticipated.	
What is to stop the employees of Lot 60 abusing the visitor carparking?	This is a strata matter.
The DA should not be approved on the basis that the proposed expansion to Lot 60 does not enhance the appearance of the Sandcastle building nor the Town Beach image generally. The proposed canvas like awning similar to the one over the restaurant front is flimsy in structure and ugly in appearance as it will stain and quickly deteriorate and generally detract from the aesthetics of the building.	The architectural design and lightweight construction proposed is considered sufficiently compatible with the existing building. Refusal of the application on the basis of incompatibility with the existing building is considered to be unjustified.
The applicant is reliant upon the precedent of previous approval of design and windproof/weatherproofing for Lot 61 (adjoining) in October 2009. This application was never supported by the Owner's corporation, neither in the minutes or supply of Owner's Corporation seal.	This matter comments on the adjoining restaurant Lot 61 and internal strata owner's consent matters. The subject application is a new DA for Lot 60.
The proposal is enclosing additional common property space at the front of Lot 60 currently a hair dresser.	Lot 60 owns the terrace space and requires body corporate approval for any physical changes to the space and is required to comply with any strata by-laws.

There was never a meeting counselled to allow Unit owners of the Sandcastle building to vote on this matter. There is sufficient doubt that unequivocal owner's corporation approval has been given to the owner of Lot 60.	The 3 June 2013 Executive Committee minutes reference the Executive Committee minutes of 29 October 2009 which after much deliberation are considered to be interpreted as having giving 'provisional design approval'.
There is potential for serious impact on residents living in the building by extension of the current commercial space into an area where future noise transmission, both internal and external to the lot, can detrimentally affect quality of life. The building already has a restaurant - another similar business is not compatible with an essentially residential building.	Any future restaurant use would be subject to another separate application. The application does not propose any change of use and is recommended to be conditioned that it only be used by the current approved hair dresser tenant.
The proposal is not a minor change to the building but will be changing the whole appearance of the current building. The current enclosure of the restaurant which would be similar to the new proposal takes away from the building. Also looking at it from the above balconies shows a dirty, untidy awning. When this enclosure was put up a stormwater pipe to a unit was cut off illegally and never satisfactorily been resolved.	The architectural design and lightweight construction proposed is considered sufficiently compatible with the existing building. Refusal of the application on the basis of incompatibility with the existing building is considered to be unjustified. Stormwater will be resolved via a plumbing permit required under Section 68 Local Government Act 1993 approval required to be obtained from Council.
This proposal was originally presented at the 3 June 2013 meeting of the Executive Committee however on the recommendation of the Strata Manager it was decided that approval should come from the Owner's Corporation at a General Meeting. Reasons for this included the fact that in 2009 and 2010 the Executive Committee meetings when similar approval was sought for Lot 61 was only granted 'in principle' not design approval.	The 3 June 2013 Executive Committee minutes reference the Executive Committee minutes of 29 October 2009 which after much deliberation are considered to be interpreted as having giving 'provisional design approval'.
Object to both sides of entry in Tower 2 will become substantially enclosed areas of common property for the Applicant's gain leaving access to Tower 2 very restricted.	The architectural design and lightweight construction proposed is considered sufficiently compatible with the existing building. Refusal of the application on the basis of incompatibility with the existing building is considered inappropriate. The entrance to the building is maintained in accordance with the Strata common areas defined.

(e) The Public Interest:

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.

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

5. CONCLUSION

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

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

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

Attachments

- 1 [View](#). DA2013 - 0482 VPA and Plans
- 2 [View](#). DA2013 - 0482 Recommended Conditions
- 3 [View](#). DA2013 - 0482 Development Contributions Calculation Sheet
- 4 [View](#). DA2013 - 0482 Submission - Bale
- 5 [View](#). DA2013 - 0482 Submission - Brown
- 6 [View](#). DA2013 - 0482 Submission - Castle
- 7 [View](#). DA2013 - 0482 Submission - Eldridge 230913
- 8 [View](#). DA2013 - 0482 Submission - Eldridge 190914
- 9 [View](#). DA2013 - 0482 Submission - Lundman
- 10 [View](#). DA2013 - 0482 Submission - O'Dwyer and Duckworth 19092013
- 11 [View](#). DA2013 - 0482 Submission - O'Dwyer and Duckworth 29082014
- 12 [View](#). DA2013 - 0482 Submission - O'Dwyer and Duckworth 19092014
- 13 [View](#). DA2013 - 0482 Submission - Pattinson G
- 14 [View](#). DA2013 - 0482 Submission - Pattinson J
- 15 [View](#). DA2013 - 0482 Letter addressing issues raised - Falvey Kay Lawyers

STATEMENT OF ENVIRONMENTAL EFFECTS

The proposed works are very minor. There is an existing stainless steel structure around the proposed structure. The purpose of the glazed screens it to negate wind and weather along with noise reduction from the street. This structure will improve the overall privacy of the lot as well.

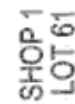
This proposal is to match the existing structure used on the adjacent lot (The Stunned Mullet Restaurant)

APPLICATION TO WAIVE NOTIFICATION PERIOD

On the basis of above and given the minor works involved, the applicant seeks to waive the notification period.



PROPOSED
ENCLOSURE
SHOP 2 TERRACE
THE SANDCASTLE
1306 29/7/2012



INDICATES EXTENT
OF ADDITIONAL
COVERED AREA

PART PLAN ^{NON} ~~SCORE~~ / : 100

William Street Parking
Planning Agreement

Under s93F of the Environmental Planning and Assessment Act 1979

Port Macquarie-Hastings Council
2444 Pty Ltd

William Street Parking Planning Agreement
Port Macquarie-Hastings Council
2444 Pty Ltd

William Street Parking Planning Agreement

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Port Macquarie-Hastings Council
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William Street Parking Planning Agreement

Summary Sheet

Council:

Name: Port Macquarie-Hastings Council
Address: Corner Lord and Burrawan Streets, Port Macquarie, New South Wales,
2444
Telephone: (02) 6581 8111
Facsimile: (02) 6581 8123
Representative: Vanessa Penfold

Developer:

Name: 2444 Pty Ltd
Address: PO BOX 8, Port Macquarie NSW 2444
Telephone: 0404 409 809
Email: lou@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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Port Macquarie-Hastings Council
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Application of s94, s94A and s94EF of the Act:

See clause 6.

Security:

See clause 8.

Registration:

See clause 14.

Restriction on dealings:

See clause 15.

Dispute Resolution:

See clauses 12 and 13.

William Street Parking Planning Agreement
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William Street Parking Planning Agreement

Under s93F of the Environmental Planning and Assessment Act 1979

Parties

Port Macquarie-Hastings Council ABN 11 236 901 601 of Corner Lord and
Burrawan Streets, Port Macquarie, New South Wales, 2444

(Council)

and

2444 Pty Ltd ABN 74 122 863 754 of PO Box 8, Port Macquarie NSW 2444

(Developer)

Background

- A The Developer is the owner of the Land.
- B The Developer has made a Development Application relating to the Development.
- C The Developer is prepared to make Development Contributions in connection with the carrying out of the Development in accordance with this Agreement.

Operative provisions

Part 1 - Preliminary

1 Definitions & Interpretation

- 1.1 In this Agreement the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Agreement means this Agreement and includes any schedules, annexures and appendices to this Agreement.

Bank Guarantee means an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council to pay an amount or amounts of money to the Council on demand issued by:

- (a) one of the following trading banks:
 - (i) Australia and New Zealand Banking Group Limited,

**William Street Parking Planning Agreement
Port Macquarie-Hastings Council
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- (ii) Commonwealth Bank of Australia,
- (iii) Macquarie Bank,
- (iv) National Australia Bank Limited,
- (iv) St George Bank Limited,
- (v) Westpac Banking Corporation, or

- (b) any other financial institution approved by the Council in its absolute discretion.

CPI means the *Consumer Price Index – Sydney – All Groups* published by the Australian Bureau of Statistics.

Development means development the subject of Development Application DA 2013/482 lodged with the Council on 27 August 2013.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work or the provision of any other material public benefit or any combination of them that is required to be provided by the Developer under this Agreement and used for, or applied towards, the provision of public infrastructure or another public purpose.

GST has the same meaning as in the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Land means Lot 60 in Strata Plan 72688 situated at William Street, Port Macquarie, New South Wales.

Party means a party to this agreement, including their successors and assigns.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Security means a Bank Guarantee unless the Council, in its absolute discretion, agrees to another kind of security as a suitable means of enforcing the Developer's obligations under this agreement.

- 1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:
 - 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
 - 1.2.2 A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - 1.2.3 If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
 - 1.2.4 A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.

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- 1.2.5 A reference in this Agreement to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
- 1.2.6 A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- 1.2.7 A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- 1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- 1.2.9 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- 1.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 1.2.11 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- 1.2.12 References to the word 'include' or 'including' are to be construed without limitation.
- 1.2.13 A reference to this Agreement includes the agreement recorded in this Agreement.
- 1.2.14 A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- 1.2.15 Any schedules, appendices and attachments form part of this Agreement.
- 1.2.16 Notes appearing in this Agreement are operative provisions of this Agreement.

2 Status & application of this Agreement

- 2.1 This Agreement:
 - 2.1.1 is a planning agreement for the purposes of s93F of the Act,
 - 2.1.2 applies to the Development on the Land.

3 Commencement of this Agreement

- 3.1 This Agreement commences when it has been executed by all of the Parties.
- 3.2 The Party who executes this Agreement last is to notify the other Party once it has done so and promptly provide it with a copy of the fully executed version of this Agreement.

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Port Macquarie-Hastings Council
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4 Further Agreements Relating to this Agreement

- 4.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Agreement for the purpose of implementing this Agreement that are not inconsistent with this Agreement.

5 Surrender of right of appeal, etc.

- 5.1 The Developer is not to commence or maintain or cause to be commenced or maintained any proceedings involving an appeal against, or questioning the validity of:
- 5.1.1 any Development Consent relating to the Development, or
 - 5.1.2 any approval under s96 of the Act to modify a Development Consent relating to the Development,
- to the extent that the proceedings relate to the existence or content of this Agreement.

6 Application of s94, s94A and s94EF of the Act to the Development

- 6.1 This Agreement does not exclude the application of s94 to the Development.
- 6.2 This Agreement does not exclude the application of s94A to the Development.
- 6.3 This Agreement does not exclude the application of s94EF to the Development.

Part 2 - Development Contributions

7 Monetary Development Contributions

- 7.1 Prior to the issue of the first Construction Certificate for the Development, the Developer is to make a monetary Development Contribution to the Council of \$18,435 towards the cost of the provision by the Council of:
- 7.1.1 public car parking, or
 - 7.1.2 the upgrading of pedestrian or traffic facilities,
- in the local area of the Development.
- 7.2 The monetary Development Contribution referred to in clause 7.1 is to be indexed quarterly in accordance with the CPI using 1 August 2014 as the base date for indexation.
- 7.3 A monetary Development Contribution is made for the purposes of this Agreement when the Council receives the full amount of the contribution in cash or by unendorsed bank cheque, or by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by the Council.

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Port Macquarie-Hastings Council
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Part 3 – Other Provisions

8 Provision of Security

- 8.1 The Developer is not in breach of this Agreement if the monetary Development Contribution referred to in clause 7.1 is unpaid by the time specified in that clause if:
 - 8.1.1 the Council notifies the Developer in writing that it agrees to a later time by which payment is required to be made, and
 - 8.1.2 the payment required to be made is 110% of the unpaid amount, and
 - 8.1.3 the Developer has provided Security to the Council for 110% of the unpaid amount by such time as is specified in the notice referred to in clause 8.1.1.
- 8.2 If clause 8.1 applies, the Developer is to pay to the Council the amount referred to in clause 8.1.2 by not later than the time specified in the notice referred to in clause 8.1.1.

9 Call-up of Security

- 9.1 The Council may call-up the Security if, in its absolute discretion it considers that the Developer has breached this Agreement.
- 9.2 If the Council calls on the Security, it may use the amount so paid to it in satisfaction of any costs incurred by it in remedying the Developer's breach including but not limited to:
 - 9.2.1 the reasonable costs of the Council's servants, agents and contractors reasonably incurred for that purpose,
 - 9.2.2 all fees and charges necessarily or reasonably incurred by the Council in order to have the Work carried out, completed or rectified, and
 - 9.2.3 all legal costs and expenses reasonably incurred by the Council, by reason of the Developer's breach.

10 Release & return of Security

- 10.1 Council is to release and return any Security held under this Agreement if the obligation or obligations that are secured by that Security have been performed to the satisfaction of the Council.
- 10.2 At any time following the provision of the Security, the Developer may provide the Council with a replacement Security in the amount of the Security specified in clause 8.
- 10.3 On receipt of a replacement Security, the Council is to release and return to the Developer as directed, the Security it holds which has been replaced.

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11 Enforcement in a court of competent jurisdiction

- 11.1 Without limiting any other provision of this Agreement, the Parties may enforce this Agreement in any court of competent jurisdiction.
- 11.2 For the avoidance of doubt, nothing in this Agreement prevents:
 - 11.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates,
 - 11.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

12 Dispute Resolution – expert determination

- 12.1 This clause applies to a dispute under this Agreement which relates to a matter that can be determined by an appropriately qualified expert.
- 12.2 Any dispute between the Parties as to whether a dispute, to which this clause applies, can be determined by an appropriately qualified expert is to be referred to the Chief Executive Officer of the professional body that represents persons with the relevant expertise for determination, which is to be final and binding on the Parties.
- 12.3 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.
- 12.4 If a notice is given under clause 12.3, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.
- 12.5 If the dispute is not resolved within a further 28 days, the dispute must be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- 12.6 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- 12.7 Each Party must bear its own costs arising from or in connection with the appointment of the expert and the expert determination.

13 Dispute Resolution - mediation

- 13.1 This clause applies to any dispute under this Agreement other than a dispute to which clause 12 applies.
- 13.2 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.
- 13.3 If a notice is given under clause 13.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.
- 13.4 If the dispute is not resolved within a further 28 days, the Parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and must request

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the President of the Law Society, or the President's nominee, to select a mediator.

- 13.5 If the dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.

14 Registration of this Agreement

- 14.1 The Parties agree not to register this Agreement under s93H of the Act.

15 Assignment, Sale of Land, etc

- 15.1 Unless the matters specified in clause 15.2 are satisfied, the Developer is not to do any of the following:
- 15.1.1 sell or transfer the Land to any person, or
 - 15.1.2 assign the Developer's rights or obligations under this Agreement, or novate this Agreement, to any person.
- 15.2 The matters required to be satisfied for the purposes of clause 15.1 are as follows:
- 15.2.1 the Developer has, at no cost to the Council, first procured the execution by the person to whom the Developer's rights or obligations under this Agreement are to be assigned or novated, of an agreement in favour of the Council on terms satisfactory to the Council, and
 - 15.2.2 the Council, by notice in writing to the Developer, has stated that evidence satisfactory to the Council has been produced to show that the purchaser, transferee, assignee or novatee, is reasonably capable of performing its obligations under the Agreement,
 - 15.2.3 the Developer is not in breach of this Agreement, and
 - 15.2.4 the Council otherwise consents to the transfer, assignment or novation.

16 Notices

- 16.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
- 16.1.1 delivered or posted to that Party at its address set out in the Summary Sheet, or
 - 16.1.2 faxed to that Party at its fax number set out in the Summary Sheet.
- 16.2 If a Party gives the other Party 3 business days notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

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Port Macquarie-Hastings Council
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- 16.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
- 16.3.1 delivered, when it is left at the relevant address,
 - 16.3.2 sent by post, 2 business days after it is posted, or
 - 16.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- 16.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

17 Approvals and Consent

- 17.1 In this clause, a reference to an approval or consent does not include a reference to a Development Consent.
- 17.2 Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party.
- 17.3 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

18 Costs

- 18.1 The Developer is to pay to the Council the Council's costs not exceeding \$500 (excluding GST), of preparing, negotiating, executing and stamping this Agreement and any document related to this Agreement within 30 days of a written demand by the Council for such payment.
- 18.2 The Developer is also to pay to the Council the Council's costs of enforcing this Agreement within 30 days of a written demand by the Council for such payment.

19 Entire Agreement

- 19.1 This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with.
- 19.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

20 Further Acts

- 20.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.

**William Street Parking Planning Agreement
Port Macquarie-Hastings Council
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21 Notations on section 149(2) Planning Certificates

- 21.1 The Developer acknowledges that the Council may, in its absolute discretion, make a notation under section 149(5) of the Act regarding this Agreement on any certificate issued under section 149(2) of the Act relating to the Land, and is not to raise an objection, make any claim or demand or bring any action in that regard.

22 Governing Law and Jurisdiction

- 22.1 This Agreement is governed by the law of New South Wales.
- 22.2 The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- 22.3 The Parties are not to object to the exercise of jurisdiction by those courts on any basis.

23 No Fetter

- 23.1 Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

24 Representations and Warranties

- 24.1 The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

25 Severability

- 25.1 If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 25.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

26 Modification

- 26.1 No modification of this Agreement has any force or effect unless it is in writing and signed by the Parties to this Agreement and has been made in accordance with the Act.

**William Street Parking Planning Agreement
Port Macquarie-Hastings Council
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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;

**William Street Parking Planning Agreement
Port Macquarie-Hastings Council
2444 Pty Ltd**

- 28.5.2 that any amounts payable by the Parties in accordance with clause 28.2 (as limited by clause 28.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 28.6 No payment of any amount pursuant to this clause 28, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 28.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 28.8 This clause continues to apply after expiration or termination of this Agreement.

29 Explanatory Note Relating to this Agreement

- 29.1 The Appendix contains the Explanatory Note relating to this Agreement required by clause 25E of the Regulation.
- 29.2 Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note in the Appendix is not to be used to assist in construing this Planning Agreement.

William Street Parking Planning Agreement
Port Macquarie-Hastings Council
2444 Pty Ltd

Execution

Executed as an Agreement

Dated:

Executed by the Council:

General Manager

Witness/Name/Position:

Executed by the Developer :

Developer

Witness

William Street Parking Planning Agreement
Port Macquarie-Hastings Council
2444 Pty Ltd

Appendix

(Clause 29)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

Port Macquarie-Hastings Council ABN 11 236 901 601 of Corner Lord and Burrawan Streets, Port Macquarie, New South Wales, 2444 (**Council**)

2444 Pty Ltd ABN 74 122 863 754 of PO BOX 8, Port Macquarie NSW 2444 (**Developer**)

Description of the Land to which the Draft Planning Agreement Applies

Land means Lot 60 in Strata Plan 72688 situated at William Street, Port Macquarie, New South Wales.

Description of Proposed Development

Development means development the subject of Development Application DA 2013/482 lodged with the Council on 27 August 2013.

Summary of Objectives, Nature and Effect of the Draft Planning Agreement

Objectives of Draft Planning Agreement

The objective of the Draft Planning Agreement is to provide suitable funding for car parking or upgrading of pedestrian or traffic facilities to meet the Development on the Land.

**William Street Parking Planning Agreement
Port Macquarie-Hastings Council
2444 Pty Ltd**

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the *Environmental Planning and Assessment Act 1979* (Act). It is an agreement between the Council and the Developer. The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for public purposes (as defined in s93F(3) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- relates to the carrying out by the Developer of the Development on the Land,
- does not exclude the application of ss 94, 94A and 94EF of the Act to the Development,
- requires monetary Development Contributions of a specified amount for the purposes of car parking or upgrading of pedestrian or traffic facilities,
- requires the Council to apply monetary Development Contributions made under the Agreement towards the specified purpose for which they were made,
- requires the Developer to provide the Council with Security relating to the making of monetary Development Contributions in certain circumstances,
- is not to be registered on the title to the Land,
- imposes restrictions on the Parties transferring the Land or part of the Land or assigning an interest under the Agreement,
- provides two dispute resolution methods for a dispute under the Agreement, being expert determination and mediation,
- provides that the Agreement is governed by the law of New South Wales, and
- provides that the A New Tax System (Goods and Services Tax) Act 1999 (Cth) applies to the Agreement.

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes and co-ordinates of the orderly and economic use and development of the Land to which the Agreement applies,
- provides and co-ordinates community facilities in connection with the Development, and

**William Street Parking Planning Agreement
Port Macquarie-Hastings Council
2444 Pty Ltd**

- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s5(a)(ii),(v) and 5(c) of the Act.

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils – How the Draft Planning Agreement Promotes the Elements of the Council's Charter

The Draft Planning Agreement promotes the elements of the Council's charter by:

- providing facilities for the community,
- by providing a means for the private funding of public facilities for the benefit of the Development and the wider community, and
- providing a means that allows the wider community to make submissions to the Council in relation to the Agreement.

All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program

The Draft Planning Agreement does not conform with the capital works program set out in the Council's Operational Plan for 1 July 2014 - 30 June 2015 but conforms with the Council's 2011- 2015 Delivery Program.

All Planning Authorities - Whether the Draft Planning Agreement specifies that certain requirements must be complied with before issuing a construction certificate, subdivision certificate or occupation certificate

The Draft Planning Agreement specifies that certain obligations under the Agreement must be complied with before the issuing of a construction certificate.

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2013/482****DATE: 4/11/2014****PRESCRIBED CONDITIONS**

The development is to be undertaken in accordance with the prescribed conditions of Part 6 - Division 8A of the *Environmental Planning & Assessment Regulations* 2000.

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
Proposed enclosure Shop 2 Terrace The Sandcastle Plan			Approved date on plan stamped

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:
- the appointment of a Principal Certifying Authority; and
 - 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) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
 - Building waste is to be managed via an appropriate receptacle;
 - 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.
 - Building work 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.

- (4) (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.
- (5) (A195) The Developer is to enter into and perform the provisions of the William Street Parking Planning Agreement under Section 93F of the Environmental Planning and Assessment Act 1979 between Port Macquarie-Hastings Council ABN 11 236 901 601 of PO Box 84, Port Macquarie, New South Wales 2444 (Council) and 2444 Pty Ltd 74 122 863 754 of PO Box 8, Port Macquarie, New South Wales 2444. prior to the issue of the first Construction Certificate for the development.
- (6) (A196) This consent permits the use of the approved additional terrace area only for use associated with the approved hair dresser salon within the same Lot 60.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B011) 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 unless deferral of payment of contributions has been approved by Council. 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

nil

D – DURING WORK

nil

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.

F – OCCUPATION OF THE SITE

- (1) (F025) Hours of operation of the development are restricted to the following hours:
 - 9.30am to 8.00 pm – Mondays to Saturdays
 - No work is to be carried out on Sundays and Public Holidays

Preliminary Assessment Only - Final rates will not be determined until date of consent and will only be valid for 3-months from issue of consent.									
Development Details			Contributions Plans Applicable						
DA No.	2013	0482	General S94 Plans	Applies	ET Chargeable	RatePer ET	Contribution Amount		
Address:	60/12-28 William Street, Port Macquarie		Major Roads	No					
Dev Description:	Enclosure of Shop 2 Terrace		Open Space	No					
Lot Number(s):	60		Community Cultural & Emergency Services	No					
DP Number(s):	SP 72688		Admin Building	No					
Stage No:	Total		Bushfire - Specific	No					
Applicant:	2444 Pty Ltd		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	No					
(Planner must Select Contribution Area Click Once with Mouse)			Specific Contribution Plans and DSPs (Planner Must Select if Plans are Applicable)						
			S94A Levy Development Cost	\$36,000	No				
			PMO CBD Car Parking Contribution	<input type="checkbox"/> Applies					
			PMO Gordon Street Car Parking Contribution	<input type="checkbox"/> Applies					
			Headings River Drive Traffic Works - Joss Zone	<input type="checkbox"/> Applies					
			Bushfire Additional	<input type="checkbox"/> Applies					
			Select Rate	<input type="checkbox"/> Applies					
DA Lodged Date:	27/08/2014		Water 1.6% Levy:	<input checked="" type="checkbox"/> Applies	0.15	\$0,373.00	\$1,405.90		
Prepared By:	V Penfold		Sewer	<input checked="" type="checkbox"/> Applies	0.15	\$3,556.00	\$533.40		
DA Consent Date:			Car Parking CP						
Issue No.	1		Contribution Total: \$1,939.30						
Calc Sheet Date:	5-Nov-2014		No. of Spaces Short:						
FINAL CONSENT CALCULATION	<input type="checkbox"/> Tick for FINAL Consent Calculation		Notice of Payment Re-Issue Fee: <input type="checkbox"/> Applies						
ET Calculation for New Development (Proposed)									
Commercial & Industrial New Development			Rate	Units	Water Rate	Sewer Rate	ET Water	ET Sewer	Traffic Facilities m²
SHOPS - FOOD & ASSOC HANDRESSERS			m2	30	0.005	0.005	0.15	0.15	
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:					0.15	0.15
New Residential Development			Units	Sec 94 ET	Water ET	Sewer ET			
Number of new residential lots greater than 450m ² (excluding Dual Occ & Int Housing)			0	0	0	0			
Number of new residential lots greater than 200m ² (excluding Dual Occ & Int Housing)			0	0	0	0			
1 Bedroom Units (Low Density) - Flats, town houses, villas, dual occs, int housing & Permanent Self Contained (Custom Park Sites)			0	0	0	0			
2 Bedroom Units (Low Density) - Flats, town houses, villas, dual occs, int housing & Permanent Self Contained (Custom Park Sites)			0	0	0	0			
3 Bedroom Units (Low Density) - Flats, town houses, villas, dual occs, int housing & Permanent Self Contained (Custom Park Sites)			0	0	0	0			
4 Bedroom Units (Low Density) - Flats, town houses, villas, dual occs, int housing & Permanent Self Contained (Custom 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 Low Dependency/Residential (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 Partially 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 & bathroom)			0	0	0	0			
Boarding House - Self Contained Per Bed for dormitories/bunkrooms, Own ensuite per bedroom, shared cooking and laundry			0	0	0	0			
New Residential Unit Total:			0	0	0	0			

ET Calculation for Existing Development (Credits)							
Commercial & Industrial Existing Development	Rate	Units	Water Rate	Sewer Rate	ET Water	ET Sewer	Traffic Facilities m ²
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 ² (excluding Dual Occ. & Int. Housing)	0	0	0	0			
Number of existing residential lots greater than 2000m ² (excluding Dual Occ. & Int. Housing)	0	0	0	0			
7 Bedroom Unit (High Density) - 1 bath, low-income, village, shared cooking & Permanent Self-Contained Caravan Park Sleep	0	0	0	0			
7 Bedroom Unit (High Density) - 1 bath, low-income, village, shared cooking & Permanent Self-Contained Caravan Park Sleep	0	0	0	0			
3 Bedroom Unit (High Density) - 1 bath, low-income, village, shared cooking & Permanent Self-Contained Caravan Park Sleep	0	0	0	0			
4 Bedroom Unit (High Density) - 1 bath, low-income, village, shared cooking & Permanent Self-Contained Caravan Park Sleep	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			
Motor Unit - Partially Self-Contained (Own ensuite, but shared facilities for cooking & laundry)	0	0	0	0			
Motor Unit - Self-Contained (Own ensuite & 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/Hospital (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 & bathroom))	0	0	0	0			
Boarding House - Not Self-Contained Per Bed for corridors/bathrooms, shared cooking, laundry & bathroom	0	0	0	0			
Boarding House - Self-Contained Per Bed for corridors/bathrooms, Own ensuite, per bedroom ensuite, shared cooking and laundry	0	0	0	0			
Existing Residential Unit Total:		0	0	0	0	0	

G:\Dev\Dev\DEV AND BUILDING CONTROL\SDAs\2013\DA2013-0482\Development Contributions Calculation Sheet, DA 2013-0482, Stage No. Total, Issue No.1

From: Bob Bale [REDACTED]
Sent: Friday, 19 September 2014 3:36 PM
To: Patrick Galbraith-Robertson
Subject: Lot: 60 SP: 72688, 60/12-24 William St Port Macquarie

Dear Patrick,

Following on from our phone conversation last week I wish to now put in writing my objection to the development proposal for Lot: 60 SP:72688, 60/12-24 William St. Port Macquarie.

On inspecting the plans on exhibition at council I was puzzled as to where a VPA concerning parking spaces would be necessary if not in regard to garage space at the rear of Lot 60. However, I have now been advised firstly by Vanessa Penfold (in your absence) and now yourself that this is not the case. Instead it is reference to extra floor space gained by enclosing the common property at the front of Lot 60 (currently a Hairdressing Salon). In doing this Mr. Perri is required to supply an extra car space! How can council even consider this when Mr. Perri has already used this method previously which resulted in The Sandcastle losing two car spaces at the rear of his restaurant, Lot 61? Furthermore, why didn't the enclosure of the similar area to enlarge his restaurant warrant another VPA for gaining this extra space?

The number of car spaces Council stipulated for the Sandcastle in its construction was 127, so how can this council now reduce this by three (in reality four)? Surely, this is totally illegal as there are still the same number of units.

Awaiting your clarification on these matters.

Regards,
Sue Bale
Unit 503, 12-24 William St
Port Macquarie N.S.W. 2444

-----Original Message-----

From: Charlie Brown [REDACTED]
Sent: Friday, 19 September 2014 5:08 PM
To: Patrick Galbraith-Robertson
Subject: Objection to DA2013/482.1 additions to Commercial premises lot 60 SP72688

We are residents of the sandcastle building and strongly object to Mr. Perri's development application on the below grounds.

1. Mr Perri is reliant upon the precedent on his application and approval of the design of the wind proof/ weatherproofing of lot 61 The Stunned Mullet in October, 2009. This application was never supported by the owners corporation, neither in the minutes or supply of Owners Corporation Seal.

2. On this occasion, DA 2013.4821.1 Mr Perri received approval from the Executive Committee (of which he is the chairman) of the Sandcastle, as reflected in the minutes and received the use of the Owners Corporation Seal.

After lodging his DA, he then lodged an amendment to the DA (VPA) to change 30m2 Terrence to commercial use. A change of usage. This amendment to the DA was not brought to the Executive Committee, and not approved by the Executive Committee, as there is not any minutes to substantiate or no Owners Corporation Seal is applied to the application and the relevant signage, We strongly object to mr. Perrin application.

Regards

Charlie and Kim Brown
108 the sandcastle building

-----Original Message-----

From: [REDACTED]
Sent: Thursday, 28 August 2014 9:49 AM
To: Patrick Galbraith-Robertson
Subject: Re Vol Planning Agreement Application No 2013/482


Re Draft Planning Agreement in relation to Property Lot 60 SP:72688.
Application No 2013/482 Applicant: 2444 Pty Ltd

We are the owners of Unit 610 in the Sandcastle Building and would like to make a submission by way of objection in relation to the draft planning agreement where the owner (Mr Lou Perri) is proposing to enter into a voluntary planning agreement to replace the designated 2 car spaces in Lot 60's garage.

Our reasons for the objection are:

1. Mr Perri has not sought any body corporate approval to make this change. When the body corporate approved installation of the garage door for Lot 60 it was clearly stated the approval was subject to maintaining 2 car spaces.
2. The Port Macquarie Hastings Council approved the installation of garage door at Lot 60 but with the condition that 2 car spaces be maintained.
3. No Body Corporate approval has since been applied for or been given for Mr Perri to change the use of the garage. This approval cannot be given by the Executive Committee it must go to a full Body Corporate meeting. Prior body corporate approval should be a mandatory step before you can seek approval for changes from the council. The council should not consider any application unless this step has been taken and in Mr Perri's case it has not.
4. Lot 61 (also owned by the same owner) has already given up 2 car spaces. This has caused ongoing problems with the owner parking in the visitor car space, not just occasionally and for short periods as some owners do, but for long periods of time and during peak periods. There have been on-going complaints about the abuse of the visitor car park. What will stop the employees of Lot 60 also abusing the visitor car space. Council will say this is up to the Body Corporate - but Mr Perri is chairman of the Executive Committee and can't even modify his own behaviour, let alone set an example for others or seek their compliance.
5. What is the justification that the council has given for giving up another 2 car spaces in the Sandcastle Apartment - why have planning regulations that require car spaces for commercial lots when the council seems to be able to overturn this without any justification. Where is the analysis of the impact on the Sandcastle Bldg residents and visitors?

In view of the above our view is the application for the voluntary planning agreement should be denied.

Brett & Linda Castle
Unit 610/12-24 William St
Port Macquarie NSW 2444


Mr Patrick Galbraith-Robertson
Development and Environmental Services
Port Macquarie Hastings Council
PO Box 84,
Port Macquarie
NSW 2444

23 September 2013

Copy to General Manager



Your Reference: DA2013.482.1

Mr Galbraith-Robertson,

We wish to lodge an objection to the above DA for a proposal to enclose the terrace area of Lot 60 in the Sandcastle Apartments building.

The grounds for our objection are as follows:

1. Pursuant to Section 65A (1) of the Strata Schemes Management Act 1996 (copy of relevant section is attached), where the proposal 'adds/alters/erects' on common property, the applicant is required to seek Owners Corporation approval via a special resolution at a general meeting.
At this time, the applicant does not have such approval from the Owners Corporation.
2. The proposed construction is not minor, with potential for a detrimental outcome affecting both the appearance of the building, and the amenity of residents and visitors accessing the building through the adjacent right of way.

Colin Eldridge & Charmian Eldridge
Owners, Sandcastle Unit 102

46080

PORT MACQUARIE HASTINGS	
TRIM No	CRM No
24 SEP 2013	
Keyword	
Activity	
Subject	DA 2013-482-1
Folder	

D13/1271



Strata Schemes Management Act 1996 No 138



Status Information

Currency of version

Current version for 5 July 2013 to date (accessed 23 September 2013 at 08:15).

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical notes](#)

See also:

[Strata Schemes Management Amendment \(Child Window Safety Devices\) Bill 2013](#)

Responsible Minister

Minister for Finance and Services jointly with the Minister for Fair Trading

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 18 September 2013.

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43 What can by-laws provide for?

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46 How does a lessee get information about the by-laws?

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48 What steps must an owners corporation take to make an amendment effective?

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Division 4 Special provisions for by-laws conferring certain rights or privileges

51 Application of Division

52 How does an owners corporation make, amend or repeal by-laws conferring certain rights or privileges?

53 Can a by-law contain conditions?

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57 Application of Division

58 What happens if by-laws are inconsistent with management statements?

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Introductory note

Part 1 Introduction

Introductory note

61 What are the key management areas for a strata scheme?

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Introductory note

62 What are the duties of an owners corporation to maintain and repair property?

63 What power does an owners corporation have to carry out work and recover costs?

64 What power does an owners corporation have to carry out work at its own expense?

65 Can an owners corporation enter property in order to carry out work?

65A Owners corporation may make or authorise changes to common property

65B Owners corporation may grant licence to use common property

65C What are the duties of an owners corporation in relation to fire safety inspections

Part 3 Finances of strata scheme

functions under this section.

Maximum penalty: 2 penalty units.

- (6) An owners corporation is liable for any damage to a lot or any of its contents caused by or arising out of the carrying out of any work, or the exercise of a power of entry, referred to in this section unless the damage arose because the owners corporation was obstructed or hindered.

65A Owners corporation may make or authorise changes to common property

- (1) For the purpose of improving or enhancing the common property, an owners corporation or an owner of a lot may take any of the following action, but only if a special resolution has first been passed at a general meeting of the owners corporation that specifically authorises the taking of the particular action proposed:
- (a) add to the common property,
 - (b) alter the common property,
 - (c) erect a new structure on the common property.
- (2) A special resolution that authorises action to be taken under subsection (1) in relation to the common property by an owner of a lot may specify whether the ongoing maintenance of the common property once the action has been taken is the responsibility of the owners corporation or the owner.
- (3) If a special resolution under this section does not specify who has the ongoing maintenance of the common property concerned, the owners corporation has the responsibility for the ongoing maintenance.
- (4) A special resolution under this section that allows an owner of a lot to take action in relation to certain common property and provides that the ongoing maintenance of that common property after the action is taken is the responsibility of the owner has no effect unless:
- (a) the owners corporation obtains the written consent of the owner to the making of a by-law to provide for the maintenance of the common property by the owner, and
 - (b) the owners corporation makes such a by-law.
- (5) A by-law made for the purposes of this section:
- (a) may require, for the maintenance of the common property, the payment of money by the owner concerned at specified times or as determined by the owners corporation, and
 - (b) must not be amended or repealed unless a special resolution has first been passed at a general meeting of the owners corporation and the owners corporation has obtained the written consent of the owner

From: Colin Eldridge [REDACTED]
Sent: Friday, 19 September 2014 7:48 AM
To: Patrick Galbraith-Robertson
Subject: Objection DA 2013/482 Lot 60: SP 72688

Patrick Galbraith-Robertson
Development Assessment
Port Macquarie Hastings Council
Port Macquarie

We wish to raise objections to the above DA and the associated Draft Planning Agreement.

1. Common Seal: We understand that the strata common seal has been provided for the above DA. We have previously advised council that there is sufficient doubt that unequivocal Owners Corporation approval has been given to the owner of Lot 60, the DA applicant. We acknowledge that this is an internal strata matter, however consideration of legal advice by concerned resident owners is currently underway. We request that council provide a short-term window for legal advice to be sought, and acted upon, before council adjudicates on the subject DA.
2. Notwithstanding the question over the legitimacy of the provision of the common seal, we have serious concerns about the proposed increase in the currently approved commercial space for Lot 60. The Owners corporation has had no opportunity to debate this proposal, so the current proposal does not represent 'due process'. We request that the coupling of the DA for the lot's terrace enclosure, with the offer of a VPA for an increase in the Lot's commercial operational space be considered by council as two separate matters. There is potential for serious impact on residents living in the building by an extension of the current commercial space into an area where future noise transmission, both internal and external to the lot, can detrimentally affect quality of life. The building already has a restaurant - another similar business is not compatible with an essentially residential building.
3. Clearly the commercial ambitions of the DA applicant will have an aggressive commercial flavour, however council's assessment of the VPA should not be concluded without a decent and fair analysis of the compatibility of the proposed business use with the quality of life for the building's residents. The applicant has not given the strata any opportunity to debate a proposed increase in the lot's commercial space, he has not indicated the underlying reason for the proposed commercial space increase, and there has been no known consent by the strata to approve the increase.

The commercial ambitions of the DA applicant should be the subject of a debate between the applicant and his neighbours. It should not be contrived

and dressed in such a way that neighbours are denied, through council's sole adjudication on this matter.

Yours sincerely

Colin & Charmian Eldridge
Unit 102/12-24 William St
Port Macquarie
NSW 2444

Port Macquarie Hastings Council

17th September 2014

RE- Notification of Development Proposal

Lot: 60 SP: 72688, 60/12-24 William Street PORT MACQUARIE

Application No. 2013/482

Attention: Patrick Galbraith-Robertson

Dear Sir,

In relation to the above application I wish to make the following objections.

Please find attached letter sent last year regarding this same issue, all of which the same comments apply.

Firstly I object to this latest proposal stating this is only a minor proposal when in fact it will be changing the whole appearance of the current building.

Also at the last AGM meeting towards the end of last year, it was voted not to go ahead with this. However as Mr Perri is the Chairman of the current Owners Corporation, it seems that he has given himself permission along with his influence over the current Strata to proceed with these major works.

Regards

Janette Lundman

Po Box 794

Port Macquarie NSW 2444



peter

From: "Jan & Peter" [REDACTED]
Date: Wednesday, 25 September 2013 5:52 AM
To: <patrick.galbraith-robertson@pmhc.nsw.gov.au>
Subject: Notification of Development Proposal - Application No. 2013/482 - Lot: 60 SP: 72688, 60/12-24 William St, Port Macquarie

Dear Sir,

I wish to raise objections to the above proposal.

This will dramatically change the appearance of the building which is on common property, which also requires design approval from the Owners Corporation before the applicant can submit a DA. For what purpose is it necessary to turn the now Hairdressing Shop into having an enclosure, unless other plans, such as extensions to the current restaurant are in the offing. The current enclosure of the restaurant which would be similar to the new proposal takes away from the building. Also looking at it from the above balconies shows a dirty, untidy awning. When this enclosure was put up our storm water pipe to our unit was cut off illegally & never satisfactorily been resolved. Can we assume this will be the case again.

As a resident I can see no benefit of this development proposal at all.

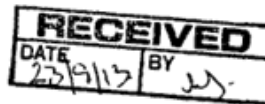
Regards

Janette Lundman
PO Box 794
Port Macquarie NSW 2444

[REDACTED]

17/09/2014

12/11/2014



John O'Dwyer
Dorothy Duckworth
401/12-24 William St
Port Macquarie 2444



19 September 2013

The Manager
Port Macquarie Hastings Council
Cnr. Lord and Burrawan Streets
Port Macquarie NSW 2444

Attention: Mr. Patrick Gailbraith-Robertson

Dear Sir,

Re: Additions to Commercial Premises

LOT: 60SP: 72688, 60/12-24 William St. Port Macquarie
Application No2013/482

46080

PORT MACQUARIE HASTINGS	
TRIM No	COM No
25 SEP 2013	
Keyword	
Activity	
Subject	DA 2013-482.1
Folder	D13/1271

I refer to the above application and request that the Officers of the Development and Environmental Services Department of Port Macquarie Hastings Council carefully analyze Lot 60's application.

The owner of Lot 60 (same owner of lot 61/65-Lou Perri) cannot lodge a DA for the anticipated enclosure as he does not have the Sandcastle Owners Corporation approval to do so. Sandcastle By-law 33.1 says that Owners Corporation (OC) consent is deemed to be provided "subject to the design being approved by the Owners Corporation".

I do not believe that this addition to Lot 60 is small when you consider it is another enclosure that affects the Architecture of the Sandcastle Apartments.

The new structure is to be fixed to Sandcastle Common Property to which the owner of Lot 60 does not have permission from the Sandcastle Owners Corporation to do so.

Yours faithfully



J O'Dwyer

From: [REDACTED]
Sent: Friday, 29 August 2014 2:57 PM
To: Patrick Galbraith-Robertson
Subject: Voluntary Planning Agreement in conjunction with a DA No 2013/482

Dear Patrick,

We are the owners of Unit No 401 Sandcastle Apartments 12-24 William Street Port Macquarie and wish to strongly object to the Draft Planning Agreement submitted by the owner of Lot 60 (Mr L. Perri) to enter into a Voluntary Planning Agreement to replace "the two (2) car parking spaces that are enclosed that are to be maintained as accessible/functional car parking". (Council's Notice of Determination Item F-Occupation of the Site Clause 3 Council's Reference: 2012/66 PN: 46080, 27/2/2012). We understand and are quite clear that no Owners Corporation approval has been neither applied for nor given to Mr Perri to wilfully change the use of the subject garage. Any approval cannot be given by the Sandcastle Executive Committee, to which Mr Perri is the Chairman, and must go before a full body of the Owners Corporation meeting.

No doubt you are well versed with the saga of Lot 61 (also owned by Mr Perri) whereby those two (2) car spaces were sold and Council received the benefit of the sale. This person (Mr Perri) has caused ongoing problems with Mr Perri parking in the visitor car park for long periods of time. This has been a subject of ongoing complaints but falls on deaf ears because of Mr Perri's status as Chairman of the Executive Committee of the Sandcastle. What is to stop the employees of Lot 60 abusing the visitor car parking? It is no good of saying that this is up to the Owner Corporation because Mr Perri is Chairman and cannot discipline his own behaviour. Why do Council set rules and regulations that require car spaces for Commercial lots when Council can overturn them by a simple Voluntary Planning Agreement thus impacting on the Sandcastle Apartments residents and visitors?

We seek assurance from the Council that this Voluntary Planning Agreement will be denied and stop forever.

Yours sincerely

John O'Dwyer/Dorothy Duckworth
Owners Unit 401 Sandcastle Apartments
[REDACTED]

-----Original Message-----

From: John & Dot [REDACTED]
Sent: Friday, 19 September 2014 3:57 PM
To: Patrick Galbraith-Robertson
Subject: DA2013/482 Additions to Commercial Premises, Lot 60, SP 72688

Dear Sir,
Further to our previous submission on this matter, we wish to voice our strongest opposition to the approval of the above DA.
Whilst you have indicated to other persons who reside in the Sandcastle Apartments that the Council has paper work that bares the Seal of Approval from the Sandcastle Owners Corporation, let me assure you that there was never a meeting counselled to allow Unit Owners of the Sandcastle to vote on this matter.
If there was such a "Meeting" there is nothing minuted nor is there anything versed to say that the Chairman (Mr L.Perri) had or had not vacated the discussion due to a "Conflict of Interest".
We are terribly concerned with the proceedings that have taken place and we would indicate to you that we are looking at seeking legal opinion on this whole charade.

Yours respectfully

John O'Dwyer
[REDACTED]

From: pattinson [REDACTED]
Sent: Tuesday, 2 September 2014 10:15 AM
To: Vanessa Penfold
Subject: No Subject

Dear Vanessa

I am objecting to the voluntary planning agreement being made to help with the shortfall of on-site parking to compensate for the proposed additions to the front of commercial premises Lot 60.

The congestion of the Town Beach area and the front of our building will not be helped by this payment. We have already lost parking due to several pedestrian crossings having recently been established.

The loss of car spaces and additions already taken away by Lot 61 has already impacted on our building.

The VPA should be rejected on the basis that the DA should not be approved if additional parking cannot be provided within the Sandcastle or Town Beach precinct. In simple terms, the expansion should not go ahead because additional car parking cannot be provided close to where the extra traffic is anticipated.

Further the DA should not be approved on the basis that the proposed expansion to lot 60 does not enhance the appearance of the Sandcastle building nor the Town Beach image generally. It is also noted, and a basis for objection from a resident's point of view, that the proposed canvas-like awning similar to the one over the restaurant front, is flimsy in structure, and ugly in appearance as it will stain and quickly deteriorate and generally detract from the aesthetics of the building.

Please consider

Gaylene Pattinson

Owner, unit 203

Sandcastle Apartments

From: pattinson [REDACTED]
Sent: Tuesday, 2 September 2014 10:41 AM
To: Vanessa Penfold
Cc: Gaylene Pattinson
Subject: RE: 2013/482 - Lot 60 Sandcastle

Vanessa

Please refer to my previous email where I withdrew my objection to the VPA on the basis of new advice we received that there will be no loss of car parking spaces on site at the Sandcastle as a result of this DA and/or VPA, I also stated that "I now support the VPA".

I now wish to withdraw that support.

I oppose the VPA because the DA itself should not be approved on grounds that the applicant cannot generate the additional car parking spaces required to match the level of expansion to lot 60. So, the DA itself should be rejected, and not simply approved by payment of a fee to supposedly create a car park somewhere else in Port Macquarie. The parking problem is at Town Beach, not somewhere else in Port Macquarie. I urge Council not to approve the DA thus rendering the VPA irrelevant and unnecessary.

Finally allow me to enlighten you on Mr Perri's real intentions here. The hairdresser's will in the not to distant future become another restaurant or coffee shop/café, and Mr Perri will be asking you to enter into a VPA to convert his double garage for lot 60 into restaurant space. De ja vu!

What is the minimum number of car parking spaces that Council will allow for the Sandcastle building? How does Council determine what that number is now that the original requirement of 127 spaces no longer stands (Mr Perri's previous VPA).

I look forward to your response to these questions.

Thanks

Jeff Pattinson

----- Original Message -----

From:
"Vanessa Penfold" <Vanessa.Penfold@pmhc.nsw.gov.au>

To:

"pattinson" [REDACTED]

Cc:

"Patrick Galbraith-Robertson" <Patrick.Galbraith-Robertson@pmhc.nsw.gov.au>, "Dan Croft" <Dan.Croft@pmhc.nsw.gov.au>

Sent:

Thu, 28 Aug 2014 00:15:43 +0000

Subject:

RE: 2013/482 - Lot 60 Sandcastle

Dear Jeff

Thanks for your e-mail. As discussed with Gaylene yesterday, the current Development Application DA 2013/482 does not include the conversion or removal of garage spaces.

The applicant has offered to enter into a planning agreement relating to a shortfall of on-site car parking (1 space) that would result from the additional commercial floor space created by the proposed enclosure of the terrace at Lot 60 Strata Plan 72688.

Please don't hesitate to call me if you have any further queries.

Thanks

Vanessa

Vanessa Penfold

Development Contributions
Port Macquarie-Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444
(02) 6581 8536
(02) 6581 8788 (Fax)

vanessa.penfold@pmhc.nsw.gov.au

From: pattinson [REDACTED]
Sent: Wednesday, 27 August 2014 1:40 PM
To: Vanessa Penfold
Subject: RE: 2013/482 - Lot 60 Sandcastle

Thanks Vanessa

I note section 2 declaration wherein 2444 P/L and the Strata Plan are listed as the two owners, and that they have given their consent to the application. As I have indicated in my letter of objection, the application has now changed to include the removal of 2 garage spaces. This aspect has not been approved by the Strata (Owners Corporation) and is the basis of our objection. We had previously agreed to the DA to extend the front of the shop whilst maintaining the lift access to tower 2 to that side of the building.

Thanks

Jeff

----- Original Message -----

From:

"Vanessa Penfold" <Vanessa.Penfold@pmhc.nsw.gov.au>

To: "pattinson" <[REDACTED]>

Cc: "Dan Croft" <Dan.Croft@pmhc.nsw.gov.au>, "Patrick Galbraith-Robertson" <Patrick.Galbraith-Robertson@pmhc.nsw.gov.au>

Sent: Wed, 27 Aug 2014 02:52:55 +0000

Subject: RE: 2013/482 - Lot 60 Sandcastle

Dear Jeff

Thanks for your e-mail. Please find attached a copy of Development Application DA 2013/0482, as requested.

Please note that personal details including phone numbers and signatures have been redacted in accordance with the *Government Information (Public Access) Act 2009*.

Thanks

Vanessa

Vanessa Penfold

Development Contributions
Port Macquarie-Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444
(02) 6581 8536
(02) 6581 8788 (Fax)

vanessa.penfold@pmhc.nsw.gov.au

From: pattinson [REDACTED]
Sent: Tuesday, 26 August 2014 3:27 PM
To: Vanessa Penfold
Subject: Fwd: 2013/482 - Lot 60 Sandcastle

----- Original Message -----

From: "pattinson" [REDACTED]
To: <mailto:vanessa.penfold@pmhc.nsw.gov.au>

Sent: Tue, 26 Aug 2014 15:23:48 +1000

Subject: 2013/482 - Lot 60 Sandcastle

Vanessa

Can you please scan and send me a copy of the actual application as submitted by Mr Perri or his representative in this matter.

Thanks

Jeff Pattinson

Owner

Unit 203

Sandcastle

12/11/2014



GRAEME FALVEY, B.A., LL.B.

JAMES KAY B.Ec. Dip Law

Our Ref.: GF:MR:50814

Your Ref.:

7 October 2014

Telephone: 02 6583 8199

Facsimile: 02 6583 4743

Email: office@falveykaylawyers.com.au

DX 7422

Email: Patrick.Galbraith-Robertson@pmhc.nsw.gov.au

Mr Patrick Galbraith-Robertson
Development Assessment Planner
Port Macquarie Hastings Council

Dear Sir,

**RE: DA 2013/482 ADDITIONS TO COMMERCIAL PREMISES, 60/12-28
WILLIAM STREET, PORT MACQUARIE**

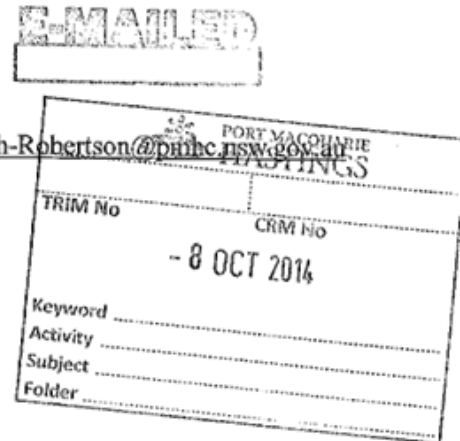
We have been consulted by 2444 Pty Limited the applicant with respect to the above DA. Our client has asked us to address issues you have raised about the form of the Owners Consent.

Whilst we believe there could be some doubt as to whether the consent of the Owners Corporation is required (the owner of the land appears to be our client and the DA does not appear to involve any common property) we are instructed not to press that issue at this stage.

We have been provided with a copy of the Application Form (dated 14 August 2014) and note that the common seal of the Owners Corporation Strata Plan No.72688 has been affixed. Whilst the copy we have been provided with has had the signatures removed our client instructs us that the common seal was affixed in the presence of Denise Eastbrook (secretary of the Owners Corporation) and Lou Perri (member of the executive committee).

We draw your attention to Section 238 of the Strata Schemes Management Act 1996 and, specifically, subsection (2)(a) and note that the seal has been affixed in accordance with that Section.

You will note subsection (2)(b) makes alternate provision for the Strata Managing Agent to affix the seal and subsection (3) only applies where the Strata Managing Agent of the Owners Corporation has affixed the seal.



- 2 -

In other words, in this case where the Strata Managing Agent did not affix the seal subsection (3) is irrelevant.

If this were not the case then, quite clearly, it would force an Owners Corporation to always employ the services of a Strata Managing Agent – and many Owners Corporations choose not to do that.

Having regard to the above circumstances we consider the Form of Consent has been suitably executed and ask that you proceed to deal with the Application.

By way of assistance we also **enclose** a copy of By-law 33.1 and we are instructed that the essence of the Development Application submitted is to install windproof/weatherproof/privacy screens to the terrace areas of the subject lot.

You will note By-law 33.1 does require the design be approved by the Owners Corporation (and Council if applicable) and we **enclose** a copy of By-law 36.1 which (in accordance with subsection (b)) clearly allows the executive committee, at a meeting of the executive committee, to give approval as required in accordance with By-law 33.1.

The writer has sighted a copy of minutes of the executive committee meeting held at 9.30am on Monday 3 June 2013 – and we understand the Strata Manager has also provided a copy to you.

From a perusal of the minutes it is clear that the executive committee:-

- (a) Acknowledge that existing installation approval for windproof/weatherproof/privacy screens is contained in By-law 33; and
- (b) Acknowledge that there was existing design approval for Lot 60 contained in the minutes of the executive committee meeting dated 29 October 2009.

Having regard to all of the above our client asks that you proceed to consider the Application. Our client does, of course, acknowledge and accept that individual lot owners within the strata scheme may wish to comment on the Application and that is, of course, their statutory right and our client in no way seeks to interfere with, or limit, such statutory right.

Our client does, however, require that Council promptly deal with the Application in accordance with its statutory obligations and our client's statutory rights and entitlements.

Yours faithfully

FALVEY KAY LAWYERS

GRAEME FALVEY

gfalvey@falveykaylawyers.com.au
enc.

By-laws for The Sandcastle

Printed 25/08/2004

33 Windproof/weatherproof/privacy screens to lots 56, 57, 58, 59, 60, 61 & 62.**33.1 Windproof/weatherproof/privacy screens by-law**

The Owners Corporation is deemed to have provided Consent to the owners of lots 56, 57, 58, 59, 60, 61 & 62 to install windproof/weatherproof/privacy screens to the terrace areas forming part of their lot subject to the design being approved by the Owners Corporation (and the Hastings Council if applicable). **By-laws 3.4 to 3.8** apply to this exclusive by-law.

33.2 Interpretation

"You" means an owner of lots 56, 57, 58, 59, 60, 61 & 62

33.3 What are your obligations?

You are to provide a copy of any Development Consent, Construction Certificate, Occupation Certificate or the like that may be required in relation to the above for lots 56, 57, 58, 59, 60, 61 & 62 to the Owner's Corporation within fourteen (14) days of receipt.

You are to advise the Owners Corporation in writing at least fourteen (14) days prior to commencement of any building works in relation to lots 56, 57, 58, 59, 60, 61 & 62.

34 Electronic Access Control to lots 56, 57, 58, 59, 60, & 61**34.1 Electronic Access Control by-law**

The Owners Corporation is deemed to have provided Consent to the owners of lots 56, 57, 58, 59, 60 & 61 to Install electronic Access control. **By-laws 3.4 to 3.8** apply to this exclusive by-law.

34.2 Interpretation

"You" means an owner of lots 56, 57, 58, 59, 60 & 61

34.3 What are your obligations?

You are to advise the Owners Corporation in writing at least fourteen (14) days prior to commencement of any building works in relation to lots 56, 57, 58, 59, 60 & 61.

35 Rules**35.1 Powers of the Owners Corporation**

In addition to its powers under the Management Act, the Owners Corporation has the power to make rules about the security, control, management, operation, use and enjoyment of The Sandcastle and, in particular, the use of common property and common property which is subject to an exclusive use by-law.

35.2 Amending the rules

The Owners Corporation may add to or change the rules at any time.

35.3 What are your obligations?

You must comply with the rules.

35.4 What if a rule is inconsistent with the by-laws?

If a rule is inconsistent with the by-laws or the requirements of a government agency, the by-laws or requirements of the government agency prevail to the extent of the inconsistency.

36 How are consents given?**36.1 Who may give consent?**

Unless a by-law states otherwise, consents under the by-laws may be given by:

- (a) the Owners Corporation at a general meeting; or
- (b) the Executive Committee at a meeting of the Executive Committee.

36.2 Conditions

The Owners Corporation or the Executive Committee may make conditions if they give you consent to do things under the by-laws. You must comply with the conditions.

36.3 Can consent be revoked?

The Owners Corporation or the Executive Committee may revoke their consent if you do not comply with:

- (a) conditions made by them when they gave you consent; or
 - (b) the by-law under which they gave you consent.
-

Item: 06**Subject: DA2014 - 0547 ADDITIONS TO A RECREATION FACILITY - INDOOR
POOL AT LAURIETON SWIMMING POOL COMPLEX - LOT 253
DP754405, LAURIE STREET, LAURIETON****Report Author: Benjamin Roberts**

Property:	Lot 253 DP754405 Laurie Street, Laurieton
Applicant:	Wayne Ellis Architect
Owner:	Crown Land - Port Macquarie-Hastings Council (Trustee)
Application Date:	6 August 2014
Estimated Cost:	\$31,440
Location:	Laurieton
File no:	DA2014 - 547.1
Parcel no:	25257

Alignment with Delivery Program

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

RECOMMENDATION

That it be recommended to Council that DA2014 - 547 for additions to a recreational facility (Laurieton Swimming Pool Complex) at Lot 253, DP754405, Laurie Street, Laurieton, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for an indoor pool at the Laurieton swimming pool complex on the subject site. The site is located on Crown land and Council is the trust manager.

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

Following exhibition of the application, 4 submissions against and 2 submissions in support of the proposal have been received.

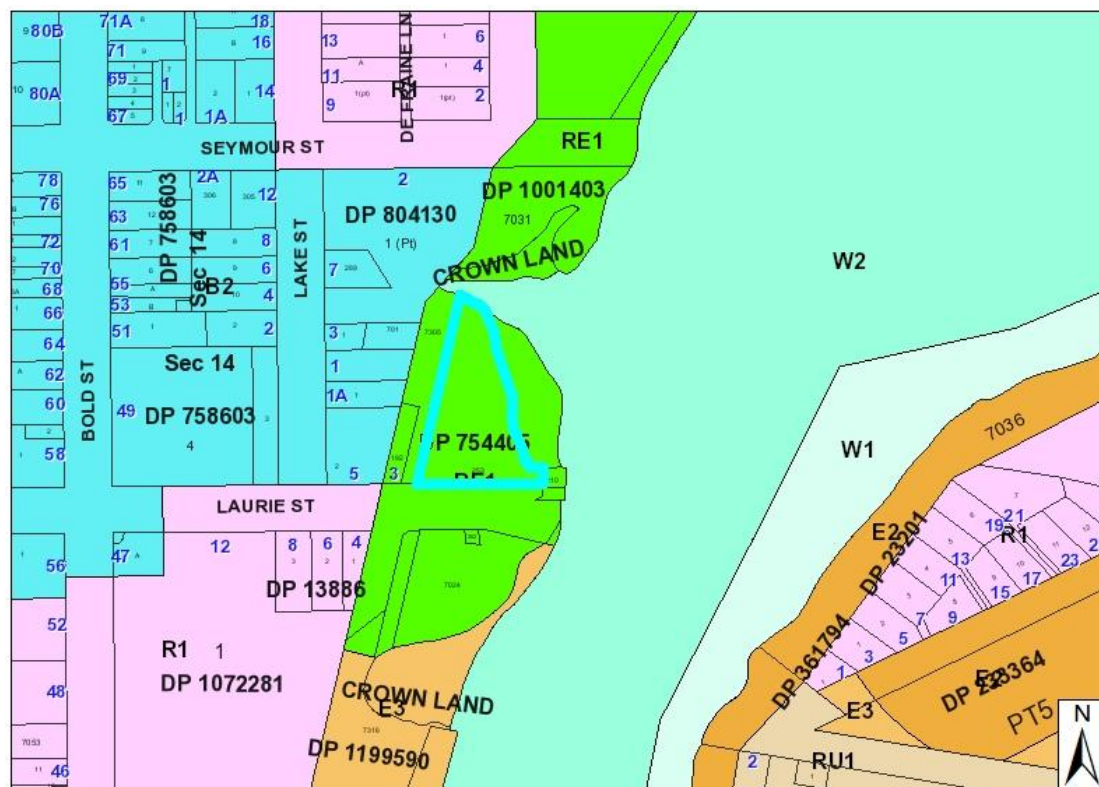
In accordance with Council's Conflict of Interest - Development Applications policy all development applications on Council land, which includes Crown land under trust management of Council, where objections have been received are to be considered by the Development Assessment Panel and referred to Council for determination.

1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of approximately 5000m².

The site is zoned RE1 Public Recreation in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Construction of an indoor swimming pool at the Laurieton Swimming Pool Complex

Refer to attachments at the end of this report.

Application Chronology

- 6 August 2014 - Application lodged
- 13 August 2014 - Request for additional fees
- 13 August 2014 - Referral to NSW Office of Water
- 18 August - 16 September - Public exhibition (advertised & neighbour notification)
- 22 September 2014 - NSW Office of Water response (exempt from controlled activity approval)

3. STATUTORY ASSESSMENT

Section 79C(1) Matters for Consideration

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

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

State Environmental Planning Policy 55 – Remediation of Land

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

State Environmental Planning Policy 62 - Sustainable Aquaculture

In accordance with clause 15C, given the nature of the proposed development, proposed stormwater controls and its' location, the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries within the nearby Camden Haven River approximately 40m to the east from the site.

State Environmental Planning Policy 64 - Advertising and Signage

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

State Environmental Planning Policy 71 – Coastal Protection

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

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

- 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;
- g) reduce the quality of the natural water bodies in the locality (due to effluent & stormwater disposal, construction impacts, land use conflicts);
- h) adverse cumulative impacts of the proposed development on the environment;
- i) development within a zone to be consented to as if it were in a neighbouring zone.

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

Port Macquarie-Hastings Local Environmental Plan 2011

In accordance with clause 2.2 the subject site is zoned RE1 Public Recreation.

In accordance with clause 2.3(1) and the RE1 zone landuse table, the proposed development for an indoor swimming pool at the existing swimming pool complex (recreation facility (outdoor)) is a permissible landuse with consent.

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

The objectives of the RE1 Public Recreation zone are as follows:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

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 proposal will provide further recreational activity for the public;
- The proposal will not impact on the natural environment.

In accordance with clause 4.3, the maximum overall height of the proposal above ground level (existing) is 4.1m which complies with the standard 8.5m height limit applying to the site.

In accordance with clause 4.4, no maximum floor space ratio applies to the site.

In accordance with Clause 5.10, the site does not contain or adjoin any known heritage items or sites of significance.

In accordance with clause 7.3 the land is within the flood planning area. The proposal is affected by the 1:100 flood event for the Camden Haven River. The proposal will be located within Low/Medium Hazard areas and is located within the flood fringe. The 1:100 flood level is 2.90m AHD. The existing terrain where the pool is proposed is 2.6m AHD. Therefore the proposed level of the pool deck and top of pool is expected to be 3.9m AHD (as a result of the plans showing that the pool and deck will be 1.3m above existing NGL). As a result the proposal meets the Interim flood policy measure of achieving 1:100 flood level. Evacuation and access is not an issue in this case. The proposal has been conditioned to withstand flood forces up to 1:100 plus debris and has been conditioned so that it is constructed using flood compatible materials.

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

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

No draft instruments apply.

(iii) any Development Control Plan in:

Port Macquarie-Hastings Development Control Plan 2013

There are no specific building controls that apply to this form of development. It is however noted that the indoor pool structure is 4.1m in height (single storey) and located behind the entry building. There will be no adverse impact on the streetscape.

The total area of the building is 108m² and setback 3m from the eastern boundary. There are generous setbacks to the western and northern boundaries.

DCP 2013: General Provisions			
DCP Objective	Development Provisions	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline:	The proposed development will be unlikely to create any concealment/entrapment areas or crime spots	Yes

	<ul style="list-style-type: none"> Casual surveillance and sightlines Land use mix and activity generators Definition of use and ownership Lighting Way finding Predictable routes and entrapment locations 	that would result in any identifiable loss of safety or reduction of security in the immediate area.	
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	<1m cut or fill outside the external walls of the building.	Yes
2.3.3.8 onwards	Removal of hollow bearing trees	None proposed to be removed.	Yes
2.6.3.1	Tree removal (3m or higher with 100m diameter trunk and 3m outside dwelling footprint)	None proposed to be removed.	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Yes
2.5.3.3	Off-street parking in accordance with Table 2.5.1: <ul style="list-style-type: none"> 30 minimum + any additional requirement of Council, depending on location and activity. 	The site contains 13 angled and marked public spaces in front of the site. In addition and on the opposite side of Laurie Street is a public reserve which acts as informal overflow parking.	It is anticipated that the additional parking demand generated by the indoor pool will be adequately provided for under the existing parking arrangements.
2.5.3.11	Section 94 contributions	Refer to main body of report.	No

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

No planning agreement has been offered or entered into relating to the site.

iv) any matters prescribed by the Regulations:

New South Wales Coastal Policy

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

- 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 applicable.

- (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 located on and adjoins Crown Land reserve and the Camden Haven River beyond to the east.

Adjoining the site to the north is crown land comprising of natural drainage with pedestrian connectivity to the serviceman's club.

Adjoining the site to the west is an old dwelling and hairdressing shop on the corner of Laurie and Lake Streets. Telstra communication buildings are located on the adjoining 1A Lake Street. A one and two storey residential unit development containing 5 units is located on the adjoining 1 Lake Street.

Adjoining the site to the south is Laurie Street and public reserve.

The proposal is not considered to be at odds with the character of the locality and adequately responds to planning controls for the area.

There are no identifiable adverse privacy impacts. Adequate building separation is proposed.

The proposal does not have a significant adverse impact on existing view sharing. The first floor east facing windows and north east facing deck of the rear unit at 1 Lake Street enjoy extensive foreshore and river views across the pool site. It is noted that an existing single storey shed containing the pool pump equipment is located in northwest corner of the site. The proposed development is single storey in nature and located approximately 60m from the rear wall of the unit complex.

There are no identifiable adverse overshadowing impacts. The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.

Access, Transport & Traffic

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic. The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

Pedestrians

No change to existing arrangement. There is an existing footpath provided along the frontage of the site.

Public Domain

No public domain works are proposed for the development.

Utilities

Telecommunication and electricity services are available to the site.

Stormwater

Capable of being managed through existing stormwater connection. Details to be provided with section 68 application.

Water

Service available – details required with section 68 application.

Soils

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

Air & Micro-climate

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

Flora & Fauna

Construction of the proposed development will not require removal/clearing of any significant vegetation and therefore will be unlikely to have any significant adverse impacts on biodiversity or threatened species of flora and fauna. Section 5A of the Act is considered to be satisfied.

Waste

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

Energy

No adverse impacts anticipated.

Noise & Vibration

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

The proposed operating hours are consistent with existing complex. The hours of operation are :

- Monday to Friday: 6am to 7pm
- Saturdays: 8am to 6pm
- Sundays & Public Holidays: 10am to 6pm

Natural Hazards

The site is not mapped as bushfire prone. The site is mapped as flood prone land. Refer to comments under clause 7.3 of the Port Macquarie-Hastings Local Environmental Plan 2011.

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.

Social Impact in the Locality

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

Compliance or Otherwise with the DDA

Under the Building Code of Australia (BCA), swimming pools with a perimeter of less than 40m do not need to be accessible.

It is noted that a mobile chair is available for providing disabled access to the existing swimming pool.

Economic Impact in the Locality

No adverse impacts. Likely positive impacts can be attributed to the construction of the development and associated flow on effects (i.e. increased expenditure in the area).

Site Design and Internal Design

The proposed development design 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 have been adequately addressed and appropriate conditions of consent recommended.

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

6 written submissions have been received following 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
The positioning of the pool on the eastern side of the existing pool impacts on the public open space feel of the area and views enjoyed across the site from adjoining properties. A better position would be on the opposite side of the pool in the south-western corner.	The proposal is confined to the existing fenced swimming pool complex and will not impact on the public open space foreshore reserve. The proposal will have no significant adverse impact upon views enjoyed by the residential units at 1 Lake Street that would warrant refusal of the application. Refer to further comments provided under context and setting heading of this report.
As the proposal impacts on community open space it should have been advertised to the whole community and not just immediate neighbours.	Refer to comments above. In accordance with DCP 2013 the proposal is notifiable local development. This is due to the minor nature and scale of the development.
The shed is located over the emergency access gate and road along the eastern boundary.	The pool and associated structure is setback 3m from the eastern boundary not affecting the existing gravel access road along the eastern boundary.
Having a heated indoor pool in Laurieton will benefit the whole community.	Noted.
The pool will not be accessible for persons with a disability. Unfortunately again disabled people are being disadvantaged.	Noted. Under the Building Code of Australia (BCA), swimming pools with a perimeter of less than 40m do not need to be accessible. The proposal meets these exemption provisions.

(e) The Public Interest:

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.

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

5. CONCLUSION

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

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

The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic

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

Attachments

- 1 [View](#). DA2014 - 0547 Plans
- 2 [View](#). DA2014 - 0547 SOEE
- 3 [View](#). DA2014 - 0547 Recommended Conditions
- 4 [View](#). DA2014 - 0547 Submission - Kimber
- 5 [View](#). DA2014 - 0547 Submission - Strong
- 6 [View](#). DA2014 - 0547 Submission - Hume
- 7 [View](#). DA2014 - 0547 Submission - Partlett
- 8 [View](#). DA2014 - 0547 Submission - Pelham
- 9 [View](#). DA2014 - 0547 Submission - Ferguson
- 10 [View](#). DA2014 - 0547 Development Contributions Calculation Sheet



LOCALITY PLAN

- NOTES:**
REFER TO AND COMPLY WITH THE NATIONAL CONSTRUCTION CODE SERIES vol 2, BCA 2011 - CLASS 1 BUILDINGS.
1. DESIGN CRITERIA
REFER TO A.S. 1684 NATIONAL TIMBER FRAMING CODE & A.S. 1720.1 SAA TIMBER STRUCTURES CODE.
 2. FRAMING
ALL TIMBER FRAMING TO BE IN ACCORDANCE WITH THE PROVISIONS OF A.S. 1684.
ALL WALL FRAME BRACING REFER TO ENGINEER'S DETAILS.
ROOF TRUSSES TO BE DESIGNED BY MANUFACTURER, & TO BE FIXED & BRACED IN ACCORDANCE WITH THEIR PLANS & SPECIFICATIONS.
 3. TERMITE MANAGEMENT
ANY TERMITE TREATMENT REQUIRED, TO BE IN ACCORDANCE WITH A.S. 3660.1.
 4. WINDOWS
TO BE COMPLIANT WITH PARTS 3.6 GLAZING & 3.8 HEALTH & AMENITY OF THE B.C.A. & A.S. 1286.
 5. PLUMBING
TO BE COMPLIANT WITH A.S. 3500.
 6. EROSION CONTROL
EROSION AND SEDIMENT CONTROL TO COUNCIL'S POLICY # AUSPEC DT PORT MACQUARIE PMHC CURRENT VERSION.
 7. STORMWATER
DOWNSPIPS TO CONNECT TO EXISTING STORMWATER.

DA/CC ISSUE 5/08/2014

Notes

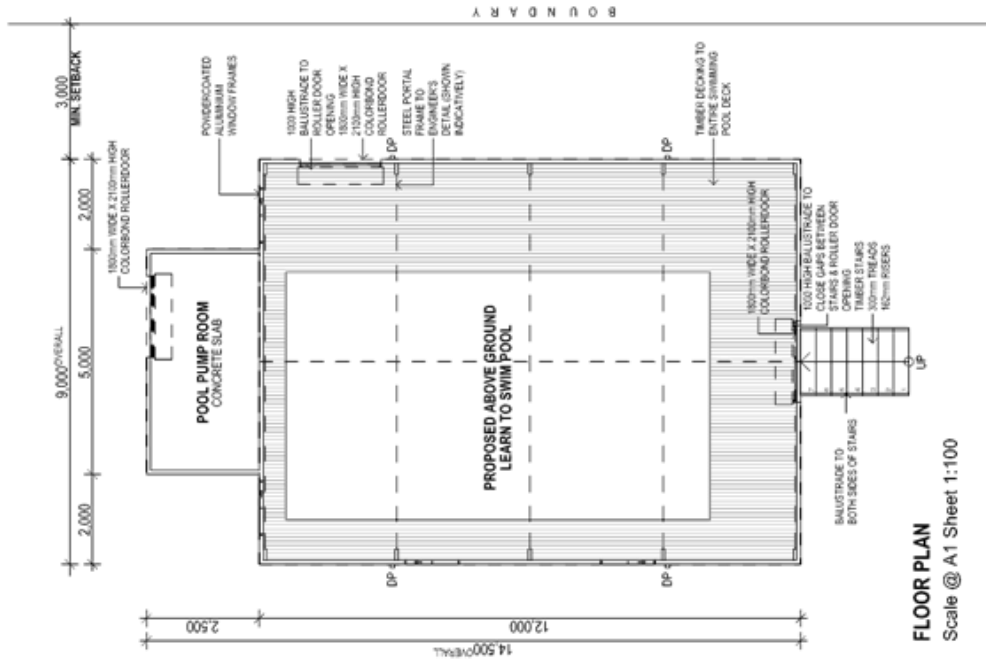
1. Check all dimensions on site before commencing any part of the works.
2. Work to figure dimensions. Do not scale drawings.
3. All dimensions are to be taken from the centre line of all other relevant specifications and drawings.
4. This drawing is copyright and must not be reproduced or used in any way without the written authority of the architect.
5. This scale of this drawing may be affected by enlargement or reduction during transmission.

No.	Date	Description
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Client: M. MULLEN

Project: PROPOSED SHED + POOL
3 LAURIE STREET LAURITON

Drawing: LOCALITY + FLOOR PLAN

wayne
ellis
architectBArch, B.A.I.A. NSW Reg No 4415
P.O. Box 1892 Port Mac NSW 1335
Unit 20 Macquarie NSW 2444
e wayne@wayneellisarchitects.com.au
t 0417 664 731Proj. No 1415 Dwg No. A01/1
PS
Drawn
Scale 1:100, 1:500 @ A3
Comp. Ref. 1415 DA/CC ISSUE jpnFLOOR PLAN
Scale @ A1 Sheet 1:100



STATEMENT OF ENVIRONMENTAL EFFECTS

This form is to be submitted for minor development applications only, such as new dwellings, alterations and additions and ancillary structures, change of use/first use of commercial and industrial premises. Other applications will require a comprehensive SOEE. Refer to SOEE Fact Sheet or Council's Duty Planner for assistance.

If you answer "yes" to any item in sections 4 to 8 you will need to detail the likely impact(s) and the proposed means of mitigating or reducing such impact(s). If insufficient space has been provided, attach additional sheet(s).

1. PROPERTY DETAILS

Lot No. 253 Section No. DP/SP No. 754405 Street No. 3
 Street Name LAURIE STREET
 Suburb/Town LAURIE TON Postcode

2. PROPOSAL DESCRIPTION

Provide a description of the proposed development.

PROPOSED SHED WITH ABOVE GROUND
LEARN TO SWIM POOL

The following questions are to be completed for applications relating to home business/industry, shops, commercial and industrial premises.

Hours of operation? 7 DAYS 6.00am - 6.00pm

Client and staff numbers? EXISTING

Type, size and quantity of goods to be made, stored or transported? N/A

Details of any deliveries (i.e. hours, frequency, type of vehicles)? N/A

Details of any retailing? N/A

Comments:

3. PLANNING INFORMATION

What is the zoning of the subject land?

What is the current use of the land/building? PUBLIC SWIMMING POOL ON CROWN LAND

Is your proposal:

- permissible in the zone? Yes ☒ No ☐
- consistent with the zone objectives? Yes ☒ No ☐

Does your proposal comply with the relevant:

- development standards (i.e. FSR, heights) in the Local Environmental Plan? Yes ☒ No ☐
- development control plan (e.g. setbacks, car parking)? Yes ☒ No ☐

If you answered "no" to any of the above questions, a detailed justification is required. Additionally, you should discuss your proposal with the Duty Planner before lodging your development application.

4. SITE SUITABILITY

Will the development:

- affect any neighbouring residences by overshadowing or loss of privacy? Yes ☐ No ☒
- result in the loss or reduction of views? Yes ☐ No ☒
- impact on any item of heritage or cultural significance? Yes ☐ No ☒
- result in land use conflict or incompatibility with neighbouring premises? Yes ☐ No ☒
- be out of character with the surrounding area? Yes ☐ No ☒
- be visually prominent within the existing landscape/streetscape? Yes ☐ No ☒
- require excavation or filling in excess of 1 metre? Yes ☐ No ☒
- require the erection or display of any advertising signage? Yes ☐ No ☒

Comments:

5. ENVIRONMENTAL IMPACTS

Is the site affected by any of the following natural hazards?

Yes ☐ No ☐

If yes, please indicate which hazard.

Flooding ☐ Bushfire ☐ Acid sulfate soils ☐*(Note: Information on natural hazards available from Council.)*

Will the proposal:

- result in any form of air pollution (smoke, dust, odour, etc)? Yes ☐ No ☒
- have the potential to cause any form of water pollution? Yes ☐ No ☒
- emit noise levels that could affect neighbouring properties? Yes ☐ No ☒
- be considered potentially hazardous or offensive (refer SEPP 33 for definitions)? Yes ☐ No ☒
- affect native or aquatic habitat? Yes ☐ No ☒
- have an impact on a threatened species or habitat? Yes ☐ No ☒
- involve the removal of any trees? (If yes, detail type and number below.) Yes ☐ No ☒

Comments:

.....

.....

6. ACCESS, TRAFFIC & UTILITIES

Are electricity and telecommunications services available to the site?

Yes ☒ No ☐

Does the site have access to town water?

Yes ☒ No ☐

Does the site have access to town sewerage?

Yes ☒ No ☐

If you answered no to the above, is a waste water report attached?

Yes ☐ No ☐Provide details of on-site parking, including number of spaces. EXISTING PARKING TO REMAIN

EXISTING POOL PROVIDES LEARN TO SWIM CLASSES. ONCE NEW POOL IS ERECTED THESE CLASSES WILL MOVE INDOOR.

Is lawful and practical access available to the site?

Yes ☒ No ☐

Will the development increase local traffic movements and volumes?

Yes ☐ No ☒

Are appropriate manoeuvring, unloading and loading facilities available on site?

Yes ☒ No ☐*(Note: Turning templates may be required for medium density, commercial and industrial.)*

Provide details of proposed method of stormwater disposal (e.g. street, rubble drain, rainwater tank)

STORMWATER TO CONNECT TO EXISTING

Comments:

7. SOCIAL & ECONOMIC IMPACTS (Not applicable to new dwellings, additions or like.)

Will the proposal have any social or economic impacts in the area? ALL POSITIVE Yes ☒ No ☐Have you conducted any community consultation (e.g. neighbours, Police)? Yes ☐ No ☒Have you considered Council's Social Impact Assessment Policy? Yes ☒ No ☐

Comments:

DURING TENDER PROCESS FOR SWIMMING POOL LEASE

8. WASTE DISPOSAL

Provide details of waste management, including reuse and recycling

JR RICHARDS

How and where will the wastes be stored?

GARBAGE BINS ON SITE (AND DURING CONSTRUCTION WASTE TO BE STORED IN SKIP BINS)

Does the proposed use generate any special wastes (e.g. medical, contaminated)? Yes ☐ No ☒Will the use generate trade wastes (e.g. greasy or medical wastes)? Yes ☐ No ☒

Comments:

APPLICANT'S SIGNATURE

for JRE

DATE 5/08/2014

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2014/547****DATE: 21/10/2014****PRESCRIBED CONDITIONS**

The development is to be undertaken in accordance with the prescribed conditions of Part 6 - Division 8A of the *Environmental Planning & Assessment Regulations* 2000.

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	3 Laurie Street	Wayne Ellis Architects	5 August 2014
Development Plans	Project No 1415 Dwg No A01-02 Revision 1	Wayne Ellis Architects	5 August 2014

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:
- the appointment of a Principal Certifying Authority; and
 - 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) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
 - Building waste is to be managed via an appropriate receptacle;
 - 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.
 - Building work 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.

- (4) (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.
- (5) (A024) The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the Environmental Planning and Assessment Regulation 2000.
- (6) (A062) The applicant shall submit to Port Macquarie-Hastings Council plans for the management of trade waste including pre treatment facilities to the sewerage authority for approval pursuant to Section 68 of the Local Government Act. Upon approval the proponent shall enter into a written "Trade Waste Agreement" with Council prior to discharging wastes.
- (7) (A195) Swimming pool of less than 55,000L does not require a settlement tank. 55,000L or greater require backwash water to be collected in a holding tank then discharged to sewer at a controlled rate < 2 L/sec. Solids settled shall be removed off-site and not discharged to sewer. Details to be provided with section 68 application.
- (8) (A064) All works shall be in accordance with the current Port Macquarie-Hastings Council Flood Policy.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, 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) 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 unless deferral of payment of contributions has been approved by Council. 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
- (3) (B045) A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- (4) (B195) Prior to the issue of the Construction Certificate, certification that the indoor heated pool shall be provided with a ventilation system designed in

accordance with AS1668.2-2012 "The use of ventilation and air-conditioning in buildings, Part 2: mechanical ventilation in buildings" referencing Table B1 which specifies minimum mechanical exhaust air requirements, shall be submitted to Council.

- (5) (B067) The minimum floor level of the pool deck and the pool surface is to be no lower than the 1 in 100 year flood level, for the purposes of this requirement, the 1 in 100 flood level may be assumed to be RL 2.90m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (6) (B069) Prior to release of the Construction Certificate a practising chartered professional structural engineer is to provide certification to the PCA that the building is designed so that all structural members are capable of withstanding flood forces and the impact of any debris (carried by floodwaters) likely to occur for a range of floods up to and including the 1:100 year flood estimated for the site. Velocities to be adopted for the calculation of forces created by flood waters and debris loading shall be at least three (3) times the velocities for a 1:100 year flood.

C – PRIOR TO ANY WORK COMMENCING ON SITE

nil

D – DURING WORK

- (1) (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.
- (2) (D015) The swimming pool shall not to be filled with water until a safety fence/barrier complying with the current Swimming Pools Act and Regulations has been installed and an inspection has been carried out and approval given by the Principal Certifying Authority.

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) (E016) Prior to occupation or the issue of the Occupation Certificate (or Interim Occupation Certificate) the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (3) (E021) Pool to be fenced in accordance with the Swimming Pools Act, 1992.
- (4) (E022) Depth markers are to be installed on the swimming pool.
- (5) (E025) Prior to occupation or the issue of an Occupation Certificate, provide a certificate from the installer certifying that the mechanical ventilation system meets the requirements of AS 1668 Parts 1 & 2. The certificate must include:
 - a. Inspection, testing and commissioning details
 - b. Date of inspection, testing and commissioning
 - c. The name and address of the individual/company, who carried out the test
 - d. Statement that the service has been designed, installed and is capable of operating to AS 1668.

- (6) (E027) A final site inspection relating to the works carried out on the premises shall be arranged by the applicant and shall be undertaken by Council's Environmental Health Officer.
- (7) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (8) (E195) Occupation of the pool shall not occur until payment of a "Public Health Premises- Notification Fee" has been made to Council.
- (9) (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.
- (10) (E045) All electrical meter boxes shall be placed at a level which is above the 1:100 year flood level. The positioning of meter boxes shall comply with the requirements of Country Energy. For the purpose of this approval, the 1 in 100 year flood level may be assumed to be RL 2.90m AHD.

F – OCCUPATION OF THE SITE

- (1) (F010) Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 177 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The statement must only be in the form specified by clause 181 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (2) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997, shall not be generated as a result of the operation of the development.
- (3) (F025) Hours of operation of the development are restricted to the following hours:
 - 6 am to 7 pm - Monday to Friday
 - 8am to 6pm - Saturdays
 - 10am to 6pm - Sundays & Public Holidays
- (4) (F027) The swimming pool filtration motor shall be operated between the following hours only:
 - Monday to Friday (other than a public holiday)
7.00 am – 8.00 pm
 - Saturday to Sunday and Public Holidays
8.00 am – 8.00 pm

Should noise levels exceed 5dBA above the ambient noise level measured at the boundary, the pool filtration motor shall be enclosed with an effective soundproof unit.
- (5) (F028) The operations of the public pool/spa is to comply with the requirements of the:
 - a. Public Health Act 2010,
 - b. Public Health Regulation 2012, and
 - c. NSW Ministry of Health Public Swimming Pool and Spa Pool Advisory Document 2013.

Register to DFE

8 BLACKBUTT CR.
LAURIETON 244310th SEPT. 2014

THE MANAGER

PORT MACQUARIE-HASTINGS COUNCIL

Dear Sir,

I saw in today's Courier that a new covered pool is proposed at Laurieton and no selfish person has objected because it spoils the water views.

I strongly support an indoor all-year-round pool as it would be of great benefit to a large section of the community e.g. people with specific health issues and general exercise, particularly gentle exercise for older people as well as all round fitness for more active people without the mid year interruptions.

I sincerely hope the project goes ahead.

26257

Yours faithfully

 PORT MACQUARIE HASTINGS	
TRIM No	COUNCIL No
17 SEP 2014	
Keyword	
Activity	
Subject	
Folder	DN 2014.547.1



18 Bold St
Laurieton 2443
17/9/14

19 SEP 2014

Key: out
Activity: DN 2014 - 547.1
Subject: Aquaria
Folder: Hastings Council.

To Port

I read with great delight - an addition to the pool at Laurieton.

But I have a disability - which does not allow me to climb stairs into a pool.

A Heated pool helps me with my disability. I have in the past have walked & swum in the Laurieton Pool, where the staff have always put the steps in for me. To access the pool.

With an ageing population more and more people would use the heated pool all year round.

I read The Building Code for pools less than 40 metres need not be accessible to disabled people.

Once again disabled people are discriminated against.

If only you knew how it feels to get your body into a heated pool when you are barely able to walk.

I will be speaking to our local members

Sonya Hume

4/1 Lake St ,Laurieton

NSW 2443

[REDACTED]

[REDACTED]

Mr Benjamin Roberts, 30/09/2014

I Sonya Hume wish to submit an objection in writing to council in relation to the proposed development Application No 2014/547 Laurieton Swimming Pool .

I strongly object to the proposed position of the indoor swimming pool as displayed at Laurieton Council Service Centre. If the pool position cannot be **re negotiated** then I wish to Inform you that I **strongly Object** to the **development** of the pool.

The foreshores of the Camden Haven River are for all to enjoy, residents and tourists. Placing the pool on the east of the existing pools, robs the public of the open space feel along the enjoyed pathways and the water views of those who are visiting the pools and obstructs views from neighbouring properties. I am sure this would be in accordance of the NSW State Legislation Council Development Control Plans and Policies under Fore shore coastal management, flood management or environmental protection

Future infrastructures need to be planned on the western fence line so that future development doesn't destroy water line views and open space that attracts many people to the area for tourism and investment development.

I Love the idea of an indoor pool correctly position for winter water aerobics, lapping, physiotherapy for our ever increasing aged demographic and swimming lessons. It is the position that I object to.

A better position for the pool would be on the opposite side along the west fence line down near the front fence for easy access to parking. Future development can then command views over the pool structure as they do now in existing homes. The open space will not be lost. Council will have increased development and there fore rate revenue.

Past pool design has used the western side for high structures in the past with the shedding , water storage and filter equipment back away from the open space the pool commands.

I am grateful for the Council Policy to inform neighbours when applications are lodged however, I am truly horrified that such a structure has been put forward only to neighbours. This development involves input from the a whole community of Laurieton. Any development along the Camden Haven River board walk, (community open space)should be appraised and consulted with the whole community. I strongly urge you to inform all of Laurieton's residents of this application thru the local papers and mail, extending the consultation and objection time.

I look forward to a prompt acknowledgement of my objection

Sonya Hume

[REDACTED]

From: Robert & Darylyne Partlett [REDACTED]
Sent: Wednesday, 17 September 2014 3:09 PM
To: Council
Cc: Council
Subject: Laurieton Smimming Pool

To the General Manager, I wish to put my support the building of a new indoor pool. As being a active member of Port Macquarie Masters Swimming club, I see the use of the same pool a proposed to build, which I feel it is well used. As a being a active swimmer and use the Laurieton pool and I see the way the port Macquarie pool is operated this can improve the use of the Laurieton pool. I would like to mention that my wife also has a need for a heated pool all year round as she inoperable hip problem and walking in the water a great help. I feel there is a lot more people in our area who would benefit having a heated indoor pool. Thanking You Robert Partlett from Dunbogan [REDACTED]

From: Jan [REDACTED]
Sent: Thursday, 11 September 2014 11:01 AM
To: Ben Roberts
Subject: Proposed Pool - Laurieton

Sir,

I have, this morning viewed the plans for the 'Proposed shed with above ground learn to swim pool' at the Laurieton Branch of PMHC.

I wish to register my strong opposition to this proposed development, a 'shed' built on the foreshores of the river would look unsightly and as Sonya Hume mentioned in The Courier - *'Placing the pool on the eastern side of the existing pools robs the public of the open space feel along pathways and obstructs the water views of pool users and neighbouring properties' ..*

I also object to the fact that this proposed development has not been put to the whole community of Laurieton and surrounds, to ascertain their opinion, the first I heard about it was the article in the Courier last week. Good for the Courier.

In my opinion there is far too much development taking place on our foreshores, our area depends on tourism to a certain extent and that walk around the Camden Haven River from the Dunbogen bridge to Stingray Creek bridge is one of our area's greatest assets. We DO NOT need a 'shed' blocking the beautiful views of the river.

This proposed development should be widely publicised before any decision is made by Council. I hope the community gets together in opposition.

Regards,

Jan Pelham
2/28 Blackbutt Cr.
Laurieton

[REDACTED]

Robert & Rhonda Ferguson

5/1 Lake Street

Laurieton NSW 2443

14 September 2014

Mr Benjamin Roberts

Re Proposal of Additional indoor pool at Laurieton Swimming Pool Complex

Lot 253 DP 754405 Laurie Street, Laurieton

Application 2014/547

¹
We wish to submit our objection to the proposed development of the indoor pool in the location as indicated in the Development Application.

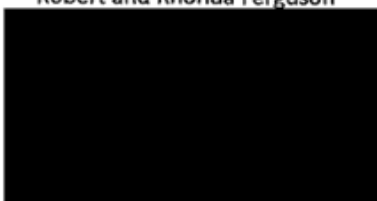
We are in favour of an indoor pool, which will benefit the local community, however the location of the pool inside the pool grounds leaves us perplexed.

The Development Application has the new pool taking up the emergency access gate and road on the riverside of the complex. If the indoor pool is relocated to the western corner of the complex, access and open space can be maintained. The riverside pathway is a great open space and is currently enjoyed by locals and visitors alike. Once the existing pathway from North Haven beach is extended over to the Dunbogan side of the river, more and more people will use the pathway. To take away the open space feeling that the pathway has, we think, is detrimental to all concerned.

As this development will impact on residents community space, we believe the proposal should be appraised by more than just the handful of residents who were sent notifications of the Development Proposal.

We look forward to your acknowledgement of our objection to the proposal in its current form.

Robert and Rhonda Ferguson



Preliminary Assessment Only - Final rates will not be determined until date of consent and will only be valid for 3-months from issue of consent.									
Development Details			Contributions Plans Applicable						
DA No.	2014	0547	General S94 Plans	Applies	ET Chargeable	RatePer ET	Contribution Amount		
Address:	Laurie Street, Laurieton		Major Roads	No					
Dev Description:	Additional Indoor Swimming Pool		Open Space	No					
Lot Number(s):	253		Community Cultural & Emergency Services	No					
DP Number(s):	754405		Admin Building	No					
Stage No:	Total		Bushfire - Specific	No					
Applicant:	Wayne Ellis Architect		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 type="checkbox"/> Port Macquarie <input type="checkbox"/> Rural <input type="checkbox"/> Sancroft/Thrumster <input type="checkbox"/> Wauchope		Admin Levy	No					
(Planner must Select Contribution Area Click Once with Mouse)			Specific Contribution Plans and DSPs (Planner Must Select if Plans are Applicable)						
			S94A Levy Development Cost	\$31,440	No				
			Laurieton CBD Car Parking Contribution	<input type="checkbox"/> Applies					
			North Haven Car Parking Contribution	<input type="checkbox"/> Applies					
			Bushfire Additional	<input type="checkbox"/> Applies					
			Laurieton Walkway	<input type="checkbox"/> Applies					
DA Lodged Date:	6/08/2014		Water 1.6% Levy:	<input checked="" type="checkbox"/> Applies	0.108	\$0,373.00	\$1,012.20		
Prepared By:	Ben Roberts		Sewer	<input checked="" type="checkbox"/> Applies	0.108	\$3,556.00	\$384.00		
DA Consent Date:			Car Parking CP						
Issue No.	2		Contribution Total: \$1,396.20						
Calc Sheet Date:	21-Oct-2014		No. of Spaces Short:						
FINAL CONSENT CALCULATION	<input type="checkbox"/> Tick for FINAL Consent Calculation		Notice of Payment Re-Issue Fee: <input type="checkbox"/> Applies						
ET Calculation for New Development (Proposed)									
Commercial & Industrial New Development			Rate	Units	Water Rate	Sewer Rate	ET Water	ET Sewer	Traffic Facilities m²
MULTI-PURPOSE RECREATIONAL COMPLEX			m2	108	0.001	0.001	0.108	0.108	
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:						
							0.108	0.108	0
New Residential Development			Units	Sec 94 ET	Water ET	Sewer ET			
Number of new residential lots greater than 450m ² (excluding Dual Occ & Int Housing)			0	0	0	0			
Number of new residential lots greater than 200m ² (excluding Dual Occ & Int Housing)			0	0	0	0			
1 Bedroom Units (Low Density) - Flats, town houses, villas, dual occ, int housing & Permanent Self Contained (Custom Park Sites)			0	0	0	0			
2 Bedroom Units (Low Density) - Flats, town houses, villas, dual occ, int housing & Permanent Self Contained (Custom Park Sites)			0	0	0	0			
3 Bedroom Units (Low Density) - Flats, town houses, villas, dual occ, int housing & Permanent Self Contained (Custom Park Sites)			0	0	0	0			
4 Bedroom Units (Low Density) - Flats, town houses, villas, dual occ, int housing & Permanent Self Contained (Custom 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 Low Dependency/Hospital (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 Occupancy Bedroom Not Self Contained (shared facilities for cooking, laundry & bathroom)			0	0	0	0			
Boarding House per Occupancy Bedroom Partially Self Contained (Own ensuite - shared cooking, laundry & bathroom)			0	0	0	0			
Boarding House per Self Contained Per Bed (for dormitories, bunkrooms, Own ensuite per bedroom, shared cooking and laundry)			0	0	0	0			
New Residential Unit Total:			0	0	0	0			

ET Calculation for Existing Development (Credits)							
Commercial & Industrial Existing Development	Rate	Units	Water Rate	Sewer Rate	ET Water	ET Sewer	Traffic Facilities m ²
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 ² (excluding Dual Occ. & Int. Housing)		0	0	0	0		
Number of existing residential lots greater than 2000m ² (excluding Dual Occ. & Int. Housing)		0	0	0	0		
7 Bedroom Units (High Density) - 1 lot, low density, villas, detached, self-contained Caravan Park Sites		0	0	0	0		
7 Bedroom Units (High Density) - 1 lot, low density, villas, detached, self-contained Caravan Park Sites		0	0	0	0		
3 Bedroom Units (High Density) - 1 lot, low density, villas, detached, self-contained Caravan Park Sites		0	0	0	0		
4 Bedroom Units (High Density) - 1 lot, low density, villas, detached, 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 & 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/Hospital (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 lot Self-Contained (shared facilities for cooking, laundry & bathroom)		0	0	0	0		
Boarding House per 1 Occupancy bedroom lot Self-Contained (Own ensuite, shared parking & laundry facilities)		0	0	0	0		
Boarding House - Not Self-Contained Per Bed for corridors/bathrooms, shared cooking, laundry & bathroom		0	0	0	0		
Boarding House - Self-Contained Per Bed for corridors/bathrooms, Own ensuite per bedroom, shared parking & shared cooking and laundry		0	0	0	0		
Existing Residential Unit Total:		0	0	0	0		

G:\Dev\Dev AND BUILDING CONTROL\SDAs\2014\DA2014-0547\Development Contributions Calculation Sheet, DA 2014-0547, Stage No. Total, Issue No.2