



Development Assessment Panel

Business Paper

date of meeting: Wednesday 27 May 2015

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.

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	22/10/14	12/11/14	26/11/14	10/12/14	21/01/15
Paul Drake	✓	✓	✓	✓	✓
Matt Rogers					
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓	✓	✓	✓
David Fletcher Paul Biron (alternate)	✓	✓	✓	A	✓
David Troemel (alternate)	✓	✓	✓	✓	✓

Member	11/02/15	25/02/15	11/03/15	25/03/15	08/04/15
Paul Drake	✓	✓	✓	✓	✓
Matt Rogers					
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓	✓	✓	✓
David Fletcher Paul Biron (alternate)	A	✓	✓	✓	✓
David Troemel Caroline Horan (alternate)	A ✓	A	✓	✓	✓

Member	22/04/15	13/05/15			
Paul Drake	✓	✓			
Matt Rogers					
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓			
David Fletcher Paul Biron (alternate)	✓	✓			
David Troemel Caroline Horan (alternate)	✓	✓			

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



**PORT MACQUARIE
HASTINGS**

Development Assessment Panel Meeting

Wednesday 27 May 2015

Items of Business

Item	Subject	Page
01	Acknowledgement of Country	<u>5</u>
02	Apologies.....	<u>5</u>
03	Confirmation of Minutes	<u>5</u>
04	Disclosures of Interest.....	<u>10</u>
05	DA2014 - 0123 Demolition of Units and Construction of a Residential Flat Building (13 units), Including Clause 4.6 variation to Clause 4.3 (Height of Buildings) and Clause 4.4 (Floor Space Ratio) of the Port Macquarie-Hastings Local Environmental Plan 2011, and Strata Subdivision at Lot 101 DP1122606 No. 3 Clarence Street, Port Macquarie.....	<u>14</u>
06	DA2015 - 0193 - Ancillary Building (Shed) - Lot 3 DP354485, No. 27 The Parade, North Haven	<u>185</u>
07	DA2015 - 0231 - Additions to Dwelling and Swimming Pool - Lot 2 DP 849392, No. 18 Commodore Crescent, Port Macquarie.....	<u>208</u>
08	General Business	



**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 13 May 2015 be confirmed.

PRESENT

Members:

Paul Drake
Dan Croft
David Fletcher
David Troemel

Other Attendees:

Jesse Dick
Pat Galbraith-Robertson
Paul Biron

The meeting opened at 2.00pm.

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 22 April 2015 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

05 DA2014 - 0962 - PROPOSED DECK - LOT 285 DP 236277, NO 64 THE SUMMIT ROAD, PORT MACQUARIE

CONSENSUS:

That DA2014 - 0962 for a deck at Lot 285, DP236277, No. 64 The Summit Road, Port Macquarie, be determined by granting consent subject to the recommended conditions.

06 DA2014 - 988.1 - ADDITIONS TO HOTEL - SHADE STRUCTURE - LOT 3 DP 1040459, 2-6 HORTON STREET, PORT MACQUARIE

Speakers:

Michelle Chapman (applicant)
David Capper (applicant)

CONSENSUS:

That DA 2014 - 988 for Additions to Hotel (Shade Structure) at Lot 3, DP 1040459, No. 2-6 Horton Street, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Amend condition A(15) to read; '*No permanent speakers or sound production devices are permitted to be installed on the structure or within the area covered by the structure*'.
 - Delete condition A(14)
 - Delete condition F(1)
-

07 DA2015 - 0075 - ADDITIONS TO DWELLING INCLUDING A CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AT LOT 29 DP 31035, 14 ARAKOOON AVENUE, PORT MACQUARIE

Speakers:

Paul Fahey(o)
Damien Keep (applicant)

CONSENSUS:

That DA 2015 - 0075 for additions to dwelling including a Clause 4.6 variation to Clause 4.3 (height of buildings) of the Port Macquarie Hastings Local Environmental Plan 2011 at Lot 29 DP 31035, No. 14 Arakoon Avenue, Port Macquarie, be determined by granting consent subject to the recommended conditions.

08 DA2015 - 0135 - BOUNDARY ADJUSTMENT - LOT 2 DP 802621 AND LOT 2 DP 1056817, BERRYMAN ROAD, LOGANS CROSSING

Speaker:
Terrance Stafford (applicant)

The Chair tabled a submission from Scott Jennar, dated 12 May 2015 objecting to the proposal.

CONSENSUS:

That DA 2015 - 0135.1 for a boundary adjustment at Lot 2 DP 802621 and Lot 2 DP 1056817, Berryman Road, Logans Crossing, be determined by granting consent subject to the recommended conditions.

09 DA2015 - 94 - MULTI-DWELLING HOUSING COMPRISING 10 DWELLINGS AND STRATA SUBDIVISION - 15B RACEWYN CLOSE, PORT MACQUARIE

Speakers:
Shane Conroy (o)
Greg Anderson (applicant)
Rob Beukers (applicant)

CONSENSUS:

1. DAP provide in principle support to the application with the following changes to conditions of consent:
 - Additional condition in section D of the consent to read: *'The proponent is responsible for ensuring that the existing stormwater pipe traversing/adjoining the land is not damaged while performing any works. If the existing stormwater pipe is damaged during the course of performing the works, the proponent will:*
 - a. *notify Council immediately when the breakage occurs, and*
 - b. *repair the damage at no cost to Council*
 - Amend Condition B(2)(4) as follows: 'Detailed driveway profile in accordance with Australian Standard 2890, AUPSEC D1, and ASD 202, Port Macquarie-Hastings Council current version'.
2. That the application be deferred to enable the applicant to submit a noise impact assessment prepared by a suitably qualified consultant addressing the Industrial Noise Policy. The assessment is to take into account the potential noise impact of neighbouring horse training activities on future residents of the development. Any construction standards or boundary fencing necessary to achieve acceptable noise levels within the development shall be implemented in an amended design.
3. Subsequent to achieving a satisfactory noise assessment, determination of the application be delegated to the Director Development and Environment.

10 GENERAL BUSINESS

-
- 10.01 The Chair noted it was the Last DAP meeting to be attended by David Fletcher and Paul Biron. On behalf of the DAP, the Chair extending his thanks to David and Paul for their contribution over the years.
-

The meeting closed at 3.25pm.

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>)	
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: DA2014 - 0123 DEMOLITION OF UNITS AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING (13 UNITS), INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) AND CLAUSE 4.4 (FLOOR SPACE RATIO) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011, AND STRATA SUBDIVISION AT LOT 101 DP1122606 NO. 3 CLARENCE STREET, PORT MACQUARIE

Report Author: Chris Gardiner

Property: Lot 101 DP 1122606, No. 3 Clarence Street, Port Macquarie
Applicant: Hopkins Consultants Pty Ltd
Owner: A G Hunziker and N G Reid
Application Date: 26 February 2014
Estimated Cost: \$4,789,015
Location: Port Macquarie
File no: DA2014 - 123.1
Parcel no: 55244

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 DA 2014 - 0123 for Demolition of Units and Construction of a Residential Flat Building (13 units), Including Clause 4.6 variation to Clause 4.3 (Height of Buildings) and Clause 4.4 (Floor Space Ratio) of the Port Macquarie-Hastings Local Environmental Plan 2011, and Strata Subdivision at Lot 101, DP 1122606, No. 3 Clarence Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application (DA) for demolition of units and construction of a residential flat building (13 units), including clause 4.6 variation to clause 4.3 (Height of Buildings) and clause 4.4 (Floor Space Ratio) of the Port Macquarie-Hastings Local Environmental Plan 2011, and strata subdivision at the subject site.

The Department of Planning and Infrastructure circular PS08-014 reminds councils of their assumed concurrence role in relation to SEPP 1 and Clause 4.6 LEP variations. As the variations sought in this application are greater than 10%, the application is

required to be determined by Council. The Department's circular PS 08-003 provides for the Director General's assumed concurrence for variations of the nature sought.

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

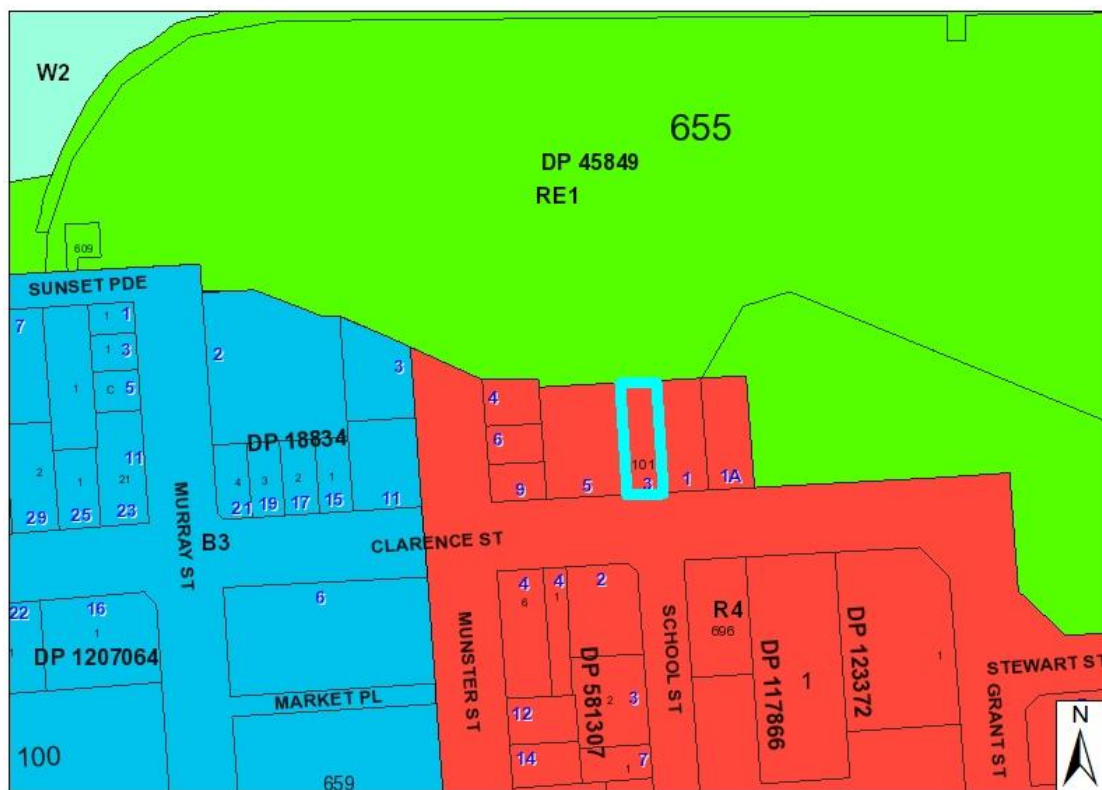
Following exhibition of the application, 29 submissions have been received.

1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 750.8m².

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:

- Demolition of 1 x 3 bedroom unit and 3 x 1 bedroom units.
- Construction of an 8 storey residential flat building including basement car parking (17 spaces), 5 x 3 bedroom apartments, 3 x 2 bedroom apartments, 5 x 1 bedroom apartments and common areas.
- Diversion of Council stormwater drainage current draining through the western side of the site.
- Strata subdivision of the 13 apartments.

Refer to attachments at the end of this report.

Application Chronology

- 26 February 2014 - Application lodged.
- 17 March 2014 to 31 March 2014 - Application publicly notified.
- 20 March 2014 - Proposal considered by SEPP 65 Design Review Panel.
- 26 March 2014 - Comments from Design Review Panel received.
- 1 April 2014 - Additional information requested from applicant.
- 16 April 2014 - Comments received from the Heritage Council (part of NSW Office of Environment and Heritage) in relation to potential archaeology at the site.
- 27 October 2014 - Additional information received from the applicant.
- 4 November 2014 to 17 November 2014 - Amended plans and additional documentation re-notified to the public.
- December 2014 - Various apartments in Focus building at 2 Clarence Street inspected by assessing officer and existing views photographed.

- 25 February 2015 - Revised archaeological assessment received from the Applicant.
- 26 February 2015 - Revised archaeological assessment forwarded to Heritage Council for further consideration and comment.
- 17 April 2015 - Comments received from Heritage Office in relation to the revised report.
- 1 May 2015 - Additional information submitted by applicant in relation to vehicle access ramp.
- 6 May 2015 - Full revised plan set including view analysis submitted by the Applicant.

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

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

Given the nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries within the Hastings River approximately 170m from the site.

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

The applicant attended a pre-lodgement meeting with Council and the Design Review Panel (DRP) on 18 September 2013. Some amendments were made to the design in response to the initial feedback from the DRP prior to lodgement of the DA.

In accordance with clause 30, the submitted DA was referred to the DRP to seek further advice. The DRP met on 20 March 2014 to review the design of the proposal. In summary the following advice and recommendations were made by the panel:

- The proposal's overall planning was supported.
- The DRP generally supports the apartment layouts though they are considered very large.
- Landscaping shown, though no habitat planting.
- Access to external communal space via fire stairs and could be made more appealing.
- No internal communal space indicated.
- Access cores could be more refined to promote more use of stairs by residents with more natural light and air.
- Entry needs redesign to conform with Premises Standards.
- Overall elevation treatment requires refinement.

The following table provides the detailed advice provided by the panel and comments and in response by Council staff. It should be noted that the comments provided by the DRP have been made with regard to the Residential Flat Design Code (RFDC):

DRP comment	Comments in response
1. Relationship to the context of the proposal	
The site is a narrow site with an existing weatherboard house and mid 20th Century holiday flats to the rear accessed down a side driveway. The site slopes steeply away from the street to the north with great views over the Hastings River. A face brick mid 20thC flat building is on the higher ground to the east with a more recent large squat flat building lower to the west with flats/windows facing the side boundary.	Noted.
The DRP noted that the controls call for a 1:1 development which does not correlate to the potential height controls and in discussion with Council a possible 2:1 FSR may be permitted.	See comments below under LEP regarding proposed variation to maximum FSR.
The DRP noted that the narrow and steep site has put severe constraints on the design and has lead to some of the issues to be discussed below.	Noted.
The DRP notes the heritage report and potential for archaeology on the site. As the building work is clearly within the relic zone, the design intent could go beyond strict statutory compliance.	The proposal has not been amended to include design elements that relate to the site's early history. However, it is not considered that this suggestion could be enforced where there is no statutory basis. It is noted that the NSW Heritage Council have not made any recommendations of this nature.
2. The scale of the proposal	
The proposal is split into two main sections to front and rear of the site linked by an access core. This strategy is supported, however this requires a narrow and steep driveway to the west abutting the western neighbour (note no clear elevation indicating the impact of this structure on the neighbours presented) and a narrow ramped walkway to the eastern side down to the central entry.	<p>The western driveway would result in a wall built to the western property boundary. The wall is located adjacent to the swimming pool of the Flightdeck apartments, but would not impact on the amenity of any of the apartments as it is located south of any living area windows or private open space areas.</p> <p>The narrow walkway to the central building entry has been improved through the provision of a partially open communal space adjacent to the walkway.</p>
The proposal is within Council height controls though is excavated deep into the site.	The proposal does not fully comply with the LEP Height of Building controls. See comments under LEP section in this regard.
The DRP noted that the units shown are	Re-design of the proposal has resulted

about 20% larger than generally in the market and notes that this was indicated as a point of difference by the developers, however it has lead to some of the design issues that have arisen in the proposal.	in a reduction of the floor area of some units. Other design issues are discussed in this table.
Access to the communal garden at the northern end of the site via the fire stairs is not ideal.	The development has been amended to include communal areas on Level 2 and Level 3 of the building that are conveniently accessible from the entry foyer.
The DRP supports the deep soil zones indicated.	Noted. The deep soil zone also complies with the minimum DCP requirements.
3. The built form of the proposal	
Use of panellised construction with a FC cladding suggests a painted finish that will require regular and expensive maintenance. The DRP suggests that these systems are OK for internal walls but inappropriate on the external walls for future maintenance especially in this project with some ownership being retained by the developer.	The construction methods and maintenance costs have been reviewed by the developer and they have indicated that the submitted proposal is their preferred option. Ongoing maintenance would be managed through the Owners Corporation.
As noted above, the panelised system tends to dictate proportions and opening sizes.	Building proportions and opening sizes acceptable and provide for symmetry in design.
The panellised system also reduces the scope for variation of materials and texture to the elevation.	Having regard to the narrow width of the building, significant variation in materials and textures is not considered necessary to break down the bulk of the building.
The DRP noted the street and northern elevations could be more articulated and refined. The large northern balconies could be more enclosed to give better privacy to neighbours and residents and provide more potential protection from wind, especially the strong summer afternoon NE sea breeze that can make the use of exposed balconies at this time almost impossible.	The design has been amended to include enclosure of the sides of the northern balconies for better wind protection and building articulation.
The street frontage has been redesigned to relocate the hydrant, however the entry is otherwise unacknowledged at the street other than by the letterbox structure.	Entry has been improved with introduction of cover and communal open space adjacent to the entry. Centrally located entry gate at street frontage provides a defined point of access to the building.
The tight fit of the building has lead to an inadequate entry to the central core which will unlikely comply with the access code and lead to unsatisfactory juxtaposition of bedroom and public space.	The Applicant has obtained advice from a BCA consultant and is satisfied that the re-designed entry can comply with the BCA and Access to Premises Standards.

	The design of Unit 3B has been amended move the bedroom away from public space.
Car park access needs expert advice as the DRP believed that there are both opportunities and problems with the design. It may be possible to narrow the entry on the street but the gradients may need to be adjusted to allow better sight lines to pedestrians. Panel believes that the solution is inadequate.	The Applicant has obtained advice from a traffic consultant regarding the basement car parking and access. Council's Development Engineers have also reviewed the design and this issue is discussed in detail later in the report.
4. The proposed density	
The DRP notes that the proposed density is 1.9:1 with up to 2:1 permitted through negotiation with Council, however the DRP noted above that the unit sizes seemed to be excessive.	See comments below under LEP regarding proposed variation to maximum FSR. Re-design of the proposal has resulted in a reduction of the floor area of some units. The development includes a good mix of 1, 2 and 3 bedroom apartments.
5. Resource and energy use and water efficiency	
The DRP notes and supports that all units have good through ventilation with all kitchens and bathrooms having natural light and ventilation.	Noted.
The DRP notes that the access cores are lit by slit windows that may not be permitted to open due to proximity to private open space and entries therefore precluding natural ventilation. Panel recommends a BCA report be provided by applicant before DA approval to confirm that this aspect of the RFDC can be achieved.	The slit windows will have obscure glazing where there is a potential impact upon privacy of the adjacent space. The Applicant has obtained advice from a BCA consultant and is satisfied that the development can provide appropriate natural light ventilation to the access core and satisfy the essential BCA requirements.
The DRP noted that full height bi-fold doors will not permit secure ventilation when the doors are closed and that highlight or side light windows could be incorporated into the balcony openings. The Panel believes that this is an important aspect of any flat design.	Whilst full height bi-fold doors have been shown, there is potential to change the configuration of doors. The Applicant has indicated that the design will be developed and options will be considered to ensure optimal ventilation at the Construction Certificate stage.
Solar panels indicated to lower roof, no mention of water reuse.	The Applicant has indicated that they will investigate options for water re-use. The submitted BASIX Certificate for the development does not require any commitments in this regard.
Natural light and ventilation of common areas is a requirement of the RFDC. Refine / clarify the relationship and function of the window just south of the lift and the green wall.	The proposal has been amended to include additional light and ventilation to the central access core of the building. The proposed green wall has been offset from the windows south of the lift.
6. The proposed landscape	
Landscape plan provided with species indicated, however the Panel notes that	Noted. Can be addressed by condition requiring amended landscape plan prior

none are habitat species and some may not be appropriate for a seaside location.	to the issue of a Construction Certificate.
7. The amenity of the proposal for its users	
The DRP appreciated unit plans were very generous but could be tweaked and reduced to allow more articulation of the building.	Revised plans include some reduction in unit areas for lower levels.
The entry is not secure and mean with impacts on the level 3 southern flat being unacceptable. Premises Standards need to be confirmed by applicant to Council before DA approved.	Amended plans include changes to main building entry and introduction of a common area adjacent to the access pathway and entry foyer. Unit 3B has been separated from this area and is no longer adversely impacted. The amended plans demonstrate that the development is capable of complying with the BCA and accessibility standards.
The car park ramp is long and steep with sight line issues at the street crossing.	Council's Development Engineers have reviewed this issue and comments are provided later in the report.
No natural ventilation to the access core.	The proposal has been amended to include additional windows in the central access core of the building. Window types have not been specified in the DA drawings. It is considered acceptable for this detail to be provided with the Construction Certificate drawings.
No communal spaces indicated, the DRP noted that the very large storage area could have communal spaces on to a lower entry courtyard.	Amended plans include introduction of a common area adjacent to the access pathway and entry foyer on Level 3 and a gym/communal area on Level 2.
Main unit balconies do not show appropriate space for barbeques, etc.	Amended dimensions of the main balconies demonstrate they are capable of accommodating barbeques and furniture.
Garbage bins access to street is remote and more detail required how garbage removal will be achieved. Is it via the very steep ramp or via the lifts? Carpark will not allow for garbage vehicles.	A private garbage collection service is proposed. Condition recommended confirming this requirement.
As noted above, the ground floor apartment has extremely poor amenity with negligible outlook and access to sun, it is set well below street level, compromising the south deck, kitchen and bed1, and the main building entry compromises the privacy of study / bed 2.	Limited solar access to southern deck of Unit 3B noted. However, amended plans have improved northern deck and configuration of living areas.
Window head heights are not consistently shown between elevations and sections, higher window heads are supported for light and brightness.	Noted.

Window sills of at least 1m seem unnecessarily high. Fixed glass below 1m helps apartments to feel brighter and more connected to the exterior.	The Applicant has noted this recommendation and chosen not to reduce the sill heights. This approach is not considered to compromise the merits of the proposal.
The operation of windows should be shown, i.e. fixed, sliding, hopper, operable top lights.	The Applicant proposes to provide this level of detail with the Construction Certificate plans.
8. The safety and security characteristics of the proposal	
Lack of definition and secure sight lines to the pedestrian entry.	Amended plans include changes to main building entry and introduction of a common area adjacent to the access pathway and entry foyer. Passive surveillance from the common area would improve pedestrian safety and building security.
Footpath crossing view for vehicles exiting not adequate.	See comments later in this report under Site Frontage and Access.
The pedestrian entry beside the boundary would require some type of boundary wall / retaining wall which needs to be shown. The path width as dimensioned should be retained or widened.	Pedestrian path retained for full width between building and side boundary. Levels have been altered in the amended plans to require minimal retaining adjacent to the pedestrian path.
9. Social issues	
As noted above, units seem large for the market and could either be reduced and allow more space for articulation of the building, or more smaller units incorporated.	The proposed development provides a good mix on unit sizes, including a significant number of 1 bedroom units compared to similar residential flat buildings in Port Macquarie.
10. The aesthetics of the proposal	
The DRP notes that the street and northern elevations could be improved with more articulation, protection from winds and privacy for residents and neighbours.	The design has been amended to include enclosure of the sides of the northern balconies for better wind protection, privacy, and building articulation.
The DRP notes that green walls can have maintenance and possibly fire issues.	The Applicant has obtained advice from a BCA consultant and is satisfied that the development can comply with BCA fire safety requirements. A condition is recommended requiring the ongoing maintenance of the green wall in a safe and functional condition.
The DRP noted concern regarding bifold doors especially on the windy northern exposures and the space they take up on balconies.	Whilst full height bi-fold doors have been shown, there is potential to change the configuration of doors. The Applicant has indicated that the design will be developed and options will be considered to ensure optimal ventilation at the Construction Certificate stage.
The relationship of the elements to the street should be refined. Calm the relationships between letter boxes, fire	Amended plans provide for usable/furnishable south deck of Unit 3B. Letterboxes have been

services, screening, planter and driveway. Consider uniting the fire services and the letterboxes in proximity to bed 1 to make the south deck more usable and furnishable near the kitchen + dining.	satisfactorily incorporated into the front fence at the eastern side of the site frontage.
The proposed massing and material is in contrast to the richness of the site and its history. The three dimensional resolution, and materials of the street frontage is not distinguished or refined.	The design has been refined in its address to the street frontage.
The building materials and arrangements are likely to age and look shabby in a short time period, not appropriate to the sites location and outlook.	The construction methods and maintenance costs have been reviewed by the developer and they have indicated that the submitted proposal is their preferred option. Ongoing maintenance would be managed through the Owners Corporation.

It is considered that the information provided by the applicant following the DRP meeting has satisfactorily addressed the issues raised.

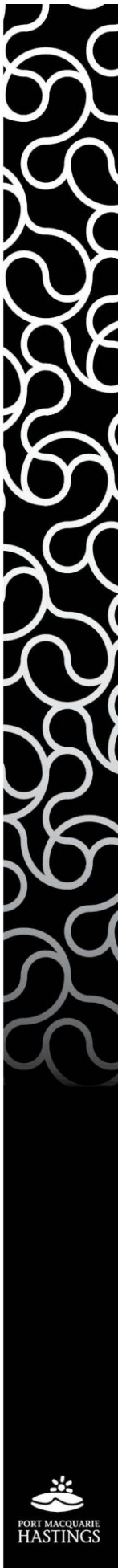
In accordance with clause 30(2), the proposal has adequately addressed the design principles contained in the Residential Flat Design Code. The following table provides an assessment against the design quality principles:

Requirement	Proposed	Complies
Context Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.	<p>The proposal is for a 6 storey residential flat building with basement car parking. The area is characterised by a mixture of low rise and high rise developments. A number of larger flat buildings exist in the immediate area, with some including ground floor commercial activities. Encouraging higher density in proximity to the CBD is desirable for the area.</p> <p>The design responds to the site's slope and steps down in height to the north of the site. The design also provides for the majority of apartments to benefit from significant water views to the north.</p>	<p>Yes. The proposed building design is compatible with existing development and the desired future character of the area as stated in the relevant planning and design policies. It is considered the building will contribute to the quality and identity of the area.</p>
Scale Good design provides an	The proposal incorporates	The height and scale of

<p>appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.</p>	<p>a variation to the LEP controls for building height and floor space ratio (FSR). Refer to clause 4.6 of LEP comments for consideration of the proposed variations.</p> <p>The Design Review Panel have considered the height and bulk of the proposed building to be acceptable in the streetscape.</p>	<p>the building is considered to be appropriate having regard to the desired future character of the area. The height and scale is considered to be and compatible with existing buildings in the locality.</p>
<p>Built form</p> <p>Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The building incorporates a ground floor 3m front setback to Clarence Street, which is consistent with the desired character for the area. Satisfactory articulation and variation in building colours and materials are proposed.</p> <p>The site is visible from public space on the Hastings River foreshore and would provide a satisfactory contribution to the existing vista from this location.</p> <p>Impacts on existing views from nearby properties are considered in detail later in this report under 'View Sharing'.</p>	<p>The building is considered to achieve an appropriate built form and incorporates interesting building elements and treatments that will compliment the streetscape.</p> <p>The proposed internal unit layouts provide for internal amenity. The orientation of the block takes advantage of the northern outlook.</p>
<p>Density</p> <p>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context,</p>	<p>The proposal is for a floor space ratio (FSR) of 1.88:1, which exceeds the maximum 1:1 FSR adopted in the LEP. The proposed variation is considered in detail under clause 4.6 of the LEP, later in this report.</p> <p>The adopted FSR for the site is inconsistent with the objectives of the R4 High Density Residential zone and the height of buildings</p>	<p>It is considered that the design has adopted an appropriate density that is sustainable and consistent with surrounding densities.</p>

availability of infrastructure, public transport, community facilities and environmental quality.	<p>envisaged for the area.</p> <p>Having regard to existing densities in the locality, the adjoining Flightdeck apartments at 5 Clarence Street have a FSR of 1.8:1, and the adjacent Focus apartments at 2 Clarence Street have an FSR of 2.3:1. The proposed development is considered to be consistent with these densities.</p> <p>The proposed density is also considered to be sustainable having regard to availability of infrastructure, and public transport, proximity to services and community facilities and the environmental quality of the area.</p>	
<p>Resource, energy and water efficiency</p> <p>Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.</p>	<p>The north - south orientation of the block has been utilised. All units contain north facing balconies and opportunities for natural ventilation.</p>	<p>BASIX certificate has been provided demonstrating that the design satisfies acceptable energy and water efficiency measures.</p> <p>Suitable waste management conditions recommended for demolition.</p> <p>Noted solar panels incorporated into roof top design.</p> <p>Ground flood landscaping and green walls are proposed.</p>
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system,</p>	<p>A landscaping plan has been submitted with the application, including substantial landscaping of the rear deep soil zone</p>	<p>Potential issues have been identified with the suitability of some of the species proposed in the rear deep soil zone and</p>

<p>resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by coordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.</p>	<p>and green walls on the eastern and western building elevations.</p>	<p>their long-term survival in the coastal environment.</p> <p>Also, maintenance of the landscaping in the proposed green walls may become an issue for fire safety and building construction.</p> <p>The overall landscaping proposal is considered satisfactory for the purposes of the DA. It is recommended that the above issues be addressed in an amended landscape plan prior to the issue of a Construction Certificate.</p>
<p>Amenity Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p>	<p>The design incorporates generous unit layouts which optimise the northern orientation. Adequate storage and outdoor space provided.</p>	<p>The layout of the units has taken advantage of the northern orientation with an emphasis of natural sunlight and ventilation via extensive north facing glazing and balconies.</p> <p>The design and layout will provide a good level of amenity.</p> <p>All units are accessible and available from the ground floor via lifts.</p> <p>Building depth is satisfactory.</p>



		All units include a sufficient amount of private open space. Communal space is available at ground level at the rear of the site, and also within the building.
Safety and security Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.	South facing balconies, kitchen and dining room windows will provide an outlook to Clarence Street and improve passive surveillance of public areas. Northern balconies of the rear units would also provide outlook to communal space. Access to the site (with the exception of Unit 3B) is controlled to a common entry point from Clarence Street and electronic access control is also proposed for the building. The interface between public and private/communal space is clearly defined at the site frontage.	The proposal adequately addresses the principles of Crime Prevention Through Environmental Design.
Social dimensions and housing affordability Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. New developments should address housing affordability by optimising the provision of economic	The proposal includes a good mix of 1, 2 and 3 bedroom apartments to suit a variety of budgets and housing needs.	The proposal adequately addresses social dimensions and housing affordability.

housing choices and providing a mix of housing types to cater for different budgets and housing needs.		
Aesthetics Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.	The sample board provides examples of the colours, textures and finishes.	The colours and materials provided on the sample board/palette indicate a contemporary high quality design and finish. It is considered that the aesthetics of the building will respond appropriately to the surrounding environment and context of the existing and desired character of the locality.

State Environmental Planning Policy 71 – Coastal Protection

The site is located within a coastal zone noting clause 4 of the SEPP.

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;
- 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 & 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;
- j) development relying on flexible zone provisions.

The site is zoned for high density residential purposes.

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

A BASIX certificate (number 583159M) has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

Port Macquarie-Hastings Local Environmental Plan 2011

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 for a 13 unit residential flat building is a permissible landuse with consent.

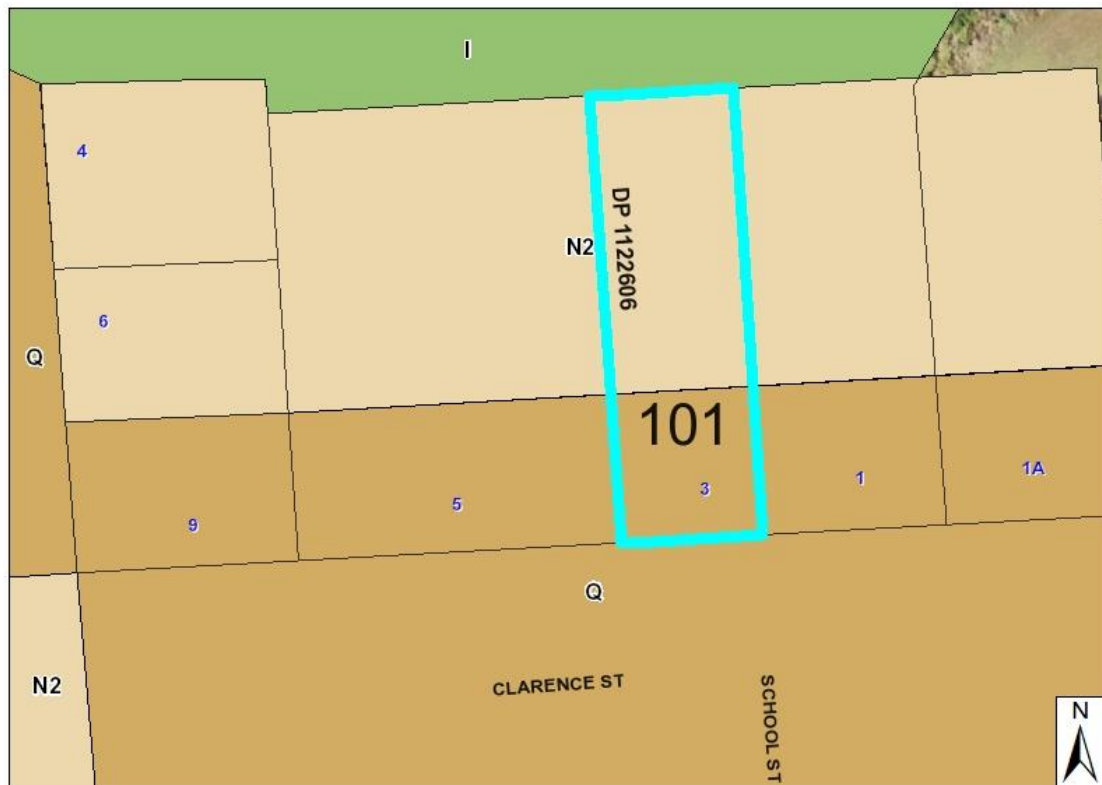
The objectives of the R4 zone are as follows:

- *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 development would provide high density residential apartments to meet the housing needs of the community;
 - The proposal has regard to the desired character of the street and supports safe use at the pedestrian level.
- Clause 2.7, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying Development) 2008.
 - Clause 4.3 - This clause establishes the maximum "height of a building" (or building height) that a building may be built to on any parcel of land. The term "building height (or height of building)" is defined in the LEP to mean "*the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like*". The term "ground level (existing)" is also defined in the LEP to mean "*the existing level of a site at any point*".

The maximum overall height of the building above ground level (existing) is identified on the Height of Buildings Map and varies across the site. The first 17.5m of the site measured from the Clarence Street frontage has a maximum height of 19.0m (Q) and the remainder of the site to the north has a maximum height of 14.5m (N2), as shown on the map extract below:



The part of the building located within the 19.0m height limit would have a maximum height ranging between 18.3m and 19.0m, which complies with the development standard.

However, the part of the building located at the rear of the site, where the Height of Buildings Map specifies a maximum height of 14.5m, would have a height ranging between 13.5m and 19.3m. This exceeds the maximum permitted height by up to 4.8m (33% of the development standard). The main encroachment into the height limit is the part of the building containing the lift, lift lobby, stairwell, and balconies of Units 7B and 8B.

It is noted that photovoltaic panels on the northern roof of the building would also project above the 14.5m height limit. However the LEP definition of building height excludes '*communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*' While photovoltaic panels are not specifically included in the definition, it is considered that they are of the like and therefore should not be included in the building height.

The objectives of Clause 4.3 of the LEP are as follows:

(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,

Comment:

The proposed building height varies from 13.5m to 19.3m.

The locality is characterised by a number of other residential flat buildings ranging in height from three to six storeys above ground level. To the west of Munster Street a number of other flat buildings higher than six storeys exist. The subject site currently contains single storey units.

The proposed height, bulk and scale of the development are considered compatible with the character of the locality in this regard.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

Comment:

The visual impact of the building is considered satisfactory and has been reviewed by the Design Review Panel. See comments earlier under SEPP 65. It is also noted that the part of the building exceeding the relevant height limit is located behind and below the highest part of the building at the site frontage to Clarence Street. This part of the building would not be visually dominant.

View impacts and solar access are considered in detail later in this report under 'View Sharing' and 'Overshadowing'.

Potential privacy impacts are considered under the relevant DCP provisions below and have been satisfactorily addressed in the building design.

(c) to minimise the adverse impact of development on heritage conservation areas and heritage items,

Comment:

The subject site is an archaeological item listed in Schedule 5 of the Port Macquarie-Hastings Local Environmental Plan 2011. The proposed variation to the height of the building would not impact on archaeology. There are no buildings of heritage significance located adjacent to the site.

(d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan.

Comment:

The nominated building heights for the site and adjoining property provide for a transition from a higher built form at the street frontage (19m) to a lower one at the rear of the site (14.5m). The proposed development achieves a transition in built form through the site, although exceeding the maximum height for part of the front 'tower'.

The land use intensity, being high density residential, is consistent to the east, west and south of the site and there is no intention for the building height to provide a transition. Land to the north of the site is zoned for public recreation and the adopted height controls provide a step down in the building height at this interface. The proposal is consistent with the desired building heights to achieve this transition.

The applicant has lodged written request in accordance with Clause 4.6 of the LEP objecting to the 14.5m building height standard applying to the site which is established under Clause 4.3 (see comments below).

- Clause 4.4 - The floor space ratio (FSR) of the proposal is 1.88:1 which exceeds the maximum 1:1 floor space ratio applying to the site by 0.88:1 (88% of the development standard).

The objectives of Clause 4.4 of the LEP are as follows:

(a) to regulate density of development and generation of vehicular and pedestrian traffic,

Comment:

The development density is higher than would be expected for the adopted 1:1 FSR and the additional apartments would be expected to generate additional vehicular and pedestrian traffic.

(b) to encourage increased building height and site amalgamation at key locations,

Comment:

The proposal provides for increased building height in a location close to the CBD and public open space. Site amalgamation is unlikely to be feasible in this instance as adjoining properties to the east and west contain existing strata developments.

(c) to provide sufficient floor space for high quality development for the foreseeable future,

Comment:

The adopted 1:1 FSR is not considered to provide sufficient floor space for high quality development of a high density nature and having regard to the adopted height controls for the site. A FSR of 1:1 is typically applicable for 2-3 storey development in low and medium density residential areas. An FSR of 1:1 is not considered to be sufficient to achieve a higher density residential environment and make efficient use of land and infrastructure.

A review of the adopted height and density controls in the vicinity of the site suggests that a floor space ratio of between 1.5:1 and 2.5:1 is more appropriate to achieve high density residential development.

(d) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality.

Comment:

The locality is characterised by a number of other residential flat building ranging in height from three storeys to six storeys above ground level. To the west of Munster Street a number of other flat buildings higher than six storeys exist. The subject site currently contains single storey units.

The proposed height, bulk and scale of the development are considered compatible with the character of the locality.

The applicant has lodged written request in accordance with Clause 4.6 of the LEP objecting to the 1:1 FSR applying to the site which is established under Clause 4.4 (see comments below).

- Clause 4.6 – Development consent must not be granted for development that contravenes a development standard unless the Council is satisfied that the applicant's written request has adequately addressed the following matters:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard

Additionally, the proposed development must be shown to be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

As detailed above under clauses 4.3 and 4.4, the proposed development would satisfactorily achieve the objectives of the Height of Buildings and FSR standards and it is therefore considered that compliance with the development standard is unnecessary in the circumstances of the case.

The adopted FSR for the site is also considered to be unreasonable in the circumstances of the case for the following reasons:

- The adopted FSR of 1:1 is inappropriate for the site as it would not a high density residential environment and make efficient use of land and infrastructure. Council has progressed strategic planning work to review the FSR since the lodgement of the application.
- There have been significant variations to the adopted FSR controls for other development in the locality. The Flightdeck apartments were approved with a floor space ratio 0.5:1 higher than the adopted standard, and the Focus apartments were approved with a floor space ratio 0.8:1 higher than the adopted standard. These previous variations have contributed to undermining the integrity of the FSR standard.

There is sufficient justification on environmental planning grounds for the development as follows:

Building Height:

- The subject site slopes steeply away from Clarence Street. There is approximately 7m change in level along the length of the site.
- The proposal is consistent with the Residential Flat Design Code. Figure 01.54 recommends that for steeply sloping sites the height plane is modified along the street edge to facilitate appropriate building forms.
- The part of the building exceeding the relevant height limit is located behind and below the highest part of the building at the site frontage to Clarence Street. This part of the building would not be visually dominant.
- The part of the building exceeding the relevant height limit would not result in significant loss of views or solar access to adjoining property.

Floor Space Ratio:

- FSR is a control on building bulk and development density. The site is located in a high density residential zone and the proposed development is considered to be consistent with the intentions for the area. In respect to the bulk of the building, the site has a narrow frontage to Clarence Street and the proposed building includes sufficient articulation to break up the bulk of the facade.
- Setback controls are considered sufficient to address building bulk and separation in the context of the narrow site.
- There is public interest in the efficient use of land within proximity to existing services and infrastructure. Such development encourages walking, cycling and use of public transport and decreases ongoing

maintenance costs for public infrastructure compared to lower density residential development.

- Clause 5.5 - Development within the coastal zone - Relevant objectives of this clause are addressed by SEPP 71 section (see above). Climate Change & Coastal Hazard implications are not applicable to the development.
- Clause 5.9 - No listed trees in Development Control Plan 2013 are proposed to be removed.
- Clause 5.10 – Heritage. The site is listed in Schedule 5, Part 3 of the LEP as archaeological item A111 - archaeology of early European settlement.

The site is identified as part of a former lumber yard, prisoner's barracks and asylum belonging to the penal settlement of Port Macquarie between 1821 and 1831.

The Applicant has submitted a Historical and Archaeological Assessment prepared by Edward Higginbotham & Associates Pty Ltd dated 25 February 2015. A previous report by the same author dated March 2013 was submitted with the original application, but was required to be updated in accordance with the recommendations of the Heritage Council.

In accordance with clause 5.10(7), the proposal was forwarded to the Heritage Council (part of the NSW Office of Environment and Heritage) for comment on 12 March 2014. A response was received from the Heritage Council on 11 April 2014. The Heritage Council considered the initial archaeological assessment to be inadequate and recommended that the report be revised to include adequate research, referencing and analysis of the findings from adjacent and contemporary archaeological sites in order that the impact of the proposal on the archaeology of the site can be determined as part of the assessment of the Development Application.

The Applicant submitted a revised report prepared by Edward Higginbotham & Associates Pty Ltd dated 25 February 2015, which was forwarded to the Heritage Council for consideration on 26 February 2015. A response to the revised archaeological assessment was received on 17 April 2015, which included the following recommendations:

1. Test excavations should be undertaken on site prior to any development to determine the extent and intactness of any potential archaeology.
2. An approval will be required for this test excavation and any subsequent archaeological excavation in accordance with the *Heritage Act 1977*.
3. Should test excavations reveal substantially intact State significant archaeology on the site, it must be kept *in situ* and the development redesigned around it.

Conditions are recommended to ensure that the development is carried out in accordance with the above recommendations.

- Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.

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

No draft instruments apply to the site.

It is noted that a Planning Proposal (PP2011 - 5.2 Amendment No. 31 to the Port Macquarie-Hastings Local Environmental Plan 2011) which affected the subject site was publicly exhibited between 22 September 2014 and 27 October 2014.

As this draft instrument had not been publicly exhibited at the date the Development Application was lodged, it is not a relevant consideration in the assessment of this proposal.

(iii) any Development Control Plan in:

Port Macquarie-Hastings Development Control Plan 2013

<i>DCP 2013: Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</i>			
DCP Objective	Development Provisions	Proposed	Complies
3.3.2.2	Satisfactory site analysis plan submitted.	Relevant information shown on submitted documentation.	Yes
3.3.2.3	Statement addressing site attributes and constraints submitted.	Submitted.	Yes
3.3.2.4	Streetscape and front setback: <ul style="list-style-type: none"> • Within 20% of the average setback of the adjoining buildings. • 3m setback to all frontages if no adjoining development. • 2m setback to secondary frontages. • Max. 9m setback for tourist development to allow for swimming pool. 	3m front setback. The average setback of the two adjoining buildings is 13.3m.	No*
3.3.2.5	Balconies and building extrusions can encroach up to 600mm into setback.	No proposed encroachments.	n/a
	Buildings generally aligned to street boundary.	Yes	Yes
	Primary openings aligned to street boundary or rear of site.	Yes	Yes
3.3.2.6	Side setbacks comply with Figure 3.3-1: <ul style="list-style-type: none"> • Min. Side setback 1.5m for 75% of building depth. • Windows on side walls min. 3m from side boundary. • 3m minimum where 	Nil setback along part of western boundary, which is consistent with party wall provisions (see 3.3.2.7 below). Eastern boundary setbacks minimum 1.5m (adjoining strata titled	No*

	adjacent to existing strata titled building.	building).	
	Side walls adjacent to existing strata-titled buildings should be articulated and modulated to respond to the existing buildings.	Building articulation satisfactory. Windows of adjoining buildings have been offset to protect privacy.	Yes
	Min. 6m rear setback (including sub basements)	6m.	Yes
3.3.2.7	A party wall development may be required if site amalgamation is not possible and higher density development is envisaged by these controls.	Party wall proposed on western boundary for levels 1-4. However, high density development existing on adjoining land and it is unlikely that there would be future development on the other side of the party wall.	n/a
3.3.2.8	Exposed party walls should be finished in a quality comparable to front facade finishes.	Submitted plans show similar finish to front facade.	Yes
3.3.2.11	Buildings should be sited across the frontage of the site (not down the length of the site). Refer to Figure 3.3-3.	Development design incorporating two towers linked by a centre access core is considered to be a satisfactory response for a narrow, deep lot with limited potential for consolidation.	Yes
3.3.2.12	Deep soil zones: <ul style="list-style-type: none"> Extend the width of the site and have minimum depth of 6m. Are contiguous across sites and within sites (see Fig 3.3-4). 	6m wide deep soil zone contiguous within the site and extends to join with the deep soil zone at the rear of 1 Clarence Street.	Yes
3.3.2.13	Deep soil zones accommodate existing advanced trees, and allow for advanced tree planting.	No existing advanced trees. Deep soil zones would allow for advanced tree planting.	Yes
3.3.2.14	Deep soil zones integrated with stormwater management measures.	Details to be provided at Construction Certificate stage.	Yes
3.3.2.15	Sunlight to the principal area of ground-level private open space of adjacent properties should not be reduced to less than 3 hours between 9.00am and 3.00pm on June 22.	See comments later in this report under Overshadowing.	Yes
	Buildings should not reduce the sunlight available to the	See comments later in this report under	Yes

	windows of living areas that face north in existing adjacent dwellings to less than the above specification.	Overshadowing.	
3.3.2.16	Internal clothes drying space provided (not mechanical).	Sufficient area provided for clothes drying.	Yes
	Ceiling fans provided in preference to air conditioning.	Condition recommended requiring ceiling fans for each apartment.	No
	Solar hot water systems (or equivalent technology) provided.	Yes	Yes
	Photovoltaic arrays installed where practical.	Yes	Yes
3.3.2.17	Landscape plan provided including: <ul style="list-style-type: none"> • 35% soft landscaping with minimum width of 3m. • Existing vegetation and proposed treatment. • Details of hard landscaping. • Location of communal recreational facilities. • Species not to obscure doors, paths, etc. • Street trees in accordance with Council's list. 	12% soft landscaping with minimum width 3m. Landscaping concept submitted including details of communal open space, hard landscaping and tree species.	No*
3.3.2.19	Landscape plan to demonstrate how trees and vegetation contribute to energy efficiency and prevent winter shading on neighbouring properties.	Landscaping concept plan includes use of some deciduous trees in northern communal open space for summer shade and winter solar access.	Yes
3.3.2.20	Street trees in accordance with Council's list.	Not proposed in submitted documentation.	n/a
3.3.2.21	All dwellings at ground floor level have minimum 35m ² of private open space, including one area 4m x 4m at maximum grade of 5% and directly accessible from living area.	Unit 2A - 35.15m ² including 4m x 4m area at less than 5% grade accessible from living area. Unit 3B - Approx 36.22m ² including 4m x 4m area at less than 5% grade accessible from living area.	Yes
	Dwellings not at ground level have balconies with minimum area 8m ² and	All apartments above ground level include a minimum of 8m ² of	Yes

	minimum dimension 2m.	balconies including at least one balcony with minimum dimension 2m.	
3.3.2.23	Fencing or landscaping defines public/communal and private open space.	Privacy screen and mail box structure at southern boundary defines public and private space in Clarence Street.	Yes
3.3.2.24	Solid fences should be: <ul style="list-style-type: none"> • Max. 1.2m high, • Setback 1m, • Suitably landscaped, • Provide 3m x 3m splay. 	Front fence is open style timber slats.	n/a
3.3.2.25	Fencing materials consistent with or complimentary to existing fencing in the street.	No established fencing style in street. Proposed fencing considered complimentary.	Yes
3.3.2.27	Building to be designed so that: <ul style="list-style-type: none"> • Busy, noisy areas face the street. • Quiet areas face the side or rear of the lot. • Bedrooms have line of site separation of at least 3m from parking areas, streets and shared driveways. 	Several units have bedrooms (quiet areas) facing the street. However, the site has a northern orientation to the rear of the site and it is practical to locate living areas on the northern side of the building. The majority of bedrooms on the southern elevation are located above ground level, where they would be less affected by traffic and pedestrian activity in Clarence Street.	No, but acceptable.
	Openings of adjacent dwellings separated by at least 3m.	Yes	Yes
3.3.2.28	Building designed so noise transmission between apartments is minimised.	Units generally separated by lobby/lift/stairwell.	Yes
	Uses are to be coupled internally and between apartments i.e. noisy internal and noisy external spaces should be placed together. (See Figure 3.3-6).	Communal open space adjacent to living areas. Units 4/5B and 4/5C share common internal walls.	Yes
3.3.2.29	Development complies with AS/NZS2107:2000 <i>Acoustic – Recommended design sound levels and reverberation times for building interiors for residential development.</i>	Details to be provided at CC stage.	n/a
3.3.2.30	Impact of noise from key	Site located in proximity to	Yes

	public places to be considered.	Town Beach reserve. This space is used for events on an infrequent basis and is unlikely to cause regular disruption to residents of the development.	
3.3.2.31	<p>Direct views between living room windows to be screened where:</p> <ul style="list-style-type: none"> • Ground floor windows are within 9m of windows in an adjoining dwelling. • Other floors are within a 12m radius. • Living room windows are within 12m radius of the principal area of private open space of other dwellings. 	No un-screened east or west facing living room windows. North facing windows screened along sides of balconies.	Yes
	Direct views may be screened with either a 1.8m high fence or wall, or screening that has maximum 25% openings.	West facing kitchen windows have aluminium louvers.	Yes
	Windows in habitable rooms screened if >1m above ground level and wall set back <3m.	Yes	Yes
	Balconies, decks, etc screened if <3m from boundary and floor area >3m ² and floor level >1m above ground level.	<p>Decks adjacent to eastern boundary noted on plans to have privacy screens.</p> <p>The western side of the north and south decks of Units 4B, 5B, 6B, 7B and 8B are located within 3m of the side boundary and require privacy screens. Condition recommended to address this issue.</p>	Yes, subject to condition.
3.3.2.32	Developments to be designed in accordance with AS 1428.	Development capable of complying. Details will be required at Construction Certificate stage.	Yes
3.3.2.33	Barrier free access to at least 20% of dwellings provided.	Yes	Yes
3.3.2.34	Developments located close to open space, recreation, entertainment and employment.	Yes	Yes
	Where LEP permits FSR > 1:1, FSR not less than 1:1	FSR 1.88:1.	Yes

	should be achieved.		
3.3.2.35	Variety of types - studio, 1, 2, 3 and 3+ bedroom apartments	No studio apartments, but mix of 1, 2 and 3 bedroom apartments.	Yes
	Studio and 1 bedroom apartments not > 20% of total number of apartments.	30% 1 bedroom apartments. Development includes 5 x 3 bedroom dwellings, 3 x 2 bedroom dwellings, and 5 x 1 bedroom dwellings. Apartment mix considered satisfactory.	No, but acceptable.
	Mix of 1 and 3 bedroom apartments at ground level.	1 bedroom and 3 bedroom units at ground level.	Yes
3.3.2.37	Lift over-runs and plant integrated within roof structures.	Lift over-run incorporated into roof form.	Yes
	Roof design to generate interesting skyline.	Split level 3 degree pitch roof.	Yes
3.3.2.38	<p>Facade composition should:</p> <ul style="list-style-type: none"> • Have balance of horizontal and vertical elements. • Respond to environmental and energy needs. • Incorporate wind mitigation. • Reflect uses within the buildings. • Include combination of building elements. 	Yes	Yes
3.3.2.39	Building elements, materials and colours consistent or complimentary to those existing in the street.	Sample board for development provided. Proposed colours and materials considered satisfactory.	Yes
3.3.2.40	Entrances clearly identifiable from street level.	A central gate in the front fence provides pedestrian access to the main pedestrian access on the eastern side of the building.	Yes
	Entries provide clear transition between public street and shared private circulation spaces/apartments.	Yes	Yes
	Entries avoid ambiguous and publicly accessible small spaces in entry areas.	Yes	Yes
	Entries sheltered and well lit.	Entry sheltered by balcony above.	Yes

	Entries and circulation spaces sized for movement of furniture.	Lift lobbies on each floor of the building provide adequate circulation space for movement of furniture.	Yes
	Corridors minimum 2.5m wide and 3.0m high.	Yes	Yes
	Corridor lengths minimised and avoid tight corners.	Yes	Yes
3.3.2.41	Minimum 1 balcony per apartment.	At least 1 balcony per apartment.	Yes
	Main balcony accessible from living area.	Yes	Yes
	Balconies take advantage of favourable climatic conditions.	Mostly north facing.	Yes
	Balconies and balustrades balance privacy and views.	Glass balustrades. Ground floor southern deck screened by timber fence for privacy.	Yes
3.3.2.42	Balconies include sunscreens, pergolas, shutters and operable walls.	Yes	Yes
	Balconies recessed to create shadowing to facade.	Yes	Yes
	Solid balustrades discouraged.	Glass balustrades.	Yes
	Air conditioning units not visible from the street.	No visible air conditioning identified on plans.	Yes
3.3.2.43	Secure open air clothes drying facilities that are: <ul style="list-style-type: none"> easily accessible, screened from public domain and communal spaces, located with high degree of solar access. 	Sufficient area available on apartment balconies for clothes drying.	Yes
3.3.2.44	Mailboxes integrated into building design and sighted to ensure accessibility and security.	Yes	Yes
3.3.2.45	Public and private space clearly defined.	Private and public space appropriately defined.	Yes
	Entrances: <ul style="list-style-type: none"> oriented to public street, provide direct and well lit access between car parks, lift lobbies and unit entrances, optimise security by grouping clusters (max. 8) around a common lobby 	Main building entrance is not visible from street. However, central access gate visible from street and includes surveillance from adjoining units. Building entrance is adjacent to a communal space, which would also improve supervision and surveillance of the space.	Yes

		Direct internal access available between car park, lift lobbies and unit entrances.	
	Surveillance facilitated by: <ul style="list-style-type: none"> views over public space from living areas, casual views of common internal areas, provision of windows and balconies, separate entries to ground level apartments. 	Casual surveillance of communal open space and public street available from apartments. Separate ground level entrance to Unit 3B proposed.	Yes
	Concealment avoided by: <ul style="list-style-type: none"> preventing dark or blind alcoves, providing lighting in all common areas, providing graded car parking illumination (greater at entrances). 	Building design limits concealment opportunities.	Yes
	Access to all parts of the building to be controlled.	Yes	Yes
3.3.2.46	Accessible storage provided for tenants in basement car park or garages.	Storage area provided on Level 2 of the building.	Yes
	One bike stowage space per dwelling provided.	Bicycle stowage area provided on Level 2 of the building.	Yes
	Communal bulk waste required where: <ul style="list-style-type: none"> > 6 dwellings, or Number of bins wouldn't fit in street frontage, or Topography would make street collection difficult. 	Bin storage area identified in basement car park.	Yes
	Communal bulk waste facilities integrated into development and located at ground or sub-basement level. <ul style="list-style-type: none"> Not visible from street, Easily accessible, Can be serviced by collection vehicles, Not adjoining private or communal space, windows or clothes drying areas, 	Bin storage area identified in basement car park.	Yes

	<ul style="list-style-type: none"> Has water and drainage facilities for cleaning, Maintained free of pests. 		
	Evidence provided that site can be serviced by waste collection service.	Condition recommended requiring private waste collection service for the development.	Yes
3.3.2.48	Common trenching of utility services where possible.	Can be conditioned. Details at CC stage.	Yes
	Above ground utility infrastructure integrated with building design.	Hydrant booster cabinet adjacent to driveway integrated into design.	Yes
	Site and individual units numbered.	Can be conditioned.	Yes
	Common aerials and satellite dishes provided.	Can be conditioned.	Yes

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: <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 	Casual surveillance of communal open space available from apartments. Private and public space appropriately defined. Casual surveillance of street and communal space available from apartments.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Cut >1m, but generally contained within external walls of the building. Some retaining walls <1m high to the west of proposed Unit 3A.	Yes
2.3.3.2	1m max. height retaining walls along road frontages	None proposed.	Yes
2.5.3.2	New accesses not permitted from arterial or distributor roads. Existing accesses rationalised or removed where practical	Access to local road.	Yes
	Driveway crossing/s minimal in number and width including maximising	Single driveway 3.6m wide. No loss of existing street parking.	Yes

	street parking		
2.5.3.3	Off-street parking in accordance with Table 2.5.1: <ul style="list-style-type: none"> 1 per 1 or 2 bed unit, 1.5 per 3-4 bed unit + 1 visitor per 4 units 	<u>Required:</u> 8 x 1 & 2 bedroom units = 8 spaces. 5 x 3 bedroom units = 7.5 spaces. Visitor parking 13/4 = 3.25 spaces. Total required = 18.75 spaces. <u>Proposed:</u> 17 spaces to be provided on site. Shortfall in car parking can be addressed through contribution to CBD car parking in accordance with Council's Section 94 Contributions Plan.	Yes
2.5.3.5	On-street parking permitted subject to justification	Not considered appropriate as existing angled street parking in site frontage in Clarence Street.	n/a
2.5.3.7	Visitor parking to be easily accessible	One space in basement, plus on street parking. Condition recommended require signage to advise visitors of the availability of off-street parking.	Yes
	Parking in accordance with AS 2890.1	See comments later in this report under Parking and Manoeuvring.	
2.5.3.10	Parking concessions possible for conservation of heritage items	No concession sought on this basis.	n/a
2.5.3.14	Sealed driveway surfaces unless justified	Concrete.	Yes
2.5.3.15	Driveway grades for first 6m of 'parking area' shall be 5% grade.	See comments later in this report under Parking and Manoeuvring.	
2.5.3.16	Transitional grades min. 2m length	See comments later in this report under Parking and Manoeuvring.	
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Basement car park would not generate stormwater runoff.	Yes
	No direct discharge to K&G or swale drain	Connection to stormwater system.	Yes

DCP 2011: Town Beach Precinct

Precinct	Existing Character	Desired Future Character	Complies
CBD Fringe	The character of this precinct is influenced by the	Retain a mix of both tourist and permanent residential	Yes

	adjacent CBD. The range of building types includes a number of high rise holiday apartments. There is some ground floor retail.	apartment and hotel/motel buildings. Address to, and activity along William Street, is to be improved to achieve an excellent pedestrian connection between the CBD and the Town Beach Activity Area. Retail activity is discouraged elsewhere, so that there is a clear distinction between the Port Macquarie Town Centre and the Town Beach Activity Centre, with each having their own discrete character.	
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The proposal seeks to vary Development Provision 3.3.2.4 in relation to the minimum required front setback. This provision requires the front setback to be within 20% of the average setback of the two adjoining buildings. In this case the average setback of the two adjoining buildings is 13.3m, and the development would need to achieve a minimum 10.64m setback to meet the development provision. A 3m front setback has been proposed.

The relevant objectives are:

- *Front setbacks are to provide adequate open space for landscaping, visual and acoustic privacy.*
- *To provide a streetscape that is consistent and complimentary to existing development.*

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

- The development provides adequate open space and landscaping. The site orientation makes it most practical to locate the main open space area and deep soil zone at the rear (north) of the site. A reduced front setback provides more usable space at the rear.
- Adequate visual and acoustic privacy are achieved.
- The proposed front setback is generally consistent with the existing building proposed to be demolished at the site.
- There is significant variation in front setback in the locality and a consistent streetscape would not be achieved even if the front setback were comparable to the two directly adjoining developments.

The proposal seeks to vary Development Provision 3.3.2.6 in relation to the minimum required side setback of 3m where the development adjoins a strata building. The development proposes a minimum 1.5m setback to the eastern boundary.

The relevant objectives are:

- *To allow flexibility in the siting of buildings while limiting the extent to which any building overshadows or overlooks adjacent properties.*

- *To allow adequate natural light and ventilation between dwellings/buildings and to private open space areas.*
- *To provide acoustic and visual privacy.*

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

- The development achieves a minimum 6.4m separation between the buildings, which is greater than the minimum permissible separation of 6m (3m setback either side of the boundary) under these controls.
- The development would not cause unreasonable overshadowing of adjoining properties having regard to the DCP provisions. See detailed assessment later in this report under 'Overshadowing'.
- Adequate privacy has been proposed through the building design, with living areas oriented to the north and windows in the side wall minimised.

The proposal seeks to vary Development Provision 3.3.2.17 in relation to the minimum permitted proportion of soft landscaping for the site (35%). The development proposes approximately 12% soft landscaping with minimum width of 3m at ground level.

The relevant objective is:

- *To encourage usable and attractive open space that enhances the appearance and amenity of the development when viewed from public open space areas, especially from street frontages.*

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

- The development includes attractive and usable open space at the rear of the site, which takes advantage of the northern orientation and is integrated with the deep soil zone.
- The development proposes 3 full height green walls to enhance the appearance and amenity of the building. The eastern green wall of the southern tower would be particularly visible when viewed from Clarence Street.

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

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

iv) any matters prescribed by the Regulations:

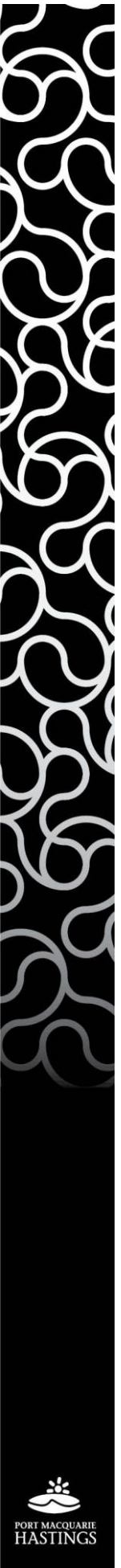
New South Wales Coastal Policy

The proposed development is consistent with the objectives and strategic actions of this policy. See Clause 5.5 of LEP 2011 for assessment against Coastal Policy Objectives.

Demolition of buildings AS 2601 - Clause 92

Demolition of the existing buildings on the site is capable of compliance with this Australian Standard and is recommended to be conditioned.

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.

(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 southerly street frontage orientation to Clarence Street. Adjoining the site to the north is the Sundowner Tourist Park, containing single storey tourist accommodation.

Adjoining the site to the east is the Headland apartment building, being four storeys above ground level at the Clarence Street frontage and five storeys at the rear of the site. The top of the building is identified as having a height of 29.86m AHD.

Adjoining the site to the south are Clarence Street and School Street. On the southern side of Clarence Street adjacent to the site is the Focus apartment building, being six to seven storeys above ground level at the site frontage.

Adjoining the site to the west is the Flightdeck apartment building, being five storeys above ground level. The top of the building is identified as having a height of 28.13m AHD.

Other residential apartment buildings and holiday accommodation exist in the on Clarence Street between Munster Street and Grant Street, with building heights ranging from two storeys to four storeys.

View Sharing

The public exhibition of the proposal resulted in concerns being raised in relation to loss of views from a number of nearby apartments. Eight residents of the Focus apartment building at 2 Clarence Street, and one resident of the Headland apartments at 1 Clarence Street have raised this issue.

The affected properties have been inspected and photographs of the existing views are included in the attachments to this report. It is noted that the photographs represent the views from a fixed vantage point and the impacts would vary, particularly moving to the eastern or western ends of the balconies. The photographs generally represent a central location on the balconies and in the rooms of the various apartments.

An inspection of 18/2 Clarence Street was not able to be arranged, however, the written submission from the owners included a photograph of the existing view from the balcony, which is considered suitable for assessing view impacts.

The owners of 5/1 Clarence Street, who made a submission regarding view impacts, have subsequently sold the property and access was not able to be obtained.

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.

Using the planning principles of NSW Land and Environment Court in *Tenacity Consulting v Warringah 2004 NSW LEC 140*, the following comments are provided in

regard to the view impacts using the 4 step process to establish whether the view sharing is acceptable.

Step 1

Assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comments: The below table summarises the extent of existing views from the affected properties.

Property	Hastings River	Ocean & North Beach	Point Plomer and Queens Head	Breakwall	Hinterland
15/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
18/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
9/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
12/2 Clarence Street	Yes	Yes	No	Yes	Yes
14/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
13/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
5/2 Clarence Street	Yes	Yes	Yes	Yes	No
11/2 Clarence Street	Yes	Yes	Yes	Yes	Yes

The above views include the interface between land and water. Point Plomer and Queens Head is also considered to be iconic in the local context. The affected views are therefore considered to be of high value and in some cases iconic.

Step 2

Consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comments: The above views are generally obtained from living areas, kitchens and principal areas of private open space. Views from 5/2 Clarence Street are only available from a balcony. All other views are obtained from both the sitting and standing position in living areas, kitchens and/or balconies.

Views from 5/1 Clarence Street are obtained from a secondary balcony and kitchen window and part of the view is across a side boundary. The expectation for the part of the view that is obtained across the side boundary to be retained is unrealistic in this instance.

Step 3

Assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be

assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comments: The below table summarises the extent of the impact in terms of the views that would wholly or partially be lost as a result of the development and those that would be retained.

Property	Hastings River	Ocean & North Beach	Point Plomer and Queens Head	Breakwall	Hinterland
15/2 Clarence Street	Partially Lost	Retained	Retained	Partially Lost	Retained
18/2 Clarence Street	Partially Lost	Retained	Retained	Partially Lost	Retained
9/2 Clarence Street	Partially Lost	Lost	Lost	Lost	Retained
12/2 Clarence Street	Partially Lost	Partially Lost	n/a	Lost	Retained
14/2 Clarence Street	Partially Lost	Partially Lost	Lost	Partially Lost	Retained
13/2 Clarence Street	Partially Lost	Partially Lost (ocean only)	Partially Lost	Partially Lost	Retained
5/2 Clarence Street	Lost	Partially Lost	Retained	Lost	n/a
11/2 Clarence Street	Partially Lost	Partially Lost (ocean only)	Partially Lost	Lost	Retained

The impacts on views from the more elevated apartments (15/2 and 18/2 Clarence Street) are considered negligible. The development would impact on a small part of the existing view of the Hastings River, breakwall and ocean to the north-east. Both apartments would retain broad panoramic views including the major features identified above.

Apartments on the mid levels of the Focus building (11/2, 12/2, 13/2 and 14/2 Clarence Street) would experience moderate to severe impacts including partial or total loss of views to Point Plomer and North Beach. These apartments would retain views of the Hastings River and hinterland to the north-west of the site, and in some cases views to the ocean to the north-east of the development site.

Lower level apartments (5/2 and 9/2 Clarence Street) would experience severe to devastating impacts with loss of views to the ocean, Point Plomer, North Beach and the breakwall. 9/2 Clarence Street would retain views of the Hastings River and hinterland to the north-west of the site.

A view corridor to the north from the western balcony of 5/1 Clarence Street would be retained between the buildings. Views to the north-west across the development site

would be lost. The impact on views from 5/1 Clarence Street is considered to be moderate.

Step 4

Assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Comments: The proposal includes a variation to the adopted planning controls for the height of buildings and floor spaces ratio under the Port Macquarie-Hastings Local Environmental Plan 2011. The extent of variation and justification are discussed earlier in this report.

In relation to the non-compliance with height controls, the main encroachment into the height limit is the part of the building containing the lift, lift lobby, stairwell, and part of the north balconies of Units 7B and 8B. The Applicant's computer modelled visual analysis indicates that the part of the building exceeding the height controls would not be visible from the angle at which views from the Focus apartments are currently obtained. Therefore, the impacts on existing views do not arise as a result of non-compliance with the height controls.

In relation to the non-compliance with Floor Space Ratio (FSR) controls, there is an argument that the additional floor space proposed in the application contributes to the overall height of the building, which in turn has a negative impact on existing views. However, it should be noted that if only the southern tower of the development were built on the site it would comply with the current FSR controls and still have the same impact on views from the Focus apartments. It has also considered that the 1:1 FSR adopted for the site in the LEP is not appropriate having regard to the zoning and height controls in the area.

It is therefore difficult to attribute any direct view impacts to the non-compliant FSR.

The only relevant DCP variations are in relation to the front setback and the eastern side setback. The reduced front setback would largely have a positive impact on view loss. The most significant views are behind the front (southern) tower to Point Plomer and North Beach. Setting the tallest part of the building further back on the site would have significantly greater impacts.

The reduced eastern side setback would have negligible impact on view loss as no development exists on the opposite side of Clarence Street that could take advantage of a view corridor.

Overall, the proposed development is considered to be reasonable having regard to the planning controls.

It is acknowledged that the development would have significant impacts on existing views. This is particularly the case for owners/residents in the Focus apartments at 2 Clarence Street where the loss of views would be severe or devastating in the worst

affected apartments. However, considering the reasonableness of the development discussed under 'Step 4' above, it is considered that there are not sufficient grounds for refusal of the application on this basis.

Overshadowing

The relevant standards for overshadowing adopted in Development Control Plan 2013 are:

- (a) Sunlight to the principal areas of ground-level private open space of adjacent properties should not be reduced to less than 3 hours between 9am and 3pm on 22 June. Where existing overshadowing by buildings and fences is greater than this, sunlight should not be reduced by more than 20%.
- (b) Buildings should not reduce the sunlight available to the windows of living areas that face north in existing adjacent dwellings to less than the above specification.

In this instance, the adjoining Flightdeck apartments to the west of the site and Headlands apartments to the east of the site would be impacted by the proposed development during the morning and afternoon periods on 22 June.

The Applicant has submitted three dimensional shadow modelling to assist in the assessment of overshadowing impacts. The shadow angles and lengths shown in the submitted plans have been reviewed and are considered to be accurate.

The expected overshadowing impacts of the proposed development on adjoining development on 22 June can be summarised as follows:

- 9.00am - Shadow over bedroom windows and balconies off bedrooms of the ground, first and second floors of the Flightdeck apartments. Partial shading of kitchen windows of the same three floors. No overshadowing of principal ground-level private open space.
- 10.00am - Partial shadow on ground floor bedroom windows and balconies off ground floor bedrooms in the Flightdeck apartment building. No overshadowing of principal ground-level private open space.
- 11.00am - No overshadowing of windows or private open space in adjoining development.
- 12.00pm - No overshadowing of windows or private open space in adjoining development.
- 1.00pm - No overshadowing of windows or private open space in adjoining development.
- 2.00pm - Shadow over west-facing kitchen and bedroom windows of ground and first floor of the southern tower of the Headlands apartments. Shadow over western balcony of ground floor apartment.
- 3.00pm - Shadow over west-facing kitchen and bedroom windows of ground, first and second floor of the southern and northern towers of the Headlands apartments. Shadow over western balcony of ground floor apartment.

From the above analysis, it can be demonstrated that the proposed development would satisfy the provisions of Development Control Plan 2013 (DCP) in relation to overshadowing.

It is acknowledged that the development would result in loss of solar access to some living area (kitchen) windows in the adjoining Headlands apartments at 1 Clarence Street in the afternoons on 22 June. With the western orientation of these windows, they would only receive approximately 3 hours of sunlight between 9.00am and 3.00pm on 22 June prior to any development of the adjoining site. The development

would result in the solar access being reduced to between 1 and 2 hours during this period.

However, the DCP only provides for retention of solar access to north-facing windows in adjoining/adjacent development, and the overshadowing of west-facing windows is considered acceptable.

Roads

The property fronts Clarence Street which has an approximate 11m wide trafficable lane width, with an additional 5 metres of pavement on both sides configured with angle parking and landscaping features. The road has an AUS-SPEC classification of 'Commercial' which reflects the high usage characterising the foreshore area. Kerb and gutter is of the 'upright' (SA) type.

As part of the development proposal, the parking lane will need to be reconfigured to be compatible with the new driveway, and at the same time on-street parking and landscaping will be renewed in accordance with Council's adopted Town Centre Master Plan. The details are to be submitted to Council under a Roads Act (s138) application prior to Construction Certificate issue.

Traffic

The RTA *Guide to Traffic Generating Developments* estimates the traffic generated by medium density units. Each dwelling (unit) is expected to generate 4-6.5 vehicle trips per day depending on the number of bedrooms. For the 13 units proposed, up to 85 vehicle trips are expected daily on average. Considering the existing three units and the house, the site is considered to generate around 28 trips per day presently. Thus the net increase resulting from this development is expected to be in the realm of 57 additional vehicle trips per day.

Council's existing public road network has sufficient capacity to cater to the development.

Access

For higher density developments with a single driveway, it is critical that adequate width be provided within the private property for two cars to pass each other without a car being delayed within the public road reserve, potentially disrupting traffic and increasing the likelihood of an accident at this location. Retention of the existing driveway layback in this regard is therefore not supported. A new layback will have to be constructed to Council's ASD 202 'heavy duty' standard, with a minimum width of 5.5m. The difficult narrow frontage of the site, and desirable design outcomes for the apartments themselves, has resulted in less space being available for ideal vehicular access. Conditions of consent have been recommended to balance these issues without impacting road traffic. This will require the developer to reconfigure the on-street parking lane with kerb and 'blisters' or landscaping islands to shelter vehicles in a manner that is still consistent with the Town Centre Master Plan.

The single width driveway within the site presents similar challenges. The circulation aisle is characterised by steep grades and bends which obstruct driver line of sight. The construction details will need to implement a combination of systems and devices, such as mirrors, sensors and flashing lights, which alert drivers to oncoming vehicles or pedestrians and allow the driver to yield while they pass. This will need to be addressed both in the basement, and where the driveway meets the public footway in the street. It will be the developer's (and future strata members') responsibility to ensure traffic from the development yields to pedestrians in accordance with Australian road rules.

The steep ramp grades as they are proposed on the DA plans are not compliant with AS 2890 in their current form. Prior to DA consent, the applicant has been unable to provide certification for appropriate surface finishes that will guarantee the steeper grades do not result in unsafe conditions for users. However, as a design solution may exist, this is not considered grounds for refusal of the application on this basis. A condition is proposed to require the design to either achieve complying grades, or propose a combination of devices to achieve the intent of the standard and make the ramp safe, with an accredited certifier to certify that the condition has been satisfied before the Construction Certificate can be issued.

Parking and Manoeuvring

As is required for all similar multi-residential developments, the design of the parking spaces and circulation aisles will need to be independently certified as compliant with AS 2890 at both the design and post-construction stages.

Public submissions have highlighted concerns that the development will have inadequate onsite parking. The proposal has been assessed with regard to Council's Development Control Plan for parking numbers, and the shortfall can be offset by the developer paying parking contributions to Council for future parking facilities in the CBD.

Mechanical stacker parking spaces are proposed. A key concern for the public is that the stackers are maintained in an operable condition at all times, so the development does not suffer a reduction in on-site parking spaces which would result in a spill of parking demand onto Clarence Street. In this regard, the stacker systems will need to be regularly maintained, and have a backup power supply or manual mechanism to enable them to be used in the event of power failure. Additionally, each stacker space must be able to be used independently of each user (i.e. cars parked on top must not be required to wait for the car below to leave), unless both spaces are allocated to the same residence.

Pedestrians

The site currently has a 1.2m wide footpath along the Clarence Street frontage. Full width concrete paving is required to cater for foot traffic, achieve consistency with adjacent lots, and transition into the character of the Town Centre Master Plan area. Adequate width for on-road cycleway is also available, and the road frontage design will need to facilitate this use by cyclists.

Utilities

Telecommunication and electricity services are available to the site.

Stormwater

There is no public stormwater pipe running along Clarence Street at the site location. A stormwater pipe draining the public road runs through the development site and is proposed to be removed and replaced in another location. The existing easement to drain water should be extinguished in an application made to Council prior to Occupation Certificate.

A stormwater management plan is being developed by the applicant in liaison with Council's stormwater engineer. Conditions have been recommended that will require the developer to either:

- a) Provide a new public pipe network to serve the development and draining via Clarence Street to a suitable discharge point within the road reserve, i.e. a direct connection to existing stormwater pits down the street, or

- b) Relocation and upgrade of the inter-allotment drainage infrastructure draining to the rear of the site to comply with current standards and adequately service the road reserve as is currently the case.

If the existing inter-allotment easement is made redundant by pipes laid in a different alignment, the easement shall be extinguished prior to Occupation Certificate.

Refer to the relevant conditions of consent.

Water

Records indicate that there is a 20 mm metered water service from a 150 mm PVC water main on the opposite side of Clarence Street.

Final water service sizing for the proposed developments will need to be determined by a hydraulic consultant to suit the development site, as well as addressing fire service and backflow protection requirements. Each individual unit is to have its own 20mm water meter located adjacent to the unit in an easily accessible location (foyer) or arrangements made with Council for an electronic reading option.

Sewer Connection

Sewer is available in adjacent land owned by Sundowner Holiday Park. As the waste water discharge from the proposed development will exceed 2 equivalent tenements the sewer connection is to be from a new junction connected to an existing or new manhole.

An existing manhole is located close to the North East corner of the site and can be utilised for construction of a junction with sideline to vertical inspection shaft (VIS) within the subject property. The sewer drainage beyond the VIS is internal private pipe work.

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 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.

Flora & Fauna

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

Waste

A common bin storage area has been identified in the basement car park. In relation to bin collection, the subject site has a narrow frontage to Clarence Street and there is angled street parking in the site frontage. It is not considered that bins for 13 units could be placed in the site frontage for kerb side collection without causing impacts on amenity and traffic and pedestrian safety. A condition is recommended requiring satisfactory arrangements for a private garbage collection service.

Standard precautionary site management condition recommended for construction phase of the project.

Energy

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

Noise & Vibration

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

Natural Hazards

No natural hazards identified that would impact on the proposed development.

Contamination Hazards

See comments earlier in this report under SEPP No. 55 - Remediation of Land.

Safety, Security & Crime Prevention

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

Social Impact in the Locality

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

Compliance or Otherwise with the DDA

The development is capable of achieving compliance with the Building Code of Australia and Access to Premises Standards. Details of compliance would be required at the Construction Certificate stage.

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 impacts such as expenditure in the area.

Site Design and Internal Design

See relevant comments earlier in this report under SEPP No. 65 regarding the building design.

Construction

The development includes significant excavation for basement car parking adjacent to existing multi storey buildings. Prescribed condition in accordance with clause 98E of the Environmental Planning and Assessment Regulation requires that the developer protect and support adjoining structures if excavation extends below the footings of the structure, building or work.

A condition is also recommended requiring dilapidation reports to be prepared for adjoining properties, to allow for monitoring and rectification works (if necessary) of any damage caused by construction activities.

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:

No site constraints exist that would make the land unsuitable for the proposed development, subject to more detailed investigation of the potential archaeological significance of the site. If relics are found that are determined to be of State significance, advice from the Heritage Council (NSW Office of Environment and Heritage) is that they would need to be retained in situ and the building redesigned around it. This has the potential to make the current building design with significant excavation for basement levels unsuitable for the site.

However, this is unable to be confirmed at the DA stage and appropriate conditions have been recommended to account for this possibility.

The land is also located in an appropriate zone for high density residential development and is able to be provided with essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access.

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

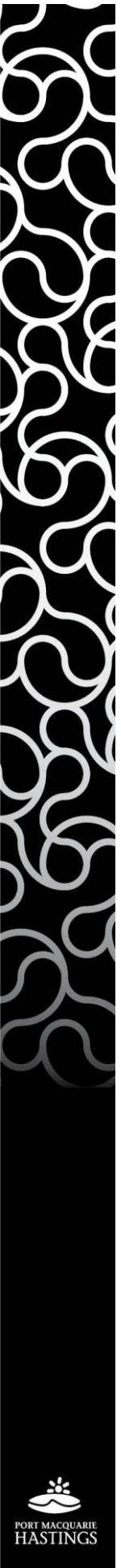
29 written submissions have been received following public exhibition of the application.

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

Submission Issue/Summary	Planning Comment/Response
Building height is out of context with the existing streetscape - should be at similar height to existing developments to the east and west of the site.	<p>Buildings in the locality vary significantly in height from 1 storey to 7 storeys. There are numerous examples where buildings change height by two or more storeys on directly adjoining properties.</p> <p>The streetscape context is not established by just the two buildings directly adjoining the development site, and a broader consideration of the locality is required. Having regard to the buildings on Clarence Street in the block between Munster Street and Grant Street, the existing built form includes a mix of building heights. The proposed development is not considered to be inconsistent with its context in this regard.</p> <p>The relevant planning controls do not require that developments be at the same height as adjoining buildings.</p>
Loss of solar access to adjoining development.	See comments earlier in this report under 'Overshadowing'.
Width and grade of vehicular access would result in impacts on traffic and pedestrian safety and efficiency.	See comments earlier in this report under 'Access'.
Denial of holiday rental should be considered in an approval.	A condition is recommended preventing use of the apartments for short-term holiday accommodation.
No disabled parking proposed.	Disabled car parking is not required for Class 2 Buildings under the building Code of Australia.
Availability of visitor parking will not be apparent and is likely to result in overflow parking in Clarence Street.	<p>The development would require visitors to the site arriving by motor vehicle to use available public parking in the locality.</p> <p>The developer will be required to make a monetary contribution towards public car parking in the CBD area.</p>
An area for garbage collection will need to be allocated.	A common bin storage area has been identified in the basement car park. In relation to bin collection, the subject site has a narrow frontage to Clarence Street and there is angled street parking in the site frontage. It is not considered that bins for 13 units could be placed in the site frontage for kerb side collection without causing impacts on amenity and traffic and pedestrian safety. A condition is recommended requiring satisfactory arrangements for a private garbage collection service.
Loss of views. View sharing impacts are not consistent with the Land and Environment	See comments earlier in this report under 'View Sharing'

Court's planning principle.	
Proposed development is inconsistent with Floor Space Ratio (FSR) adopted in the LEP.	<p>The application seeks a variation to the adopted FSR controls under Clause 4.6 of the Port Macquarie-Hastings Local Environmental Plan 2011.</p> <p>See comments earlier in this report.</p>
Narrow sloping site is not suitable for high density residential development.	The submitted design has demonstrated that the site can be made suitable for the proposed development.
Proposed clause 4.6 variation to Height of Buildings and Floor Space Ratio development standards is not well founded and is inconsistent with the Land and Environment Court's planning principle for (former) SEPP 1 objections.	See comments earlier in this report under Clauses 4.3, 4.4 and 4.6 of the Port Macquarie-Hastings Local Environmental Plan 2011.
The proposed off-street parking for the development is insufficient and there is limited street parking available in the locality.	<p>Council has a Section 94 contributions plan for the area that provides for a monetary contribution towards public parking in the CBD area to be made by the developer in lieu of off-street parking.</p> <p>In this instance, the developer would be required to make a contribution for the shortfall in off-street parking of 1.75 spaces.</p>
Loss of privacy for residents of Focus apartments.	<p>There is approximately 35m separation between the closest part of the proposed development and the Focus apartments at 2 Clarence Street. In a high density residential context, this distance is considered sufficient to provide a reasonable level of privacy.</p> <p>Chapter 3.3 of Development Control Plan 2013 only requires privacy screening where living room windows and private open space areas of adjoining development are located within a 12m radius.</p>
Development would detract from the coastal foreshore and the scenic qualities of the coast.	The subject site is located approximately 400m from Town Beach. While the development would be visible from some locations, it would largely be screened by existing buildings and vegetation and would not be prominent when viewed from the beach or offshore.
The 'future character of the locality' has already been defined due to the nature of existing strata titled building. Development of adjoining sites is not likely in the foreseeable future.	<p>The relevant objective in Clause 4.3 of the LEP is:</p> <p><i>(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and <u>desired future character of the locality</u>,</i></p> <p>The 'desired' future character for the area is defined by the relevant planning controls, including zoning, building height and setback</p>

	controls. It is acknowledged that the strata schemes existing for adjoining buildings would reduce their potential for future redevelopment.
It is unclear how the height of building is interpreted under the LEP.	This is defined in the LEP. See comments earlier in this report under Clause 4.3 of the LEP.
Encroachment of solar panels into height limit.	See comments earlier in this report under Clause 4.3 of the LEP.
Potential glare from solar panels - recommend they be located at ground level at the rear of the site or on the rear tower of the building.	The Applicant has amended the plans to locate the solar panels on the rear (northern) tower of the building.
Future works by Council as part of Town Centre Master Plan may reduce existing street parking in Clarence Street.	The availability of street parking is a matter for Council to consider as part of any future works in Clarence Street, and is not relevant to consideration of this proposal.
Oppose the interference or removal of any archaeology from the site.	The proposal has been referred to the Heritage Council for consideration in relation to the potential impacts on archaeology at the site. See detailed comments earlier in this report under Clause 5.10 of the LEP.
The western wall of the building, as seen from the Flightdeck apartments, is tall, plain, and lacking in architectural features.	The western wall of the rear (northern) tower, which is located adjacent to the Flightdeck apartments, is broken up to some extent with recessed windows and privacy screening. The longest section of unarticulated wall is approximately 9m long. The lack of openings in the western elevation is predominantly to protect the privacy of residents in the Flightdeck apartments. It is noted that windows in the living areas of the Flightdeck apartments are oriented to the north and north-east and would not face directly towards the western wall of the proposed development.
Potential cumulative impact of approving tall buildings - not the desired image for Port Macquarie.	Building height controls for Port Macquarie have been considered by Council in consultation with the community as part of the adoption of the Port Macquarie-Hastings Local Environmental Plan 2011 and its subsequent amendments. The adopted controls set the desired character for development.
Development yield and feasibility are not an appropriate justification to vary development standards.	Agreed. The assessment under Clause 4.6 of the LEP has not considered these to be relevant factors.
Loss of natural ventilation to units in the Headlands apartment building.	The nearest part of the proposed development to the adjoining Headlands building at 1 Clarence Street is approximately 6.4m. While



	there may be some changes to the characteristics of prevailing winds to the existing apartments in the western side of the Headlands building, it is not considered that the proposed separation between the buildings would prevent opportunities for satisfactory natural ventilation.
Object to demolition of the existing cottage at the front of the site.	The building is not identified as being of heritage significance and no planning controls exist that require the retention of the building.

(e) The Public Interest:

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

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

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

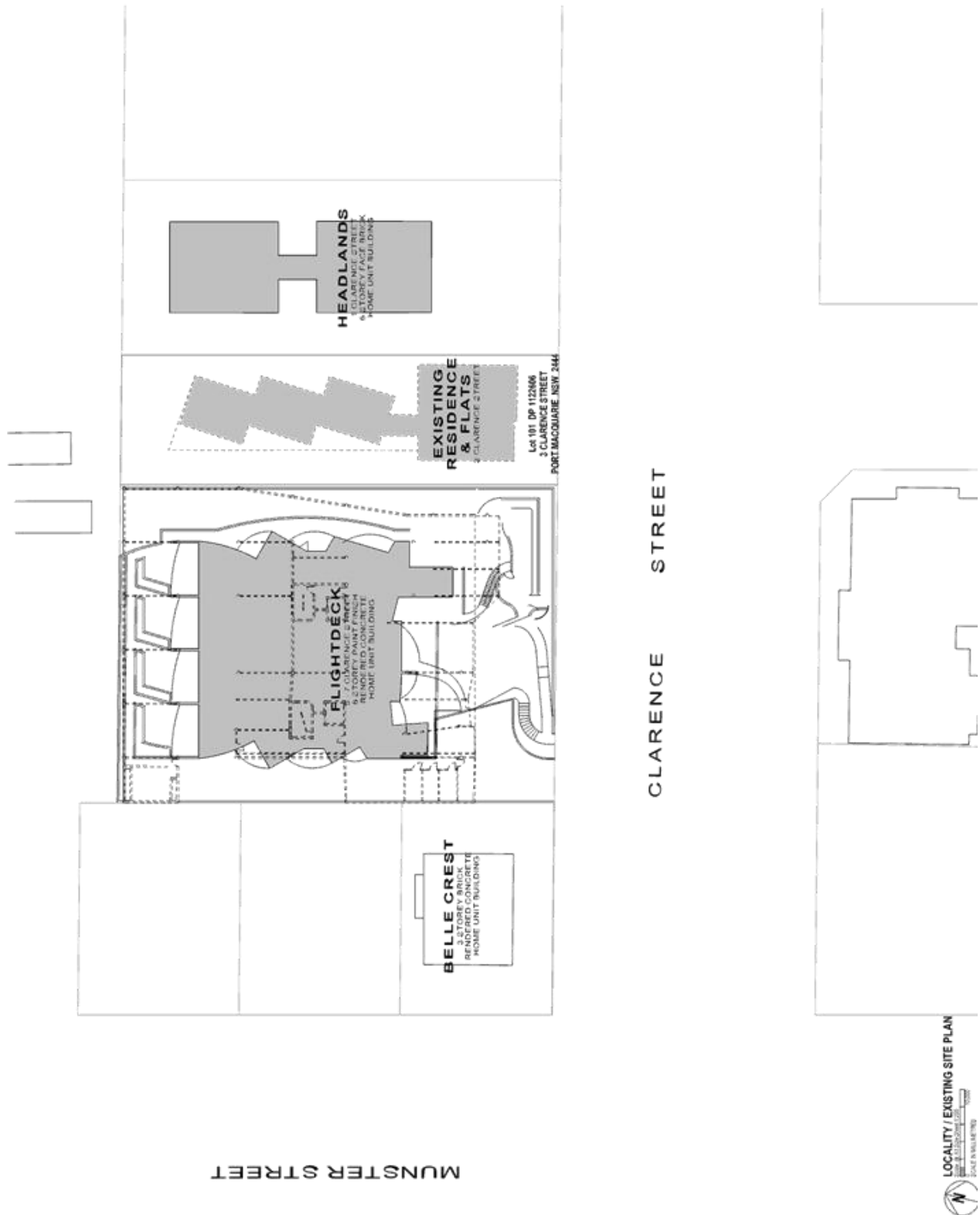
- 1 [View](#). DA2014 - 0123 Plans
- 2 [View](#). DA2014 - 0123 Photographs of Existing Views
- 3 [View](#). DA2014 - 0123 Recommended Conditions
- 4 [View](#). DA2014 - 0123 Submission - Brown 04112014
- 5 [View](#). DA2014 - 0123 Submission - Brown 26032014
- 6 [View](#). DA2014 - 0123 Submission - Cohen
- 7 [View](#). DA2014 - 0123 Submission - Davis 17112014
- 8 [View](#). DA2014 - 0123 Submission - Davis 27032014
- 9 [View](#). DA2014 - 0123 Submission - Deem & Gagen
- 10 [View](#). DA2014 - 0123 Submission - DeVos
- 11 [View](#). DA2014 - 0123 Submission - Hill 17112014
- 12 [View](#). DA2014 - 0123 Submission - Hill 31032014

AGENDA

DEVELOPMENT ASSESSMENT PANEL

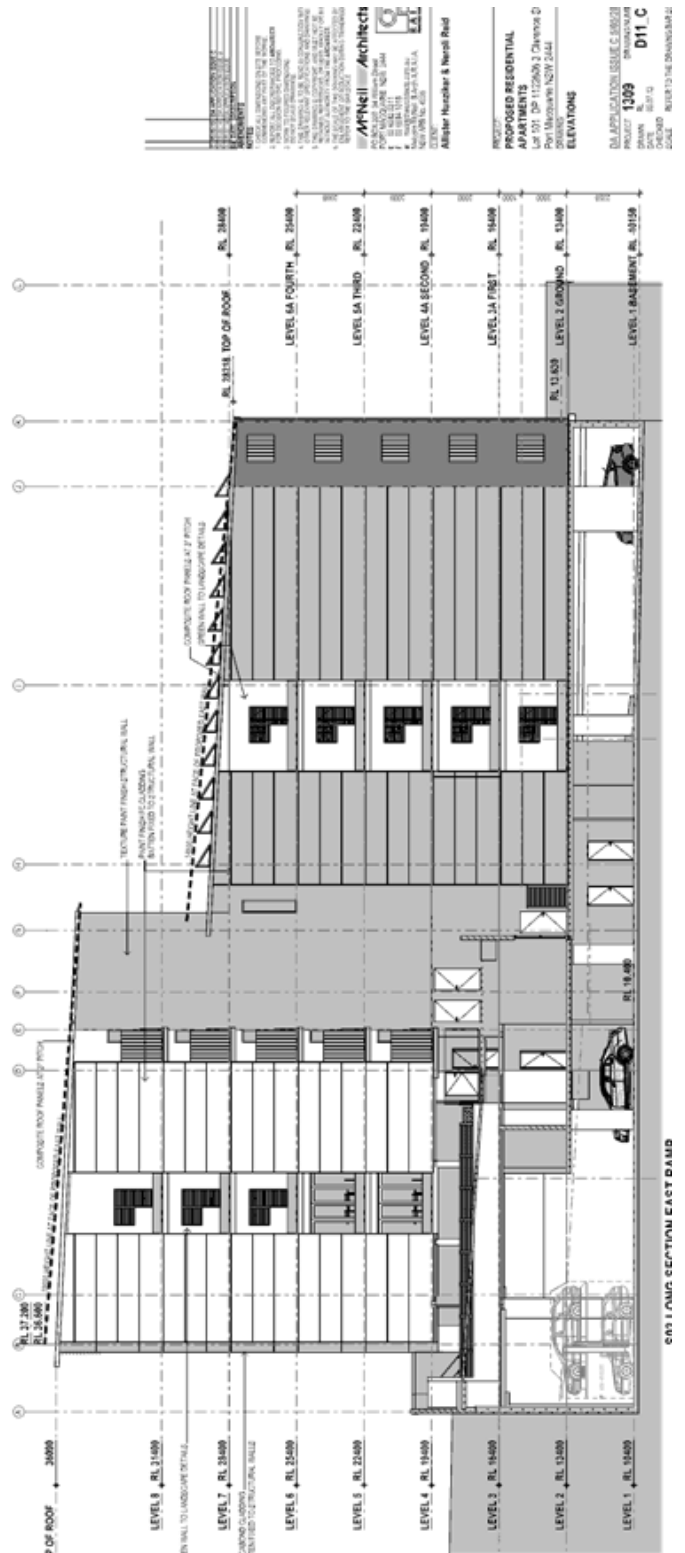
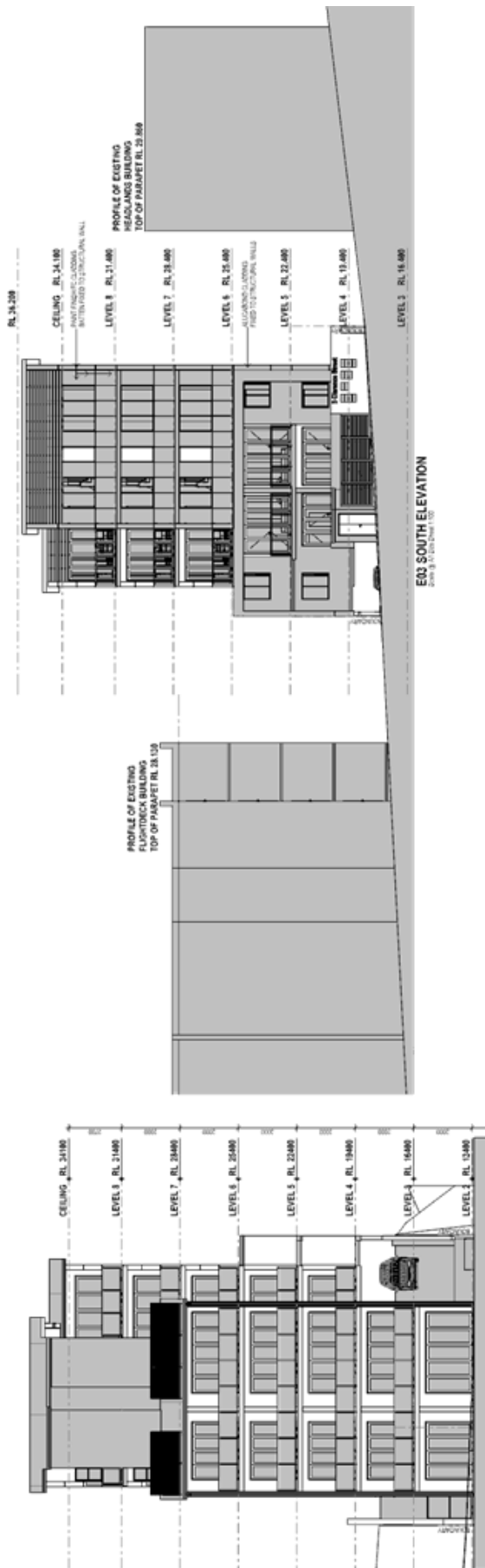
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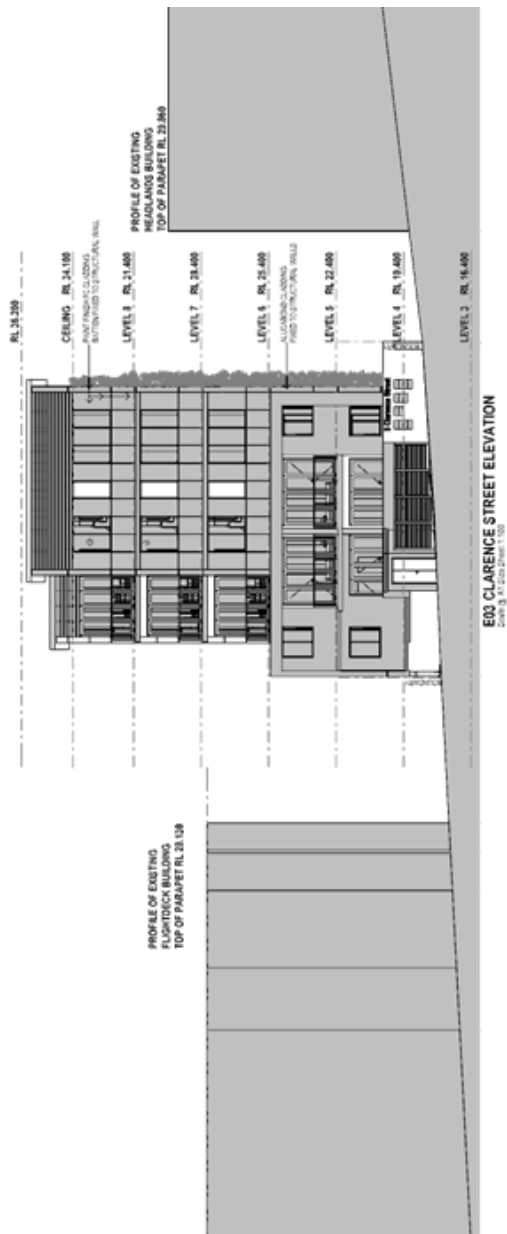
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- 15 [View.](#) DA2014 - 0123 Submission - Hume
- 16 [View.](#) DA2014 - 0123 Submission - Innes
- 17 [View.](#) DA2014 - 0123 Submission - Innes & Maguire
- 18 [View.](#) DA2014 - 0123 Submission - Marsh
- 19 [View.](#) DA2014 - 0123 Submission - Mike George Planning for Owners
SP78063 13112014
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SP78063 25032014
- 21 [View.](#) DA2014 - 0123 Submission - Moore
- 22 [View.](#) DA2014 - 0123 Submission - Partridge
- 23 [View.](#) DA2014 - 0123 Submission - Philip
- 24 [View.](#) DA2014 - 0123 Submission - Robertson & Green
- 25 [View.](#) DA2014 - 0123 Submission - Schwarz
- 26 [View.](#) DA2014 - 0123 Submission - Steen
- 27 [View.](#) DA2014 - 0123 Submission - Subbiah
- 28 [View.](#) DA2014 - 0123 Submission - Thompson
- 29 [View.](#) DA2014 - 0123 Submission - Walters
- 30 [View.](#) DA2014 - 0123 Submission - Williams

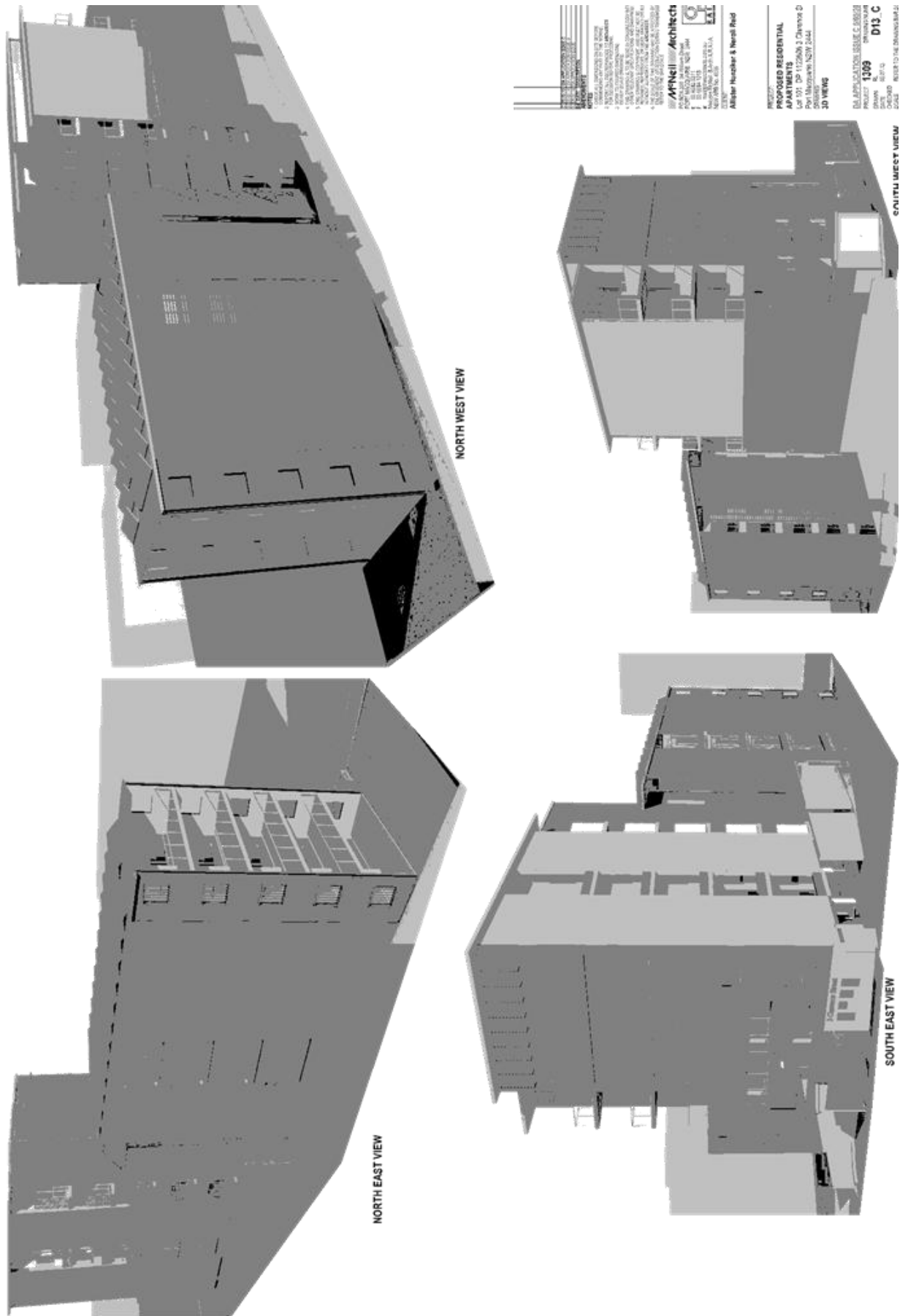


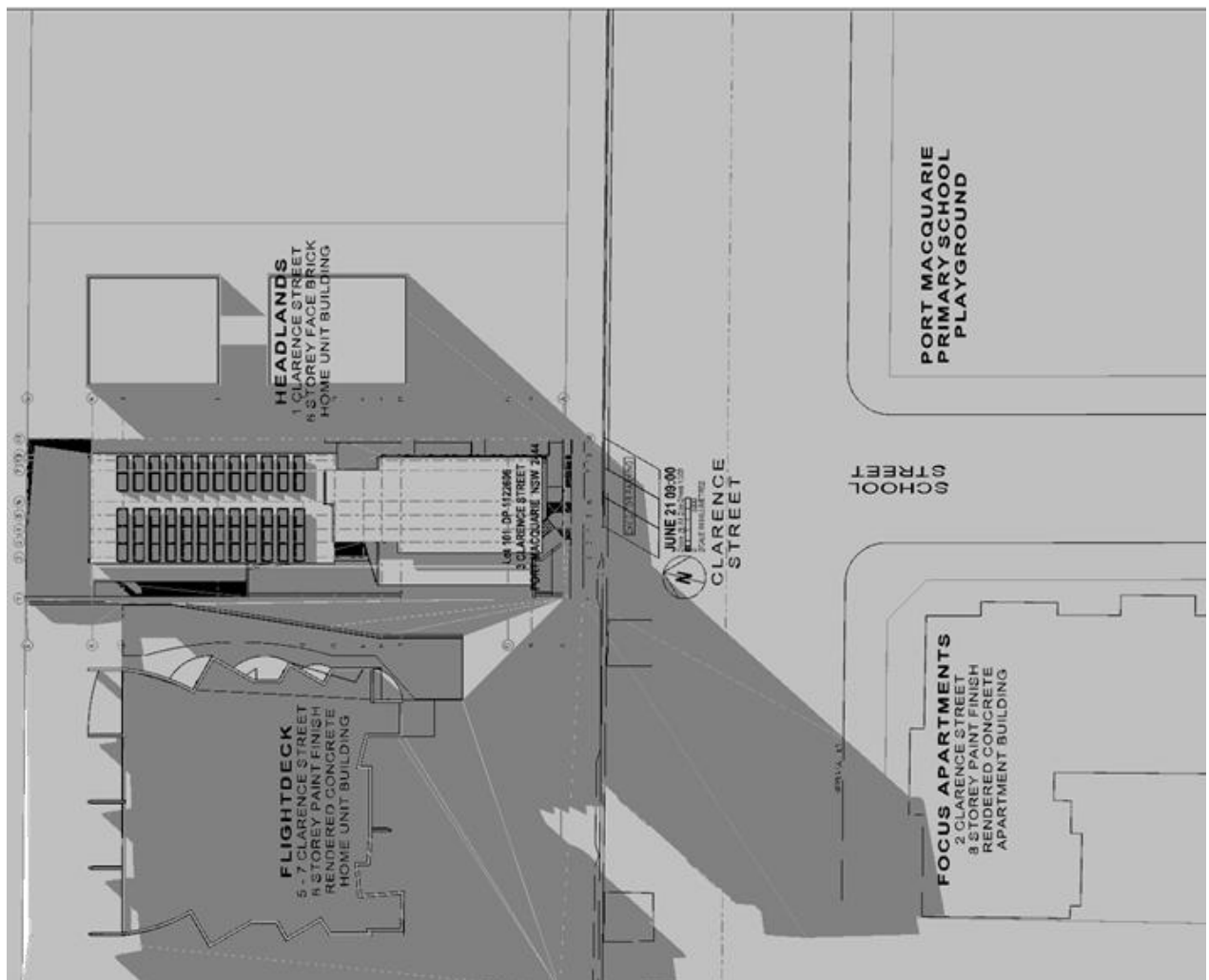






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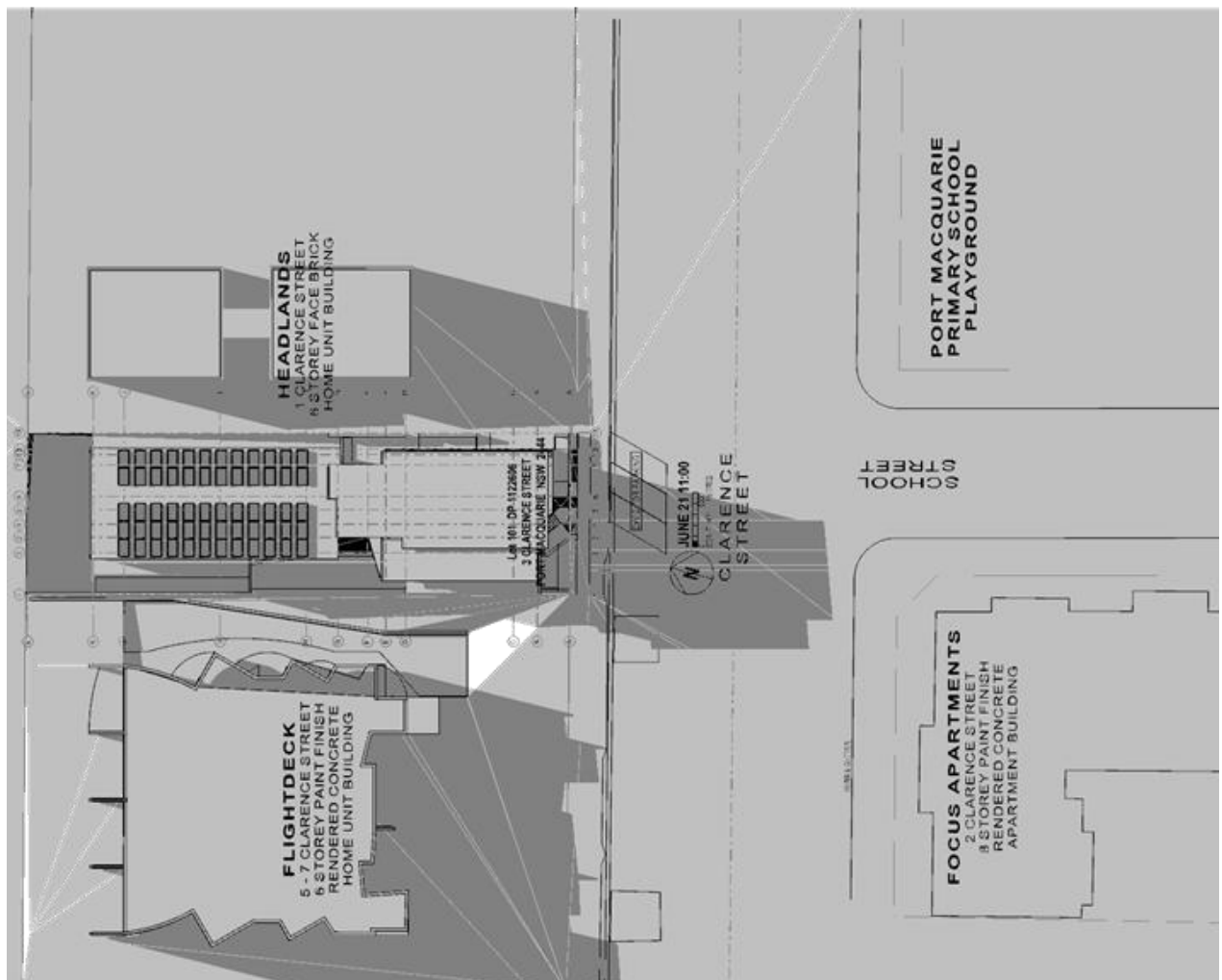


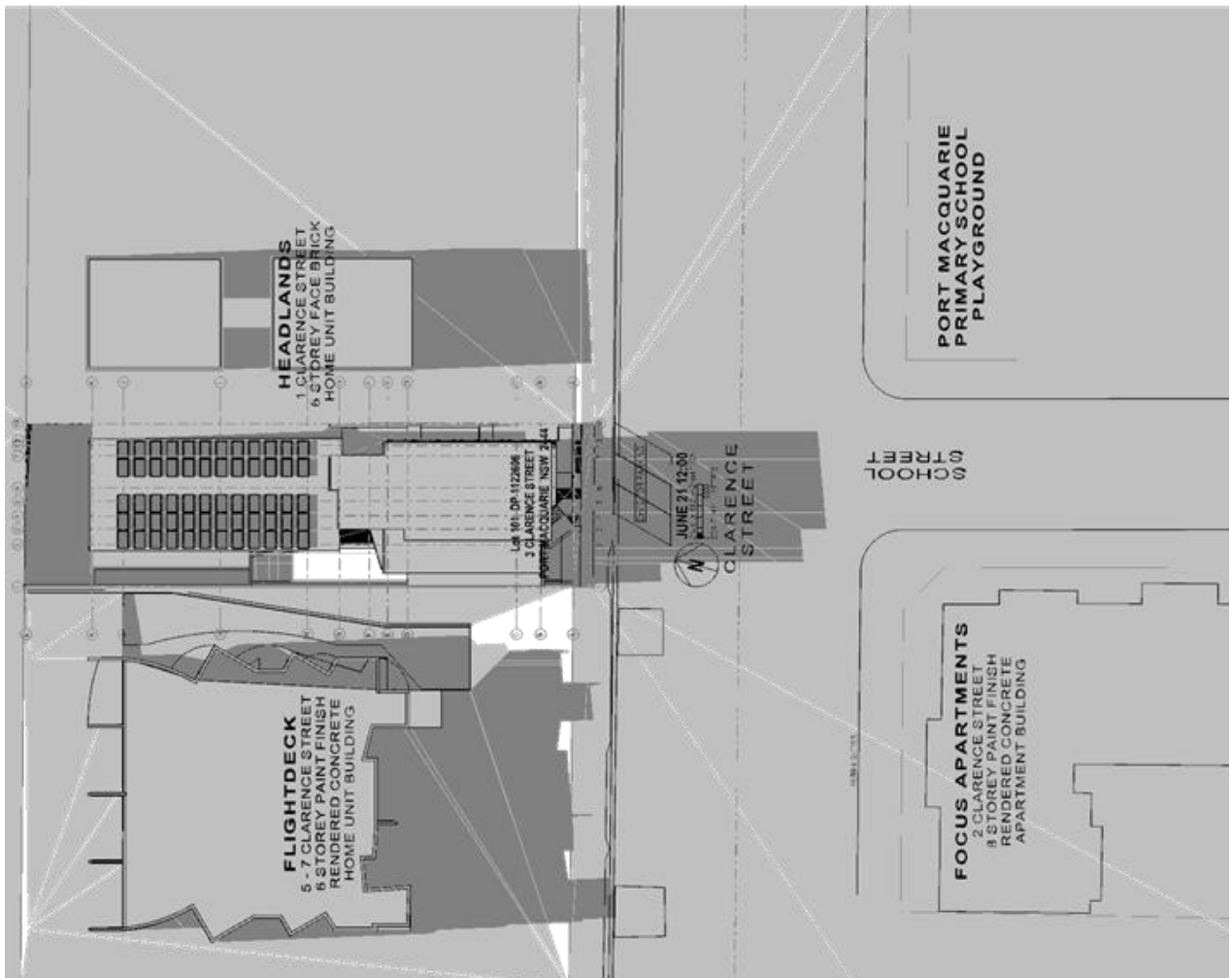




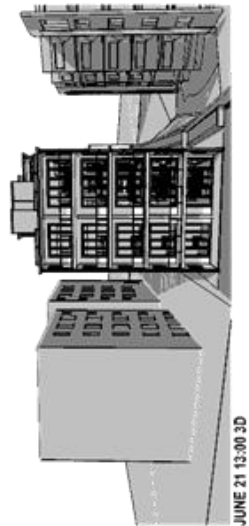
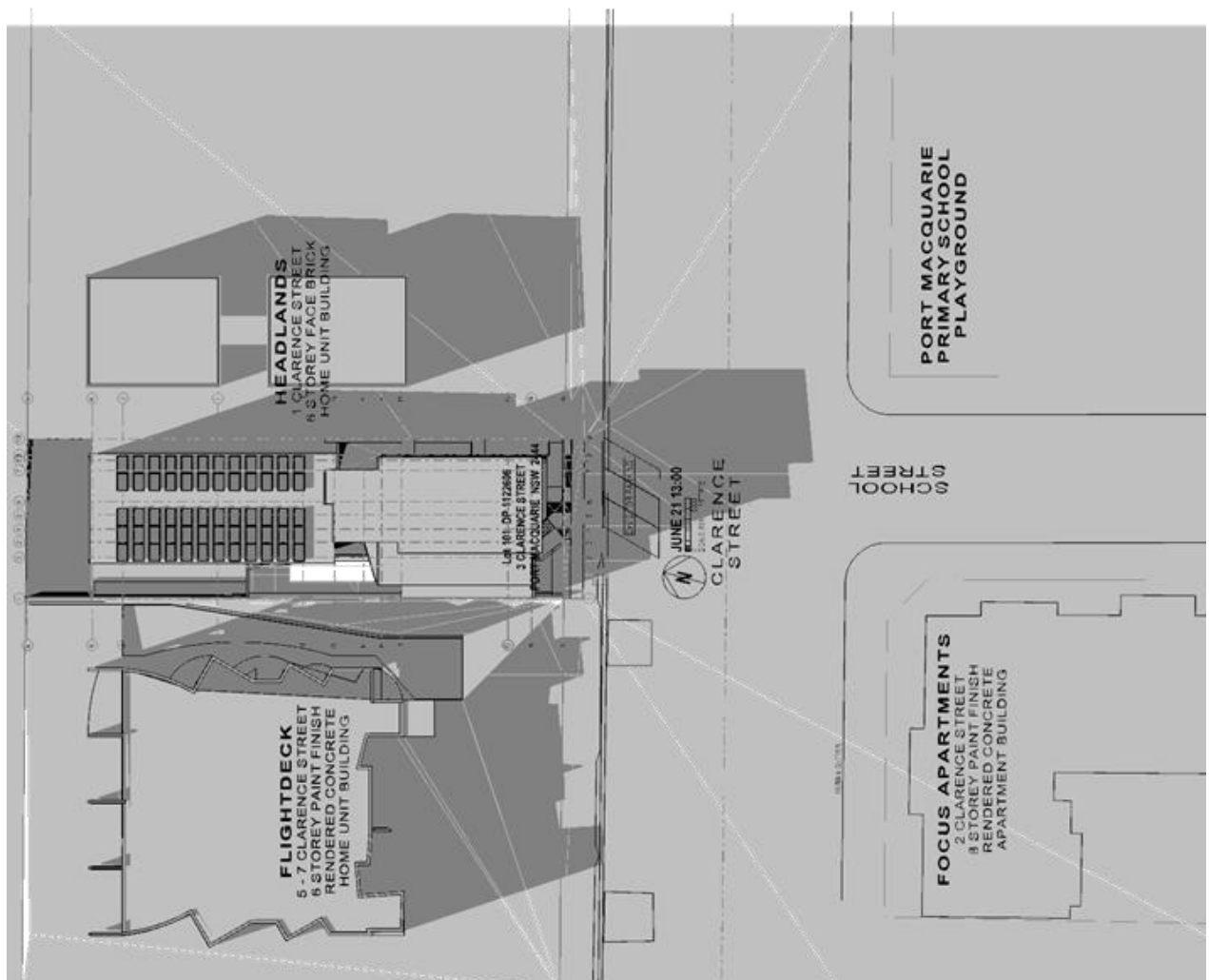


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DATE APPLICATION ISSUED	11/06/2015
PROJECT	1309
DATE	11/06/2015
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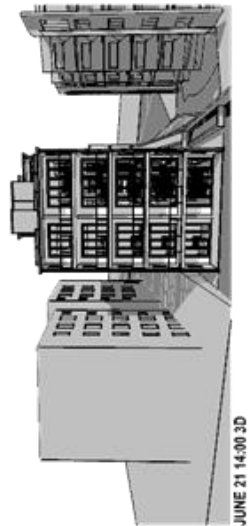
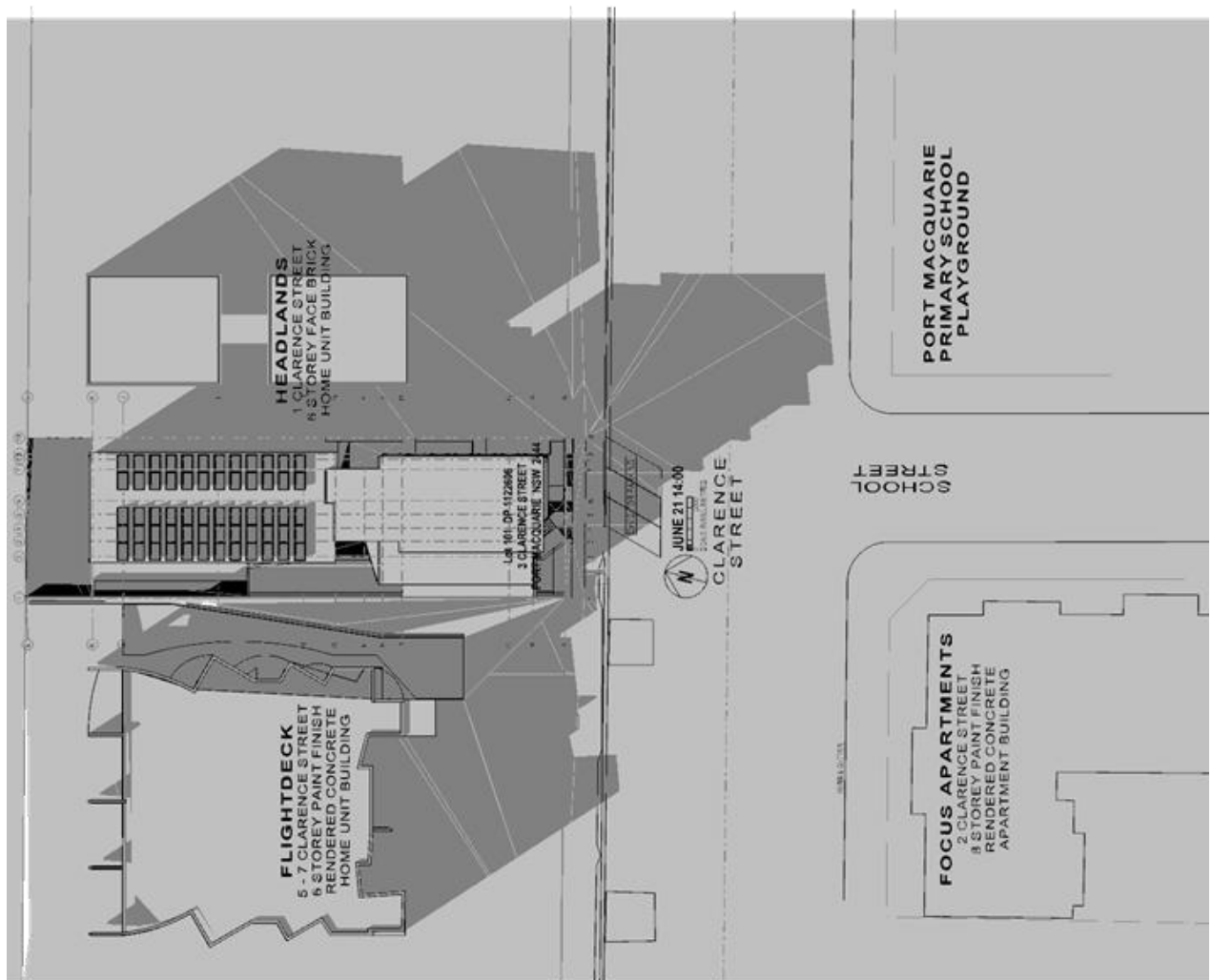




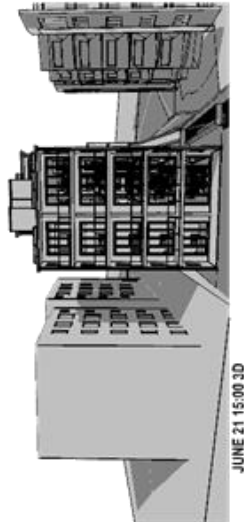
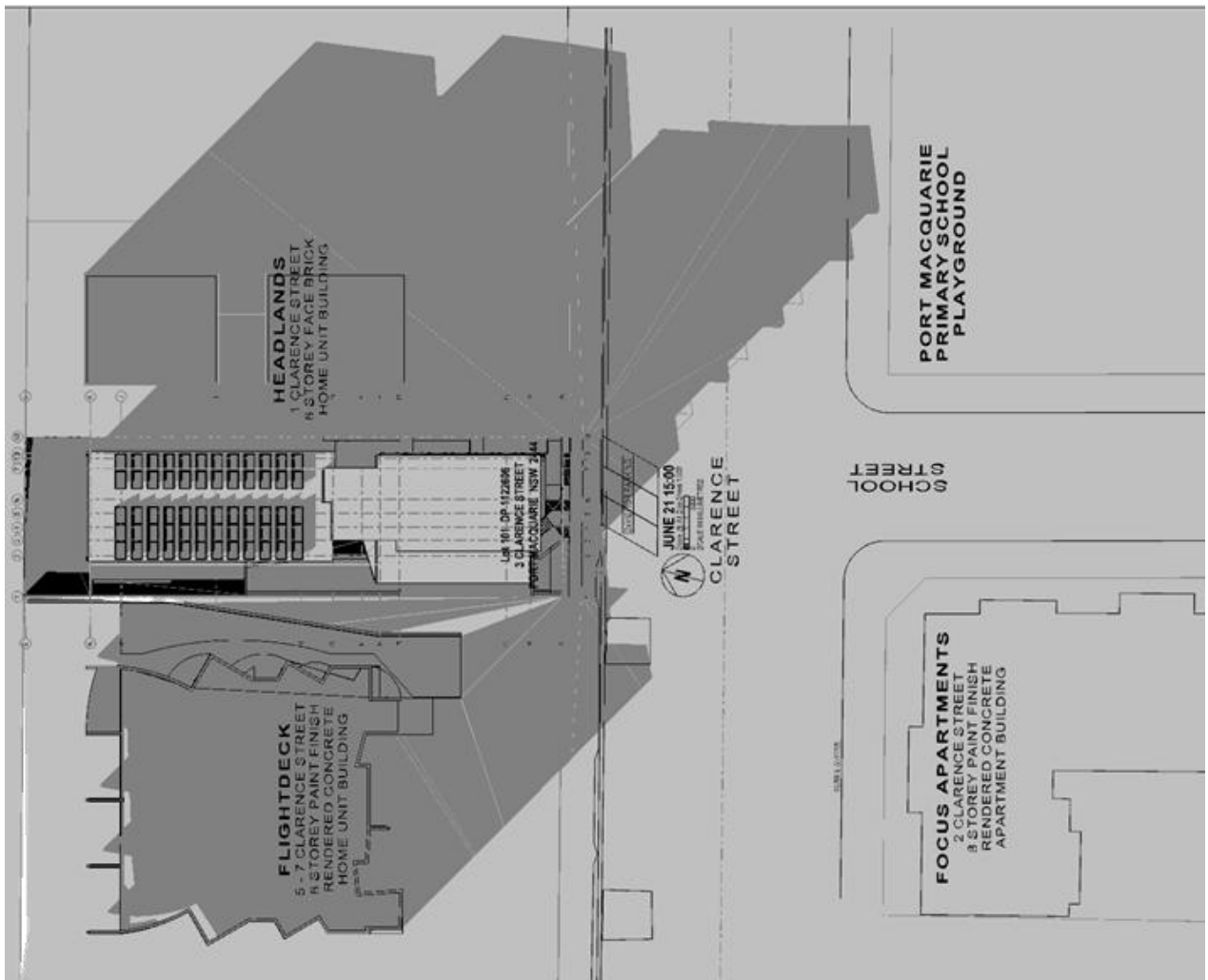
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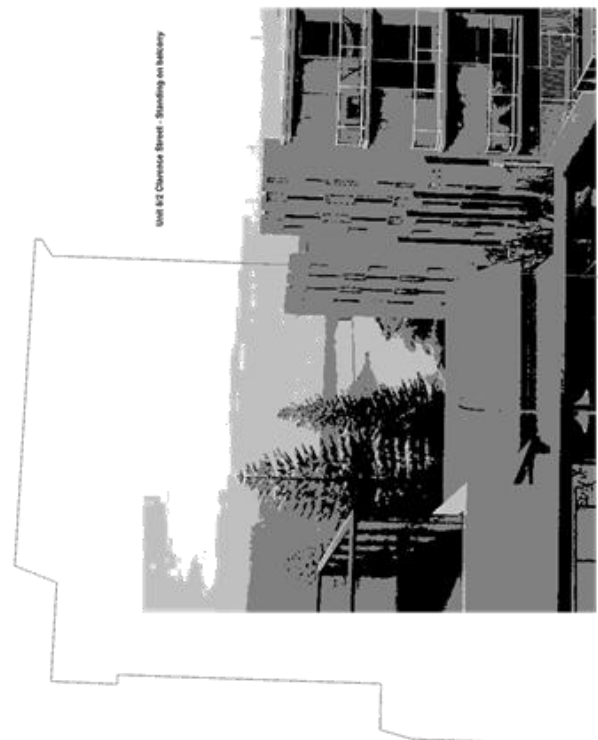
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PROJECT	PROPOSED RESIDENTIAL APARTMENTS
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CLIENT	Port Macquarie City Council
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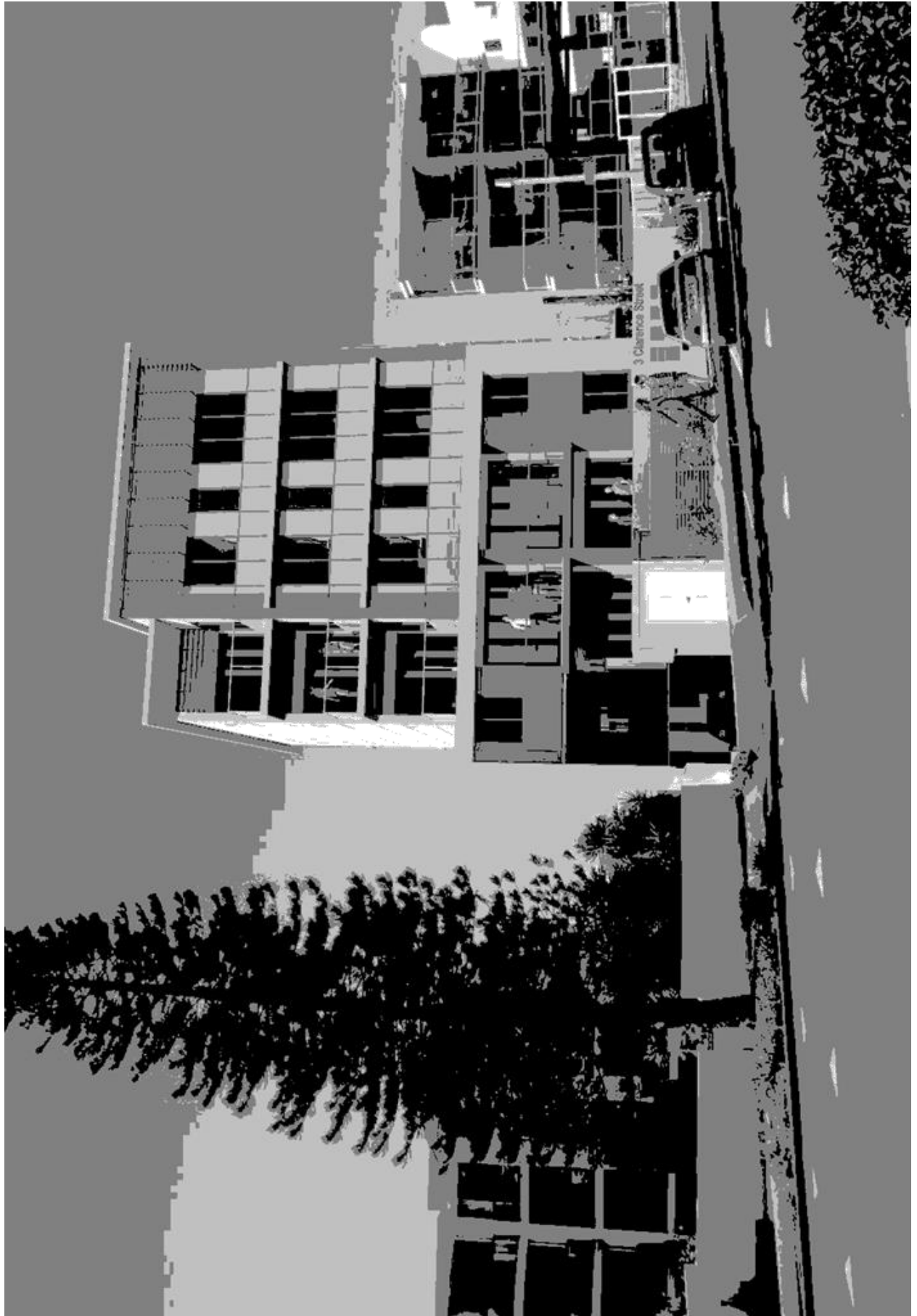


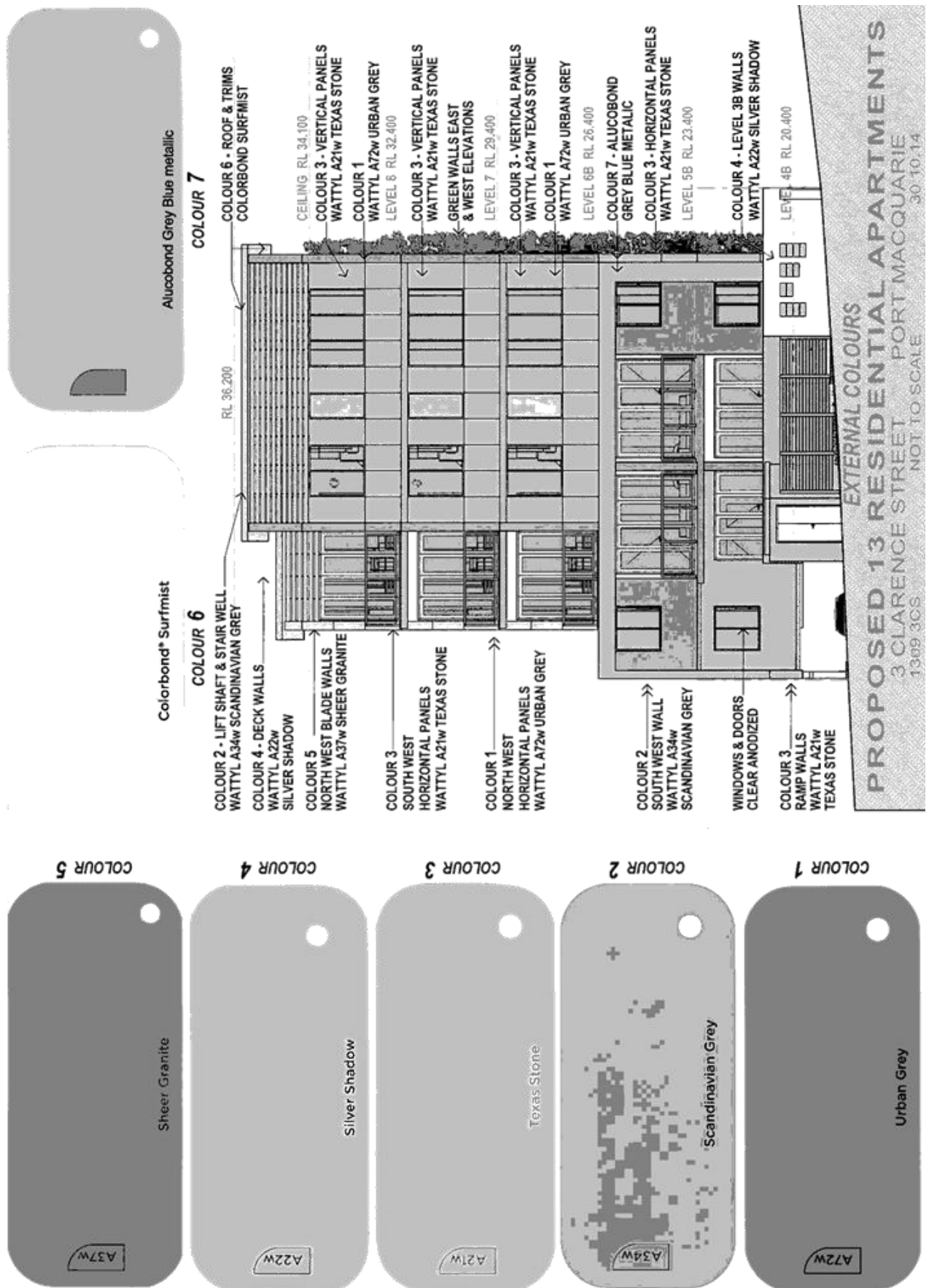
<p>PROJECT</p> <p>1. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>CLIENT</p> <p>2. THE PORT MACQUARIE SHIRE COUNCIL</p> <p>DESIGNER</p> <p>3. AFNELL ARCHITECTS</p> <p>DATE</p> <p>4. 15/05/2015</p> <p>SCALE</p> <p>5. 1:100</p> <p>PROJECT NO.</p> <p>6. 1001</p> <p>PROJECT NAME</p> <p>7. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT LOCATION</p> <p>8. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT DESCRIPTION</p> <p>9. 3 CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT STATUS</p> <p>10. PRELIMINARY DESIGN</p>	<p>PROJECT</p> <p>11. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>CLIENT</p> <p>12. THE PORT MACQUARIE SHIRE COUNCIL</p> <p>DESIGNER</p> <p>13. AFNELL ARCHITECTS</p> <p>DATE</p> <p>14. 15/05/2015</p> <p>SCALE</p> <p>15. 1:100</p> <p>PROJECT NO.</p> <p>16. 1001</p> <p>PROJECT NAME</p> <p>17. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT LOCATION</p> <p>18. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT DESCRIPTION</p> <p>19. 3 CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT STATUS</p> <p>20. PRELIMINARY DESIGN</p>	<p>PROJECT</p> <p>21. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>CLIENT</p> <p>22. THE PORT MACQUARIE SHIRE COUNCIL</p> <p>DESIGNER</p> <p>23. AFNELL ARCHITECTS</p> <p>DATE</p> <p>24. 15/05/2015</p> <p>SCALE</p> <p>25. 1:100</p> <p>PROJECT NO.</p> <p>26. 1001</p> <p>PROJECT NAME</p> <p>27. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT LOCATION</p> <p>28. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT DESCRIPTION</p> <p>29. 3 CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT STATUS</p> <p>30. PRELIMINARY DESIGN</p>	<p>PROJECT</p> <p>31. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>CLIENT</p> <p>32. THE PORT MACQUARIE SHIRE COUNCIL</p> <p>DESIGNER</p> <p>33. AFNELL ARCHITECTS</p> <p>DATE</p> <p>34. 15/05/2015</p> <p>SCALE</p> <p>35. 1:100</p> <p>PROJECT NO.</p> <p>36. 1001</p> <p>PROJECT NAME</p> <p>37. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT LOCATION</p> <p>38. CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT DESCRIPTION</p> <p>39. 3 CLARENCE STREET, PORT MACQUARIE NSW 2444</p> <p>PROJECT STATUS</p> <p>40. PRELIMINARY DESIGN</p>
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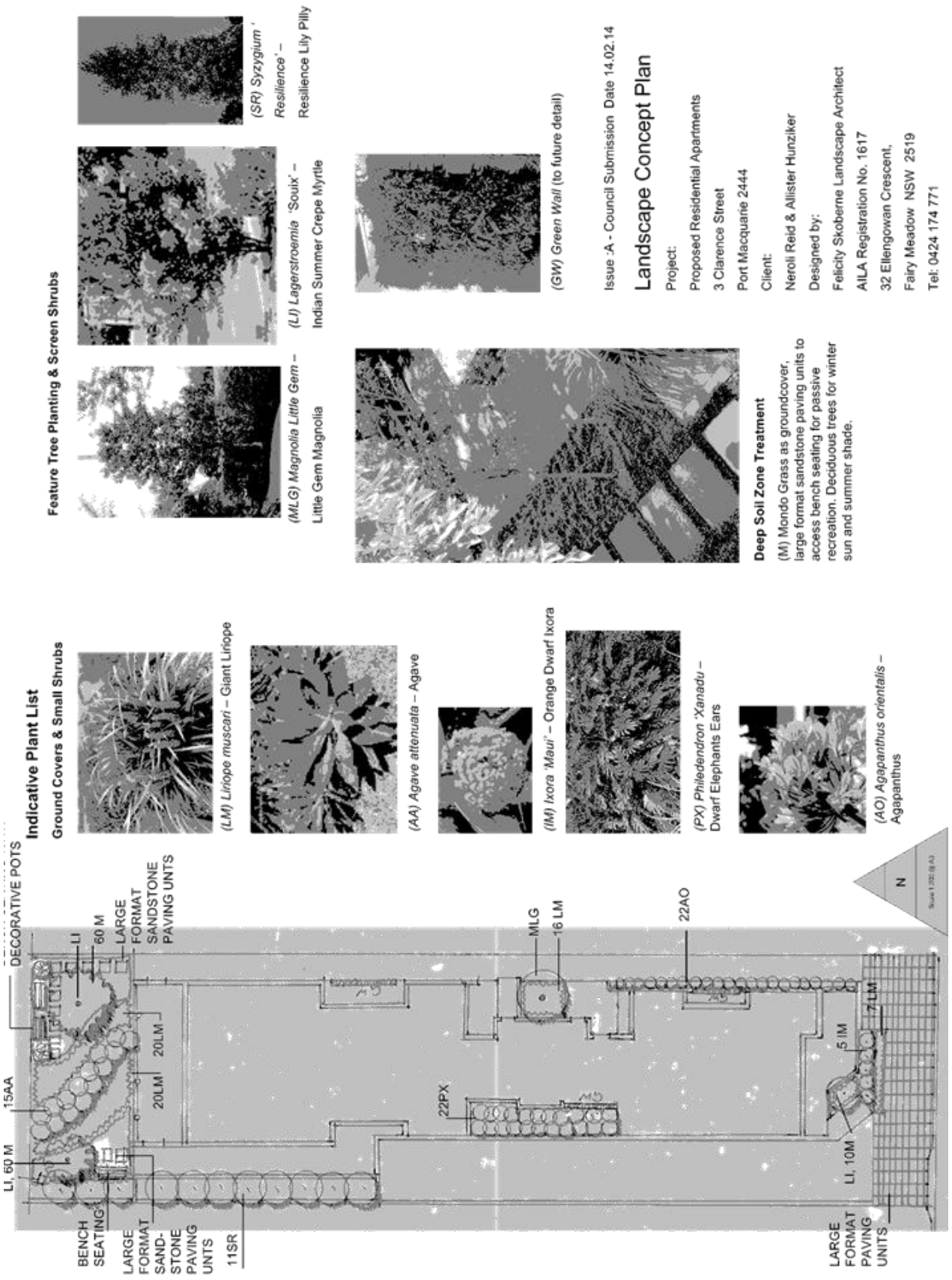












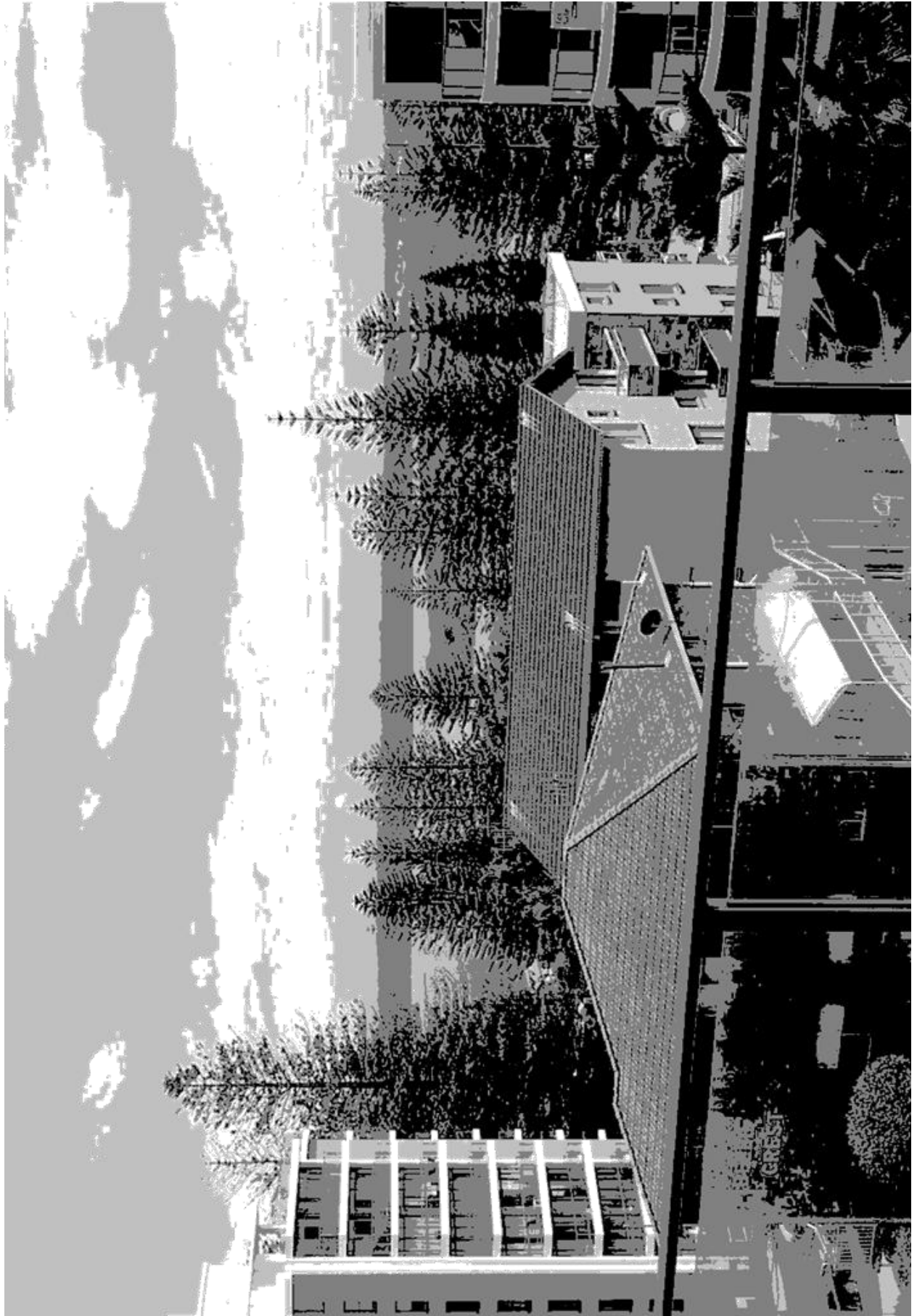


























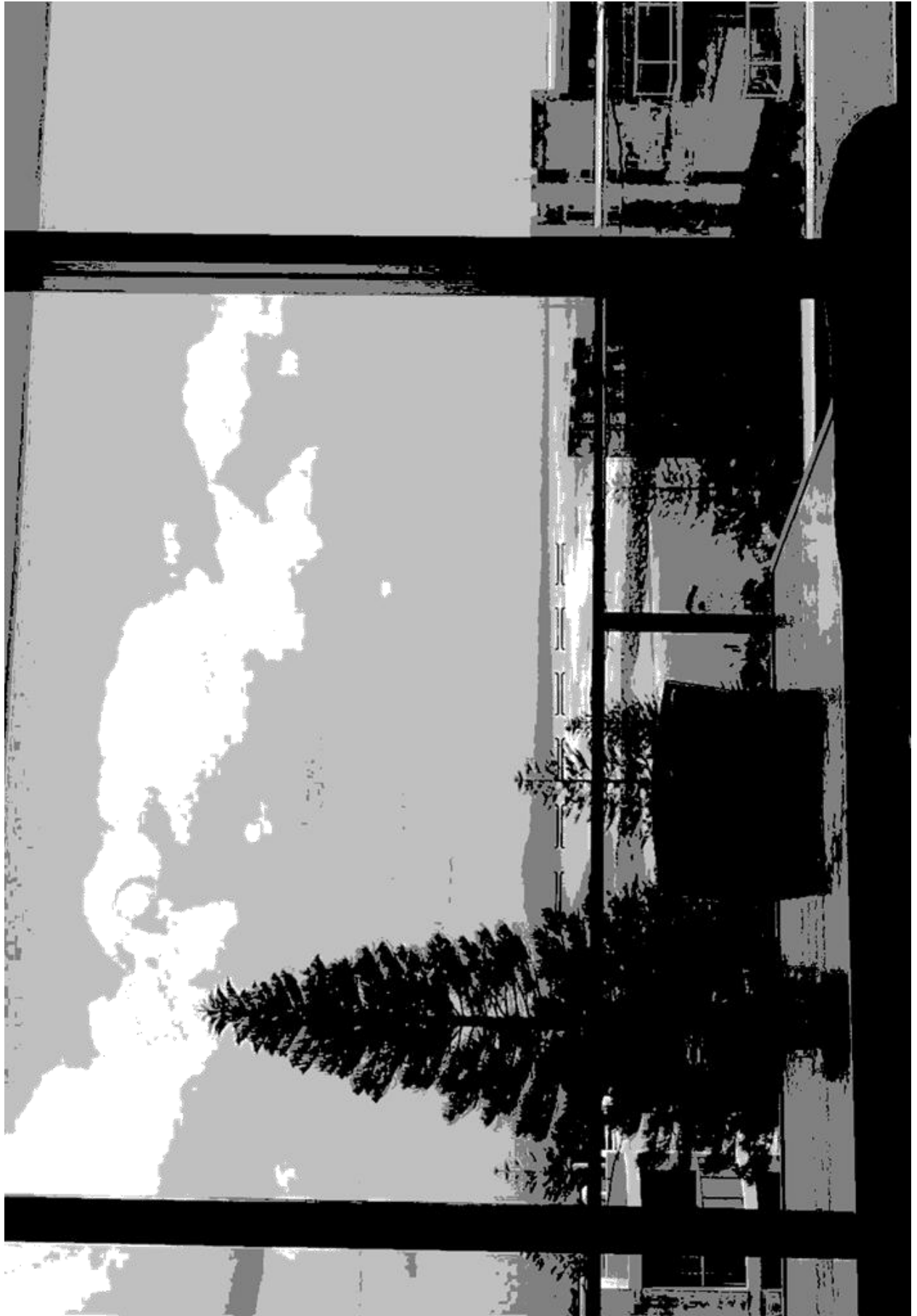
View from Greenfield Avenue - overlooking the railway



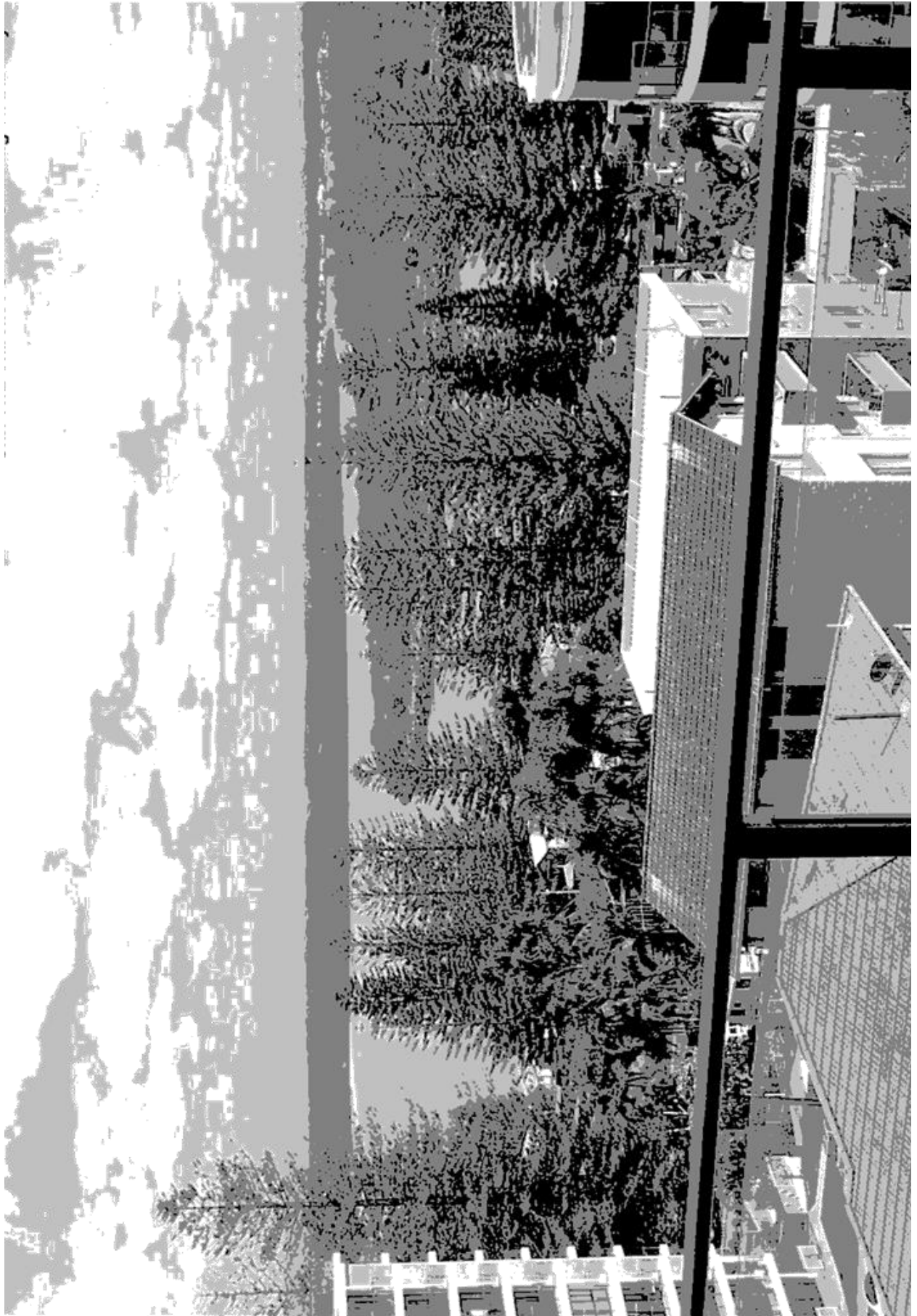
























**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2014/123****DATE: 20/05/2015****PRESCRIBED CONDITIONS**

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
Architectural Plans	Project 1309, Drawing No: D01 to D13 Issue C	McNeil Architects	5 May 2015
External Finishes	1309 3CS	McNeil Architects	30 October 2014
Photomontage	-	McNeil Architects	Undated
Archaeological Assessment	-	Edward Higginbotham	25 February 2015
BASIX Certificate	583159M	Concept Designs Australia	22 October 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) (A005) This consent allows the strata-subdivision of the units, subject to the submission of an application for a Strata Certificate.
- (4) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (5) (A009) The development site is to be managed for the entirety of work in the following manner:

1. 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;
2. Appropriate dust control measures;
3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
4. Building waste is to be managed via an appropriate receptacle;
5. 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.
6. 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 holidaysThe builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (6) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (7) (A030) The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's current AUSPEC Specifications and Standards. All works must be approved by Council pursuant to Section 138 of the Roads Act.
- (8) (A032) The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.
- (9) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
 - a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
 - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
 - c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

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

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

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

The security may be used to meet any costs referred to above and on application being made to the Council by the person who provided the security any balance remaining is to be refunded to, or at the direction of, that person. Should Council have to call up the bond and the repair costs exceed the bond amount, a separate invoice will be issued. If no application is made to the Council for a refund of any balance remaining of the security within 6 years

after the work to which the security relates has been completed the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

- (10) (A049) The existing footpath/verge area in Clarence Street is to be raised to contain stormwater in the street. Design plans must be approved by Port Macquarie-Hastings Council pursuant to Section 138 of the Roads Act 1993.
- (11) (A057) The applicant is to ensure the proposed development will drain to the existing point of connection to Council's sewerage system.
- (12) (A195) Common aerials and/or satellite dishes shall be provided for the development.

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) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the development. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
 - 1. Road works along the frontage of the development.
 - 2. Public parking areas including;
 - a. Driveways and access aisles;
 - b. Parking bays;
 - 3. Sewerage reticulation.
 - 4. Water supply plans shall include hydraulic plans for internal water supply services and associated works in accordance with AS 3500, Plumbing Code of Australia and Port Macquarie-Hastings Council Policies.
 - 5. Retaining walls.
 - 6. Stormwater systems.
 - 7. Location of all existing and proposed utility services including:
 - a. Conduits for electricity supply and communication services (including fibre optic cable).
 - b. Water supply
 - c. Sewerage
 - d. Stormwater
 - 8. Erection of hoardings and buildings in and/or over the public road space.
 - 9. Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, and ASD207, Port Macquarie-Hastings Council current version.

10. All roadworks along the full frontage(s) including full width paving, lighting and any necessary kerb construction or reconstruction in accordance with the current Town Centre Master Plan.
11. Provision of a full width concrete footpath across the full road frontage of the property.
- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

- Civil works
 - Traffic management
 - Work zone areas
 - Hoardings
 - Concrete foot paving (full width)
 - Footway and gutter crossing
 - Functional vehicular access
- (4) (B010) Payment to Council, prior to the issue of the Construction Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
- Hastings S94 Administration Building Contributions Plan
 - Hastings Administration Levy Contributions Plan
 - Community Cultural and Emergency Services Contributions Plan 2005
 - Hastings S94 Major Roads Contributions Plan
 - Hastings S94 Open Space Contributions Plan
 - Hastings Contributions Plan 1993
 - Part C – Car Parking

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

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

- (5) (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
- (6) (B024) Submission to Council of an application for water meter hire, which is to be referred to the Water Supply section so that a quotation for the installation can be prepared and paid for prior to the issue of a Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.
 - (7) (B038) Footings and/or concrete slabs of buildings adjacent to sewer lines or stormwater easements are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
 - (8) (B041) Prior to the issue of the Construction Certificate a dilapidation report shall be prepared by a suitably qualified person for buildings on adjoining properties. Such report shall be furnished to the Principal Certifying Authority.
 - (9) (B042) A certificate from an approved practising chartered professional civil and/or structural engineer certifying the structural adequacy of the proposed retaining, underpinning and/or shoring structures used during both the construction and occupation phases of the development is to be submitted to Port Macquarie-Hastings Council prior to the release of the Construction Certificate.
 - (10) (B045) A schedule of proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
 - (11) (B055) Construction plans are to include the sizing and configuration of the fire hydrant, fire sprinkler and domestic water supply metering and control installations so that sufficient space is allowed for this facility as well as addressing the overall aesthetics.
 - (12) (B057) The existing sewer including junction and/or stormwater drainage shall be located on the site and the position and depth indicated on the plans which accompany the application for the Construction Certificate.
 - (13) (B059) Relocation or replacement at no cost to Council of the stormwater pipe that traverses the site in accordance with Council's adopted AUSPEC Design and Construction Specifications D5 & D7.
Details shall be provided with the application for Construction Certificate.
 - (14) (B063) Prior to release of the Construction Certificate submission of an amended landscape plan to the Principal Certifying Authority. The plan shall include species suitable for the coastal location and incorporate native habitat trees. The plan is to be prepared by a landscape architect.
 - (15) (B195) Prior to the issue of any Construction Certificate plans the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.
 - (16) (B196) Final water service sizing for the proposed developments will need to be determined by a hydraulic consultant to suit the development site, as well as addressing fire service and backflow protection requirements. Each individual unit is to have its own 20mm water meter located adjacent to the unit in an easily accessible location (foyer) or arrangements made with Council for an electronic reading option.
 - (17) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance with Council's AUS-SPEC Specifications and the

requirements of Relevant Australian Standards and make provision for the following:

- a) The legal point of discharge for the proposed development is defined as a direct connection to Council's piped drainage system, or the inter-allotment drainage system.
 - b) In this regard, Council's piped drainage system in Clarence Street may be required to be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit (minimum 2.4m lintel) must be installed, to allow direct piped connection from the development site into the public drainage system.
 - c) The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event.
 - d) Kerb outlets are not permitted.
 - e) The design may require the provision of inter-allotment drainage in accordance with AUS-SPEC D5
 - f) The design shall incorporate on-site stormwater detention facilities to limit site stormwater discharge to pre development flow rates for all storm events up to and including the 100 year ARI event. Note that pre development discharge shall be calculated assuming that the site is a 'greenfield' development site as per AUSPEC requirements.
 - g) The design shall include water quality controls designed to achieve the targets specified within AUSPEC D7.
 - h) The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
 - i) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
 - j) The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained.
- (18) (B197) The design of the carpark and accesses is to be in accordance with Australian Standard 2890 except where otherwise permitted by these conditions of consent.
- (19) (B198) Where a vehicular access is provided, details (in the form of a longitudinal section) must be submitted to and approved by Port Macquarie-Hastings Council prior to release of the Roads Act (s138) approval demonstrating how the access driveway will comply with Council's adopted AUSPEC Design and Construction Guidelines. The plans must include a facility (such as a flat space to provide adequate sight distances) for vehicles using the access to safely perceive and yield to pedestrians crossing the public footway.
- (20) (B199) The driveway and kerb layback within Council's road reserve shall be widened to a minimum 5.5m to allow two vehicles to pass each other without a vehicle having to wait within the trafficable lane. The crossing shall conform to Council's ASD 202 'heavy duty' standard. Details shall be included in a Roads Act (s138) application to Council.
- (21) (B200) Prior to issue of the Construction Certificate, the following documentation shall be submitted to the Principal Certifying Authority.

- a) Amended driveway gradients to comply with the provisions of AS 2890, with certification by a suitably qualified consultant that the design plans comply with that standard, OR
 - b) Non-complying driveway gradients may be accepted provided both of the following:
 - i. Design features and/or devices are to be specified on the plans so that the driveway will function safely for all users and will meet the intent of AS 2890. The design may require specific surface finishes to provide adequate friction and drainage for the non-conforming gradients, including procedures for long term maintenance of the surface, AND
 - ii. A compliance certificate under Part 4A Section 109C Clause (1)(a) of the *Environmental Planning and Assessment Act 1979* shall be issued, by a certifier suitably accredited by the Building Professionals Board, certifying that this condition of consent has been complied with.
 - c) Despite this or any other condition of consent, the Construction Certificate shall not approve any increase in the maximum building height permitted by the stamped approved DA plans, including if the height needs to be increased to accommodate complying driveway gradients.
- (22) (B201) The circulation ramp shall be equipped with mirrors, sensors and flashing lights or similar systems to cause vehicles in the basement to give way to vehicles entering from the public road.
 - (23) (B202) Each proposed mechanical parking stacker shall be allocated to a single residence, or the stackers shall be designed in a way that each user can park or exit in their car independently of other users (for example, with a subfloor recessed bay). The stackers shall be maintained in a functional condition at all times and shall be equipped with a backup power supply and/or a manual mechanism so they are operable in the case of electrical mains supply or mechanical failure.
 - (24) (B203) A dedicated turning bay shall be provided in accordance with AS 2890 at the end of the basement parking aisle, so that vehicles can turn around in the case that all parking spaces are full. The proposed basement parking space number 8 shall not be used for parking, and shall instead be line marked "No Parking - Turning Bay" or similar.
 - (25) (B204) The Roads Act (s138) application to Council shall include details for works along the property frontage to the public road in accordance with the Town Centre Master Plan, including reconfiguration of the parking lane with angle parking to the satisfaction of Council.
 - (26) (B205) Prior to the issue of a Construction Certificate the Principal Certifying Authority shall be provided with a copy of relevant approvals under the *Heritage Act 1977* for excavation on the site.
 - (27) (B206) Fixed privacy screens having a maximum of 25% openings and a minimum height of 1.7m above finished floor level shall be provided to the north and south decks of Units 4B, 5B, 6B, 7B and 8B. Details are to be submitted for the approval of the Principal Certifying Authority prior to the issue of a Construction Certificate.

C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together

with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.

- (2) (C195) Test excavations are to be undertaken on site prior to any development to determine the extent and intactness of any potential archaeology. An approval will be required for this test excavation in accordance with the *Heritage Act 1977*. Should test excavations reveal substantially intact State significant archaeology on the site, it must be kept *in situ* and the development redesigned around it.

D – DURING WORK

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:
 - a. at completion of installation of erosion control measures
 - b. at completion of installation of traffic management works
 - c. when the sub-grade is exposed and prior to placing of pavement materials;
 - d. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
 - e. at the completion of each pavement (sub base/base) layer;
 - f. before pouring of kerb and gutter;
 - g. prior to the pouring of concrete for sewerage works and/or works on public property;
 - h. on completion of road gravelling or pavement;
 - i. during construction of sewer infrastructure;
 - j. prior to sealing and laying of pavement surface course.

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

- (2) (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.
- (3) (D007) A survey certificate is to be submitted to the Principal Certifying Authority at footings and/or formwork stage. Such certificate shall set out the boundaries of the site, the actual situation of the buildings and include certification that siting levels comply with the approved plans.
- (4) (D010) Reduced levels prepared by a registered Surveyor must be submitted to the Principal Certifying Authority at the completion of the roof framework and include certification that building heights comply with the plans approved with the development consent.
- (5) (D011) Provision being made for support of adjoining properties and roadways during construction.
- (6) (D025) The sewer junction shall be capped off with an approved fitting in conjunction with demolition works and Council notified to carry out an inspection prior to backfilling of this work.

- (7) (D029) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601-1991: *The Demolition of Structures*. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

Should asbestos be present, its removal shall be carried out in accordance with the National OH&S Committee – *Code of Practice for Safe Removal of Asbestos* and *Code of Practice for the Management and Control of Asbestos in Workplaces*.

For further information on asbestos handling and safe removal practices refer to the following links:

[Safely disposing of asbestos waste from your home](#)

[Fibro & Asbestos - A Renovator and Homeowner's Guide](#)

[Asbestos Awareness](#)

- (8) (D046) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW is to be informed in accordance with Section 146 of the *Heritage Act 1977*.
- (9) (D195) Ceiling fans shall be installed in each apartment in preference to, or in addition to, air conditioning.

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) (E002) A final report on any archaeological site excavations prepared by the archaeologist shall be submitted to Council and the Heritage Council prior to the occupation of any new development on the land.
- (3) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (4) (E010) Driveways, access aisles and parking areas shall be provided with a concrete surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended).
- (5) (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.
- (6) (E030) Vehicle ramps, driveways, turning circles and parking spaces being paved, sealed and line marked prior to occupation or the issue of the Occupation Certificate or commencement of the approved land use.

- (7) (E031) Provision of a sign at the front vehicular access point within the property, prior to occupation or the issue of the Occupation Certificate, indicating that visitor/customer parking is available on-site.
- (8) (E034) Prior to occupation or the issuing of the Final Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (9) (E039) An appropriately qualified and practising consultant is required to certify the following:
 - a. all drainage lines have been located within the respective easements, and
 - b. any other drainage structures are located in accordance with the Construction Certificate.
 - c. all stormwater has been directed to a Council approved drainage system
 - d. all conditions of consent/ construction certificate approval have been complied with.
 - e. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
- (10) (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.
- (11) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Occupation/Subdivision Certificate or release of the security bond, whichever is to occur first.
- (12) (E056) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of any Occupation or Subdivision Certificate.
- (13) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (14) (E061) Landscaped areas being completed prior to occupation or issue of the Occupation Certificate.
- (15) (E066) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:
 - a. The relocation of underground services where required by civil works being carried out.
 - b. The relocation of above ground power and telephone services
 - c. The relocation of street lighting
 - d. The matching of new infrastructure into existing or future design infrastructure
- (16) (E072) Lodgement of a security deposit with Council upon practical completion of the subdivision works.
- (17) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all

infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision or Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.

- (18) (E195) Prior to occupation or the issue of an Occupation Certificate, evidence shall be provided to the Principal Certifying Authority that satisfactory arrangements are in place for collection of waste from the premises by a private waste contractor.
- (19) (E196) Certification by a suitably qualified consultant is to be submitted to the Principal Certifying Authority that the construction of the car park and internal accesses is in accordance with Australian Standard 2890 (except where non compliance with AS 2890 is permitted by these conditions of consent) prior to occupation or issue of the Occupation Certificate.
- (20) (E197) Extinguishment of the Council stormwater drainage easement over the land if it is no longer required for piped infrastructure (as determined by Council) prior to Occupation Certificate.

F – OCCUPATION OF THE SITE

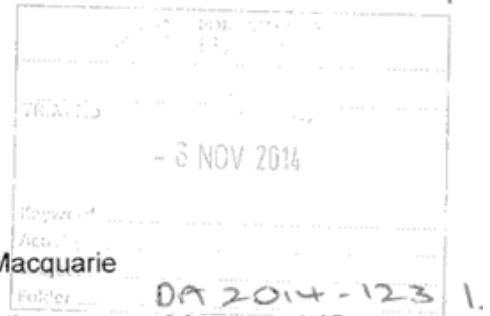
- (1) (F001) On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development for use by both staff and patrons. A total of 17 spaces are to be provided onsite.
- (2) (F004) The dwellings are approved for permanent residential use and not for short term tourist and visitor accommodation.
- (3) (F006) The basin of the outflow control pit and the debris screen must be cleaned of debris and sediment on a regular basis by the owner.
- (4) (F009) All new and existing essential fire safety measures shall be maintained in working condition at all times.
- (5) (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.
- (6) (F195) The 'green walls' shall be maintained at all times in a condition that serves their function of visual privacy and aesthetics.

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

Attention Christopher Gardiner

Reference: DA2014/123.1

3 Clarence St, Port Macquarie



This objection is written by Leonie and Malcolm Brown, the owners of Apartment 12, Focus Apartments, 2 Clarence St, Port Macquarie.

This objection is additional to our previous objection submitted in March, 2014. This objection is a response to an amended proposal, dated 23 October, 2014.

We base our objections to DA2014/123 on the following:

- Clause 4.3 Height of Buildings objectives

To ensure buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality

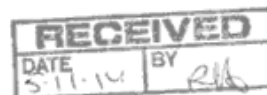
The amended proposal still has a height RL 36.150 AHD. In comparison, the adjoining building Flightdeck is 28.130m AHD and Headlands is 29.860m. The proposed height is totally out of character with the surrounding buildings and the streetscape.

The Norfolk pine in Clarence St has been assessed by the applicant as just over 31.400m in height. Image 6 on page 7 of the proposal illustrates how the height of the proposed development would be as viewed from the living area of Apartment 12.

To minimise visual impact, disruption of view, loss of privacy and loss of solar access to existing development

The amended proposal describes the loss of views to Unit 12 as **Severe to Devastating**. We disagree that there would only be a narrow/brief disruption of the wide vista we currently enjoy. It is true that any development other than the one level house currently on the site would impact on our view of the Hastings River, North Beach and up to Point Plomer. When we purchased our apartment we were aware that there could be a possible development of the site. However, we were informed that any development would conform to current Council regulations that the height would be stepped down from the height of Headlands. Image A is attached to this objection highlighting the visual impact of this development from all living areas and main bedroom of Apartment 12.

The proposed height would be a devastating loss of our privacy. All of our living areas; lounge, kitchen, dining and the main bedroom face Clarence St. With the proposed development being higher than the Norfolk Pine on Clarence St, the view from all living areas of our apartment would be the huge bulk of the proposed development. This is perfectly illustrated in Image 6 on page 7 of the amended proposal.



In addition, the proposed development would be devastating for loss of solar access and loss of enjoyment of our amenity. One of the features of our corner apartment is glass right around to provide light and solar access. Our apartment outlook includes the reserve at Altman Hill, Clarence St and the distant hinterland. Currently, we rarely need to use window coverings as there is no intrusion on our privacy from residents in Flightdeck or Headlands. The proposed development would have two storeys of apartments towering over our apartment.

We purchased our apartment to enjoy a long and healthy retirement. We have enjoyed the Port Macquarie lifestyle having moved from Sydney. We feel connected to the community, observing people walking down Clarence Street to the CBD, enjoying coffee at the Corner Restaurant and watching 'our' sea eagle eating a fish at the top of a pine tree in Mrs York's Garden. From our dining table we can observe people on the Breakwall, dolphins in the river and whales in the ocean. With intrusion from a huge development opposite, we will need window coverings for privacy which will impact on our solar access and loss of enjoyment of our amenity.

- Clause 4.4 and 4.5 The Floor Space Ratio objectives

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map

This aspect was addressed in our previous submission. It is interesting to note in the applicant's statement that a revised building concept with regard to FSR 'results in a very significant reduction in development yield'. Thus the developer is asking for a FSR variation of twice what is allowed. This is also evidenced by the fact that no visitor parking is being provided with three parking spots on Clarence St being designated visitor parking.

The proposal states that the permissible building height at the Clarence St frontage is 19m. However, any development should be sympathetic to the surrounding streetscape and visual impact from surrounding buildings. Some sites in Port Macquarie CBD will be suitable for a 19m height but this site is not suitable.

In conclusion, this objection is based on the height and scale of the proposal in addition to loss of views. Before Council makes a decision on this proposal, we would like to invite members to view the site from our apartment. Attached are photos, A and B, showing the impact of this development on our loss of privacy and loss of amenity.

Yours sincerely

Leonie and Malcolm Brown

4/11/2014

Please note that we will be away from Port Macquarie until 6.12.14



Image A. The view of existing apartments, Flightdeck and Headlands, as you enter Apartment 12. The proposed building will be above the height of the Norfolk Pine.



Image B

View of Hastings River and North Beach from sitting in lounge area of Apartment 12.

General Manager

Port Macquarie Hastings Council

PO Box 84

PORT MACQUARIE NSW 2444

Attention Christopher Gardiner

Development and Environmental Services

Dear Sir,

SS244.

 PORT MACQUARIE HASTINGS	
TRIM No	CRP No
28 MAR 2014	
Keyword	
Activity	
Subject	
File No DA2014-123.1	

DA 2014/123, 3 Clarence St, Port Macquarie

This objection is written by Leonie and Malcolm Brown, the owners of Apartment 12, Focus Apartments, 2 Clarence St, Port Macquarie.

We base our objections to DA2014/123 on the following:

- Clause 4.3 Height of Buildings objectives

To ensure buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality

- the proposed height is completely incompatible with the bulk and scale of the existing character of the northern side of Clarence St, and hugely inconsistent with the current streetscape on each side of the development,
- the proposed development of six storeys from ground level would make the height two storeys higher than the Flightdeck Apartments at No. 5 Clarence St. (Figure 12, DA 2014-123, page 20),
- the bulk and scale of the development is an intrusion on the harmonious streetscape in Clarence St, consisting of built environment surrounded by the natural environment of river, ocean, beach and distant mountain views,
- the approval of an overdevelopment such as this could have a substantial impact on the future character of development in Port Macquarie CBD.

To minimise visual impact, disruption of view, loss of privacy and loss of solar access to existing development

- **To minimise visual impact:** all we would see on entering our apartment would be the bulk of the apartment block completely obliterating the expanse of sky,
- **Disruption of view:** we would lose all of our view of the breakwall, river and North Beach up to Point Plomer,
- **Loss of privacy:** the height of the upper floors would mean that we would lose all of our privacy as our living areas and main bedroom face Clarence St,
- **Loss of solar access:** we would lose natural light as our building faces north-east. At present there is no need to close our blinds, allowing us to take advantage of natural light and a saving on energy costs.

In the **attached photograph**, the proposed building could be higher than the pine tree and would block north-east light as well as views from our apartment. There is no consideration of view sharing with the proposed development.

To nominate heights that provide a transition in built form and land use intensity

There is no transition of built form as the proposal is a massive six storey bulk on the street front. The applicant seeks to build the biggest structure that can be fitted on a small 751.5 sqm block. There is no consideration of the impact of the building from our apartment or how it is consistent with the height and design of buildings on either side.

- Clause 4.4 and 4.5 The Floor Space Ratio objectives

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

PMHC LEP 2011 sets a Floor Space Ratio of 1:1 for the subject land and two adjacent properties. The proposed development does not comply with the current 1:1 Floor Space Ratio. As the proposed building is not compliant with current controls, the applicant has sought a variation to this requirement – reference 4.7 Clause 4.6 – Exceptions to building standards (DA 2014/123, page 23). This variation would effectively permit a gross overdevelopment of this site.

- Additional problems with building on this site.

The applicant acknowledges “constraints caused by the narrow steep allotment, the traffic volumes, and basement parking provision, including use of 3x car lifts for the 3 bedroom units 2A, 3A & 5A”. The use of car lifts is an extraordinary solution to restricted space and something that may be seen in Sydney buildings where space and views are at a premium. There are no designated visitor car spaces on the plan and the proposal states – “In practice visitors would park at the street front and it is proposed to undertake line marking and landscape improvements along the immediate site frontage to enhance this provision”. Street parking is already at a premium this close to the CBD with some two hour parking restrictions.

There is a problem with the existing Council stormwater pipe through the site which does not sit within an easement and a proposal to re-direct stormwater down the street front.

Due to the constraints of building on this small site, we request that PMHC reject this proposal.

Yours sincerely

Leonie and Malcolm Brown

12/2 Clarence St

PORT MACQUARIE 2444

26th March, 2014

View as you enter Unit 12. The proposed development would be as high as the pine tree.



Proposed development is out of alignment with buildings on either side and would intrude on privacy of occupants of Unit 12



4826 just submitted the survey 'Submission - 3 Clarence St, Port Macquarie DA2014 - 123' with the responses below.

Name:

Mr Ray Cohen

Address:

Unit 603, 5-7 Clarence St., Port Macquarie

Email address:

[REDACTED]

Contact phone number:

[REDACTED]

Grounds for objection or support:

The DA submission indicates that the developer is exceeding the Floor Space Ratio allowable for the site whilst maximising allowable Building Height at the street frontage. Whilst theoretically the developer could build to the height submitted it is obvious that they have not considered 'THE FUTURE CHARACTER OF THE STREET'5-7 Clarence Street is only a comparatively young building and would not be subject to height adjustment at any foreseeable time in the future, if ever; whilst 1 Clarence Street could possibly be developed to the approximate height of the building in the current DA submission. Therefore it seems unreasonable that the proposed building indicates an additional two floor levels higher than the 'Flightdeck' building.....this would represent a blight on the streetscape. As a compromise the Council should consider reducing the height of the front of the proposed building by one storey so that the overall streetscape in the future would appear as a normal height progression to the peak of Clarence Street. Yours faithfully, Ray Cohen. B. App. Sc. (Bldg.)

If you have additional information, files or images that further explain your submission please upload them here.

No Answer

■

14/2 Clarence Street
PORT MACQUARIE 2444

17th November 2014

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



ATTENTION CHRISTOPHER GARDINER

Dear Sir,

RE: DA 2014/123, 3 Clarence Street, PORT MACQUARIE

Reference is made to the above mentioned amended application for development. Please accept this letter as a further objection to this proposal and would ask that you refer to my previous letter of objection dated 27th March, in relation to this matter.

The proposed new development does not appear to have many changes to the original proposal and my objections as stated in my previous letter of objection are still relevant.

If this proposal is to be allowed, I see the only alternative is to take the matter further with the Owners Corporation of SP78063.

I would be happy to discuss these matters further with Council's representatives.

Yours sincerely,

Gloria Davis









FOCUS
14/2 Clarence Street
PORT MACQUARIE 2444

27th March 2014

Christopher Gardiner
Development and Environmental Services
Port Macquarie Hastings Council
PO Box 84
PORT MACQUARIE 2444

552A4.

PORT MACQUARIE HASTINGS	
TRIM No	CRM
31 MAR 2014	
Keyword	
Activity	
Subject	
Folder	DA 2014-123.1.

Dear Sir

RE: NOTIFICATION OF DEVELOPMENT PROPOSAL
YOUR REF: DA2014.123.1

As the owners of Unit 14 in Focus Building, 2 Clarence Street, Port Macquarie, we wish to lodge an objection to the proposed Development Application No. 2014/123.

The following are my objections:

1. Over-development on this narrow block of land.
2. The proposed height of the building does not address the principles of view sharing.
3. Losing the uniformity of the building heights both from the foreshore and the street appearance.
4. Lack of car spaces for the proposed number of units.
5. Allowing this development will open up the flood-gates for every proposed development in the future to go higher.
6. I have owned a business in Port Macquarie for the past twenty years. I deal constantly with the tourists who visit our town and the views expressed by them are admiration for our beautiful town – unlike the over-developed Gold Coast. We need to keep Port Macquarie unspoilt.

Enclosed are photographs taken from the balcony of Unit 14.

Yours faithfully,


Gloria Davis

encl.

① Submission

P.O. Box 9361

Port Macquarie. NSW 2444

24th March 2014

Assessing Officer
Development and Environmental Services
Port Macquarie Hastings Council
P.O. Box 84
Port Macquarie. NSW 2444

SS244

PORT MACQUARIE HASTINGS	
TRIM: R3	CS: 10
27 MAR 2014	
Keyword	
Activity	
Subject	DA2014-123
Folder	

Formal Objection to Development Proposal – Lot: 101 DP: 1122606, 3 Clarence Street, Port Macquarie.

PMH Council Reference No DA2014.123.1

Dear Sir,

We are the owners of the property at 15/1 Clarence Street, (Headlands) Port Macquarie.

The above mentioned development proposal is from an adjoining property at 3 Clarence Street Port Macquarie.

We are writing to you to outline our formal objection to this proposal which is as follows.

The grounds for this objection are –

1. **Height:** As now proposed, the height of the building would cause excessive shadowing to the Headlands building at 1 Clarence Street.
2. **Height Variation:** The sought after variation to any height limits would be totally unacceptable with regard to further massive overshadowing and would cause gross discomfort to all residents at the Headlands building, 1 Clarence Street.
3. **Not in Keeping:** Even having regard to what is deemed "allowable" under the current Local Environmental Plan, the proposed building height from ground level at number 3 Clarence Street, is not in keeping with the surrounding buildings of Headlands (1) and Heritage (1A) Clarence Street.

2/

2.

Height: We have looked at the plans of this proposal and regardless of any Council guidelines for building heights allowed for this area, if this structure were to be built as outlined, it would definitely cause shadowing to quite a credible degree over the south-west side of the Headlands Building at 1 Clarence Street. This in turn would cause dampness and mould especially to the lower parts of the Headlands building particularly during any wet winter months. We believe this to be a considerable health issue that must be addressed.

Height Variation: We strongly object to any height variation from what is presently deemed allowable, as this would cause massive further shadowing over the Headlands Building at 1 Clarence Street, and as this height variation if well outside the guidelines should not even be considered having regard to the neighbouring buildings and the discomfort it would impose.

Not in Keeping: We believe just by proposing such a high building, immediately beside buildings that have been established for years in that area, the height proposed is not in keeping with the surrounds.

We certainly have not lodged this objection without consideration. It is and always will be our intention to be neighbourly and not interfere with the reasonable course of development and improvement of adjoining properties however we firmly believe that as this proposal stands it is far too obtrusive and should certainly be reconsidered with a suitable alternative sought.

We look forward to hearing from you in due course with regard to this matter.

Yours Faithfully,



Peter William DEEM

and



Wayne Desmond GAGEN

(Owners) - 15/1 Clarence Street, Port Macquarie. NSW 2444. Ph. 

31st March 2014

Jason DeVos
Director Thornet Pty Ltd
PO Box 51 Epping NSW 2121



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

Attention : Mr Christopher Gardner

Dear Sir :

**Re : Submission in relation to Development Application 2014/123
3 Clarence St Port Macquarie**

I write in the capacity of an affected property owner in the building opposite the subject development Application site.

I have carefully examined the statement of environmental effects and accompanying plans/ documentation submitted with the application.

In principle, I am not against the redevelopment of the subject site, this is an eventual reality, however as an effected land owner, I find the proposal as submitted a gross over development of the site and the proposed building mass, bulk and height totally out of context with the objectives of the LEP and the surrounding streetscape.

I refer Council specifically to the below matters of concern;

Height of Building

LEP Clause 4.3 objectives are clearly stated as;

"To ensure buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality"

The proposed height is completely inconsistent with the bulk and scale of the existing character of the northern side of Clarence St, The proposed building is hugely inconsistent with the current streetscape on each side of the development and the existing character of immediate locality.

"To minimises visual impact, disruption of view, loss of privacy and loss of solar access to existing development"

The proposed building height obliterates all valuable northern views from existing units in the FOCUS building and does not adequately or at all address the principles of view sharing. Further, the apparent 6 storeys addressing Clarence St contributes to a significant loss of privacy to the existing apartments in FOCUS.

The site slopes steeply downwards to the north, it appears that the building height exceeds the maximum permissible in the aggregate or mid-section of the site, yet this is stated in the SEE as justified, in that the building is stated to be within the maximum height at the south west corner (lowest point of the street frontage). The building does not follow the general topography of the land. A development consistent with all the LEP controls and objectives would be a superior outcome for all neighbouring properties.

"To nominate heights that provide a transition in built form and land use intensity"

There is no transition of built form at the street alignment of the proposed development. The proposal is for a massive 6 storey bulk on the street front. If one drew a line across the heights of adjacent buildings in true "transition of built form" and context of existing streetscape, the principles of view sharing might be obtainable and the resultant building mass and height providing a true transition in built form.

The applicant's argument is that at 4 storeys on the street front you've lost the view anyway so therefore it makes no difference if they go to 6 storeys. This approach flies in the face of the LEP objectives and principles.

The applicant argues that it's not possible to build to the maximum height without exceeding the FSR. This is a maximum permissible height not a height that must be attained or some form of height entitlement. The proposal is nearly double the prescribed Floor space ratio and to use this as justification to achieve the desired height is an absurd argument. It effectively permits the overdevelopment the site and building bulk by 198% in order to attain a maximum permissible height.

The reference in the statement of environmental effects to "height expectation" is a very liberal interpretation of maximum building height set by the LEP 2011 and is in my opinion, a significant misrepresentation of this planning control. The maximum height is exactly that a maximum height, not an expectation of height that can be unilaterally applied to every site regardless of the other planning controls or objectives.

Development Yield

The applicant argues that the site will only yield 5 units if they are not permitted to double the FSR maximum. As a person with significant property development experience, that's probably foreseeable as to what this small infill site should yield in a properly considered development application observing all development controls and being alive to the objectives of the LEP controls. It seems to me that to attempt to obtain 12 units is a significant overdevelopment the site and the result of stacking as much floor space (nearly double the permissible) on the site as one can attempt.

In my experience, Development yield or financial viability of a development should not, cannot and has never been an argument for or give substance to a case to substantially step over the prescribed development controls and does not result in good planning outcomes.

Floor Space Ratio

Just because the site is within an R4 high density zone does not give rise to the requirement to overdevelop the site by doubling the permissible FSR.

The site is a small narrow infill site by the applicant's own submission and needs to be considered as such. Being such a small site in between existing development usually requires a more sensitive design solution. Just because the site (in the applicant's own words) "cannot be consolidated with adjacent sites and is a narrow block", should not give rise to stepping over the permissible FSR.

The prescribed FSR for this site is 1:1 which is obviously a high density outcome for this site, as reflected in the LEP. A development, broadly compliant with the FSR is far more suitable to the site and the established streetscape on this side of Clarence St.

I believe that the 1:1 FSR will enable the site to achieve a high density outcome in the context of the site itself. The objectives of Floor Space Ratio are stated as "to regulate density" and to encourage increased building height and site amalgamation at key locations" the operative point being "key locations". This site, by the applicant's own admission is an "isolated infill parcel" rather than a "key location". Accordingly if a prescribed maximum FSR of 1:1 is designed to regulate density, surely an application at nearly double this is an inappropriate density for the site.

In particular on page 24 of the SEE the applicant makes a statement that "the 1:1 floor space ratio would be at odds with the expressed floor space ratio objective to encourage increased building height....." the applicant's SEE seems to leave out the last of the objective sentence which is "and site amalgamation at key locations". This objective applied in its proper and full context encourages increased building height at key locations up to the maximum permissible FSR. This is fact and clearly written in the LEP. It does not encourage increased building height to nearly double the FSR for isolated infill land parcels.

Further, the statement contained in the SEE suggesting that compliance with the prescribed 1:1 FSR will prevent the application achieving the heights "specified" for this site is further incorrect. The maximum building heights are not "specified heights" that must be attained at the peril and disregard of all other planning controls and objectives, but maximum permissible heights when considering all the prescribed development controls in context, including FSR.

It surely cannot be argued, as it has attempted to be that the public's interest and that of the neighbours if used in context of "the public" is best served by allowing the FSR to be nearly doubled resulting in a significant overdevelopment of a small infill site without any contextual consideration of the adjoining building heights and streetscape height.

It is submitted by the applicant that the development as proposed is in the public's best interest. How exactly does the public benefit from a development that is out of context in terms of streetscape, height and near double the permitted FSR? This is not specified or addressed in the SEE.

In summary, we object to the proposal as submitted for the above described reasons. A development designed to be more sympathetic to the site and its neighbours, and one that is more observant of the planning controls prescribed in the LEP would generate a better planning outcome for the neighbours and public.

Yours faithfully

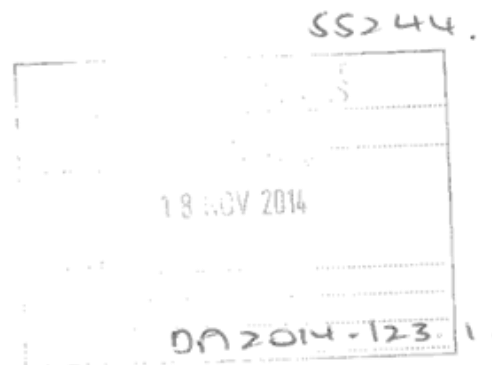


Alan F. Hill
Unit 9 Focus Apartments
2 Clarence Street
Port Macquarie NSW 2444.

17th November 2014
Christopher Gardiner
Port Macquarie Hastings Council
PO Box 84
Port Macquarie NSW 2444.

Attention Christopher Gardiner

Dear Sir,



DA 2014/123, 3 Clarence Street, Port Macquarie – Supplementary Information

The supplementary submission does nothing to address the issues that I put forward in my submission dated 31st March 2014

As a reference point on page 11 of the applicants amended submission, they quote the height of the Norfolk Pine with a photograph of the Pine taken from the footpath which shows an inaccurate account of the comparison between Focus on the opposite side of the road, & not the adjoining Flightdeck, Headlands & The Heritage buildings which should be the comparisons with keeping within the environmental landscape standards for the area (as we always have a stream of tourists walking to & from the CBD), See attached photo's. Figures 11a & 11b – View impact 4 story example from the applicants previous application which is keeping within acceptable standards & the environmental aspect. Figure 12 not acceptable due to excessive height on a very narrow infill site, which will darken & shade the whole area dramatically. The photo of Norfolk Pine tree taken from a sitting position from in front of bedroom window of unit 9 demonstrates the actual height of the proposed building compared to the 3 neighbouring buildings. (totally out of character for the area)

The FSR standards also appear to be unattended to. Strict compliance to the act should be followed.

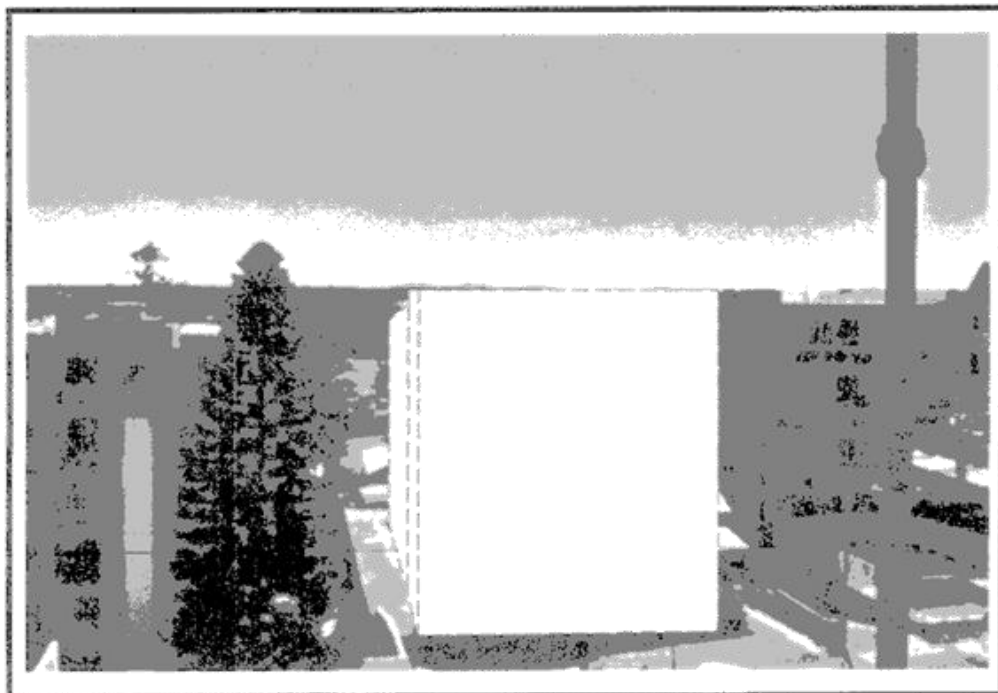
My previous submission that the application should not be approved remains.

Yours Faithfully,

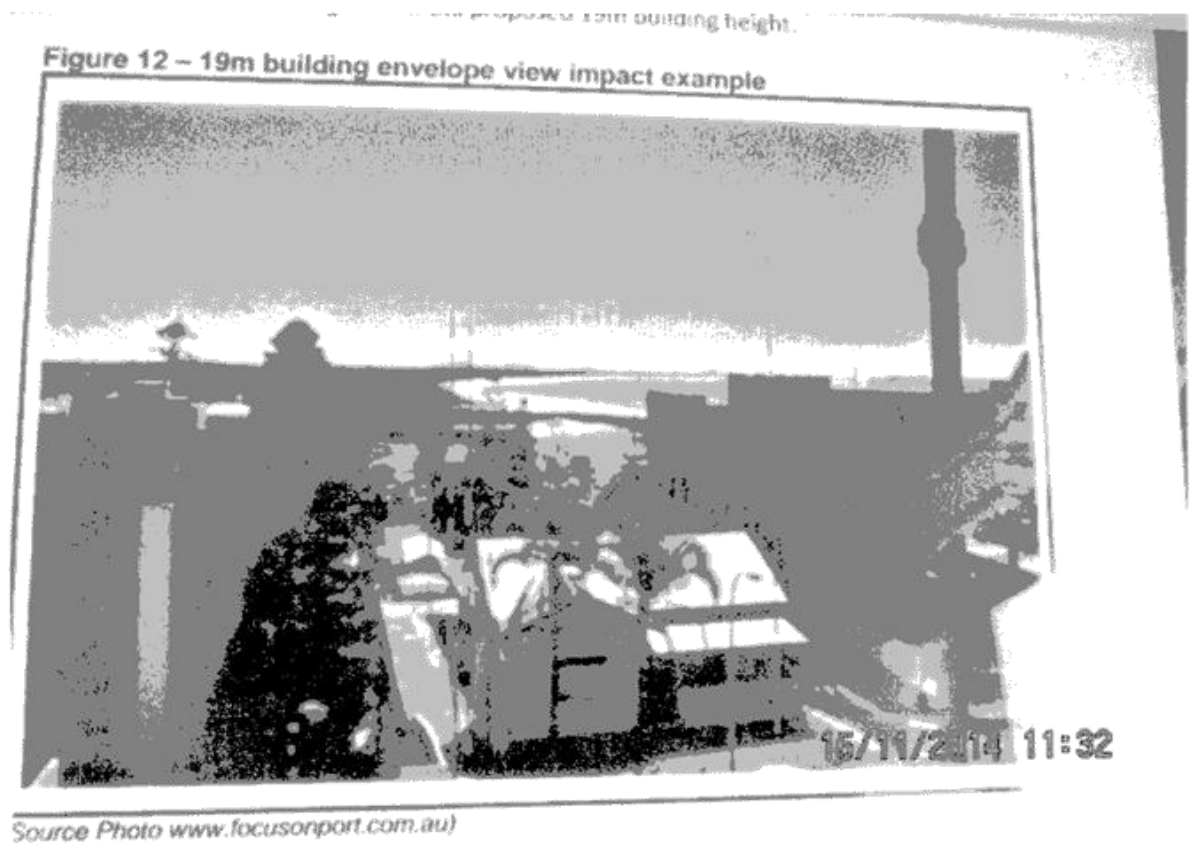
Alan F Hill.



Figure 11a & 11b – View impact 4 storey example



(Source Photo www.focusonport.com.au)



D - C G

Alan F. Hill
Unit 9 Focus Apartments
2 Clarence Street
Port Macquarie NSW 2444

31st March 2014

Christopher Gardiner
Port Macquarie Hastings Council
PO Box 84
Port Macquarie NSW 2444



Dear Sir,

**NOTIFICATION OF DEVELOPMENT PROPOSAL (2014/123) - 3 CLARENCE STREET, PORT MACQUARIE.
NOTICE OF OBJECTION**

I am the owner of unit 9 in Focus Apartments, opposite the proposed development site at 3 Clarence Street.

I bought my unit in November 2008 to enjoy a pleasant outlook on life with water views. Due to my medical condition of Progressive Multiple sclerosis my activities are limited, therefore I spend a lot of time in my unit reading & looking out & enjoying the peaceful water views, to help overcome anxiety & depression taking over again. This proposed development in its present form will take a lot of enjoyment out of my life.

I object to the current Development Proposal due to the excessive height, bulk & scale when compared to the adjacent buildings. (as stated in clause 4.3 objectives) Loss of privacy & water views is also a **major** concern.

As this is a small site, the applicants appear to me to be trying to put a building approx. twice the floor space area the block can safely accommodate on it, (height & number of units) & completely disregarding all owners of units (lifestyle, views & privacy) in adjacent buildings, Council planning policy & Council development objectives, purely for personal financial gain of the applicants.

Enclosed are 4 photo's – one taken from main bedroom window, two taken from front balcony & one taken from behind the kitchen sink, as marked on the back.

Figure 2 – Aerial photo of site, shows how narrow & small the site is compared to Heritage 1a Clarence Street consisting of only 7 units & Headland I Clarence Street.

Figure 9 – Indicative view lines. The applicant's knowledge of our view is totally incorrect as enclosed photos show. Is only what the applicant would like council to think we view or don't view.

Figure 11a & 11b show 4 story example as worst case scenario if it is within legalities? compared to Figure 12, 19 metre example (6 story) which is totally out of character for such a small site compared to adjacent property's.

Enclosed also is a photo of focus apartments which indicates where each unit is located.

This proposed development in its present form is totally unacceptable for a tranquil residential & tourist coastal environment.

Yours Faithfully,

A black rectangular box redacting the signature of Alan F Hill.

Alan F Hill.



View from Main Bedroom Window, of U.C.



Items Taken from Clarence St Bakery of Unit 4.



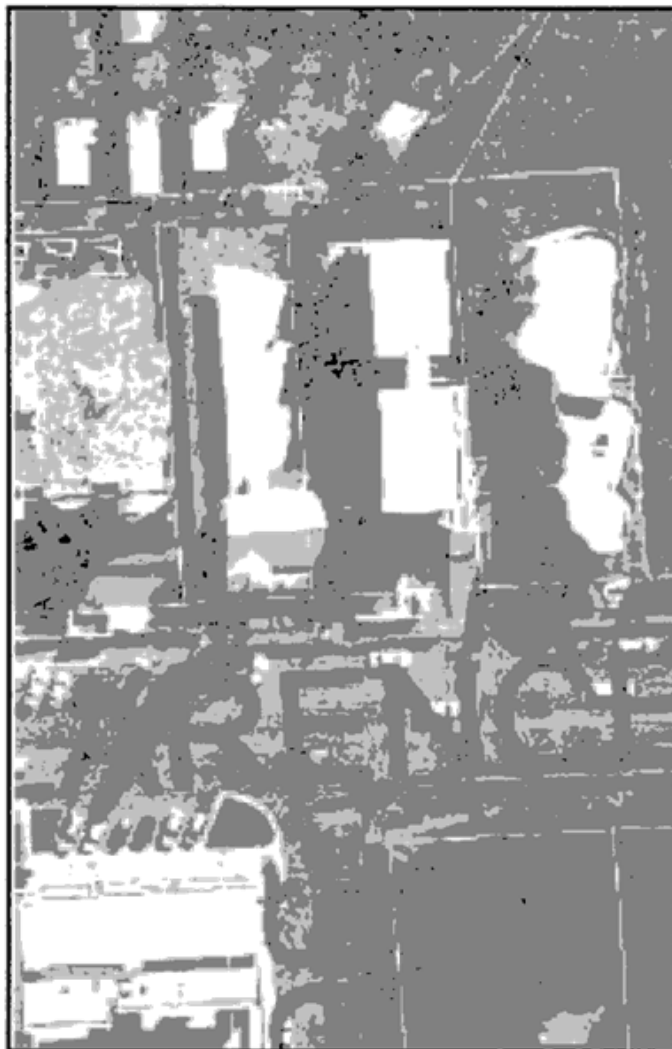
View from Balcony of Unit 4



The View: from Behind the Kitchen Sink of U9



Figure 2 – Aerial photo of site (3rd from right)



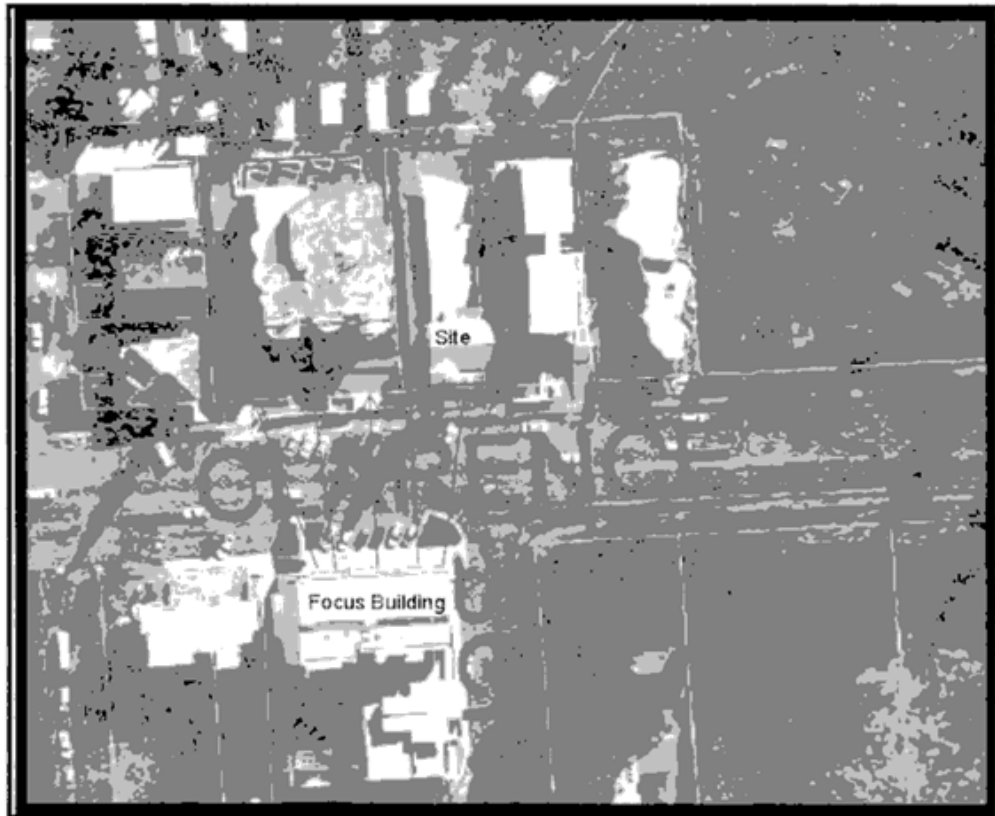
(Source: www.googlemaps.com)

Pursuant to the Port Macquarie Hastings Local Environmental Plan 2011 the subject site is zoned R4 High Density Residential, supported by the provisions of Development Control Plan 2013 as CBD Fringe.

The zoning map extract is provided in Section 4.1 below (Fig 7) and an extract from site survey and aerial photograph demonstrating the site characteristics at **Appendix A**.



Figure 9 – Indicative view lines



(Source: www.googlemaps.com)

Comparing the relative building heights of the existing Flightdeck & Headlands buildings with the external balcony levels of the Focus Apartments it appears that Level 1 apartments would currently enjoy a framed view of the North Shore beach crescent and breakwall through the gap between the two adjacent buildings.

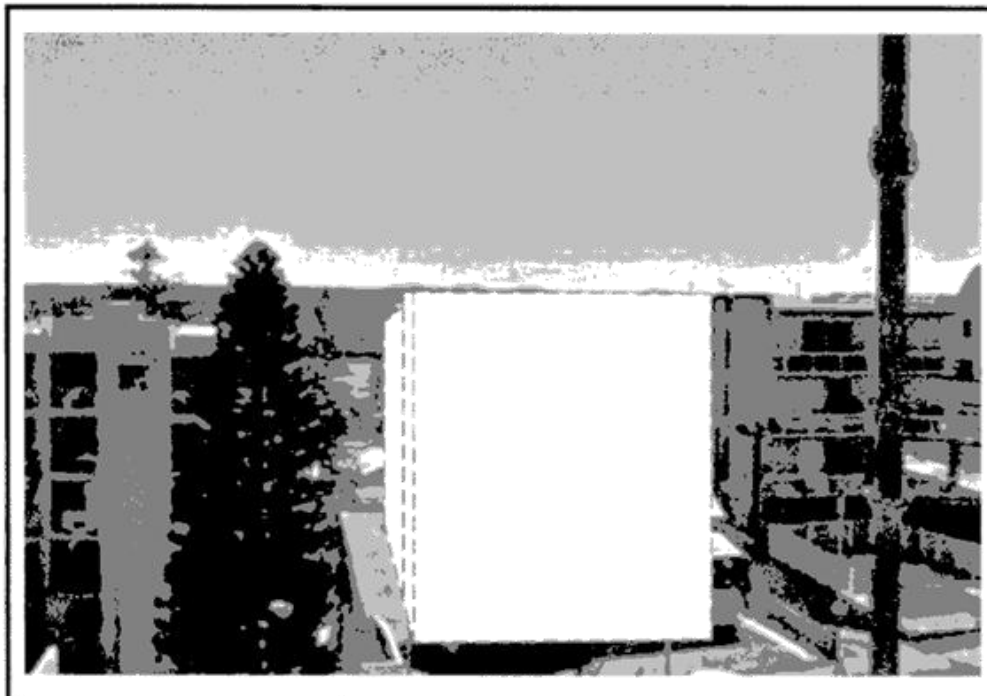
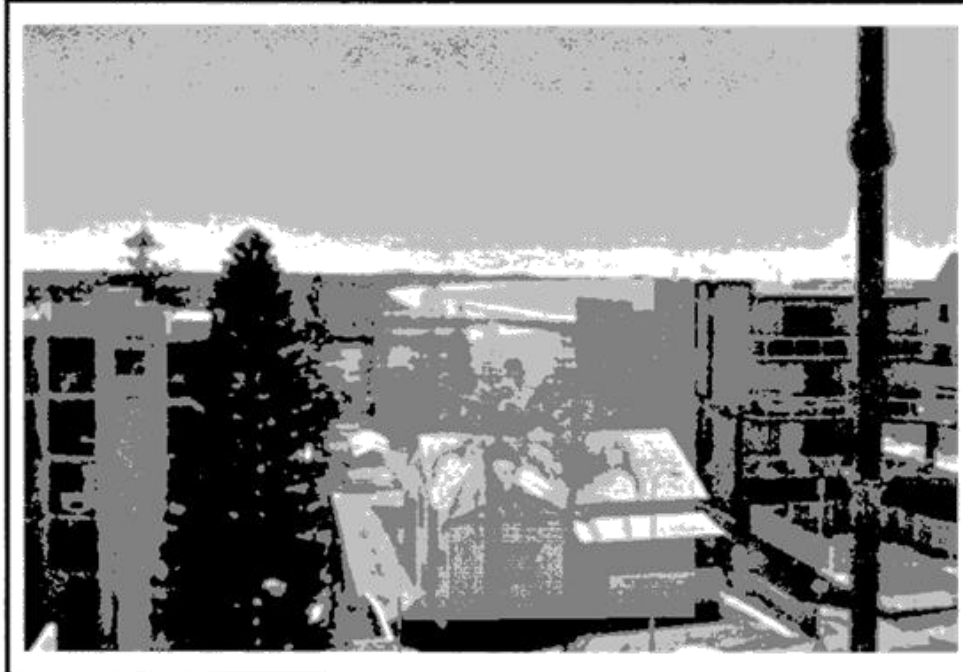
Levels 2, 3 & 4 would appear to have views over the top of the existing buildings as well as through the abovementioned gap.

The existing buildings on either side of the subject site, 3 Clarence Street, are constructed to RL 29.860 at top of parapet for the Headlands building and RL 28.130 at top of parapet for the Flightdeck building immediately opposite the Focus Apartments building.

The Port Macquarie Hastings LEP 2011 set a building height limit of 19m for the subject site which equates to RL of 36.60 m mid way along the frontage of the subject site and RL of 37.20 m at East side of the site



Figure 11a & 11b – View impact 4 storey example



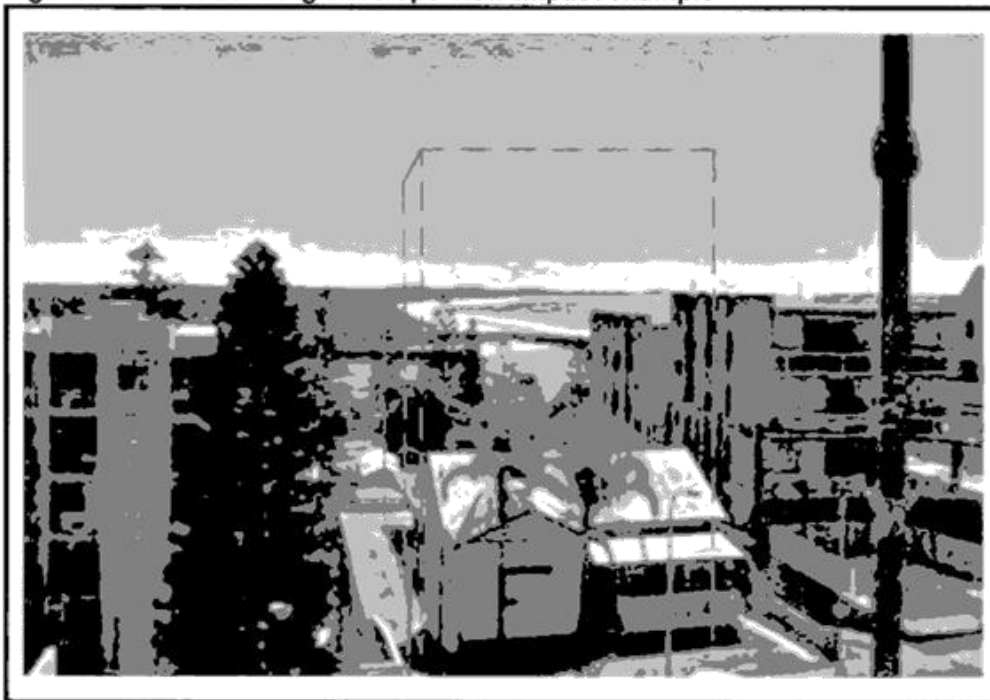
(Source Photo www.focusonport.com.au)



Council has designated the site as R4 High Density Residential and set height limits of 14.5m & 19 m across the site. The height limits were publicly exhibited as part of the Port Macquarie LEP 2011, most likely during 2010 or 2011.

Figure 12 below illustrate the 19m height of building envelope below. It is acknowledged that the scale of the base photo (distance and height of focal point) is not specified or currently known. Figure 12 has been scale & estimated as closely as possible based on the adjacent building heights and the proposed 19m building height.

Figure 12 – 19m building envelope view impact example

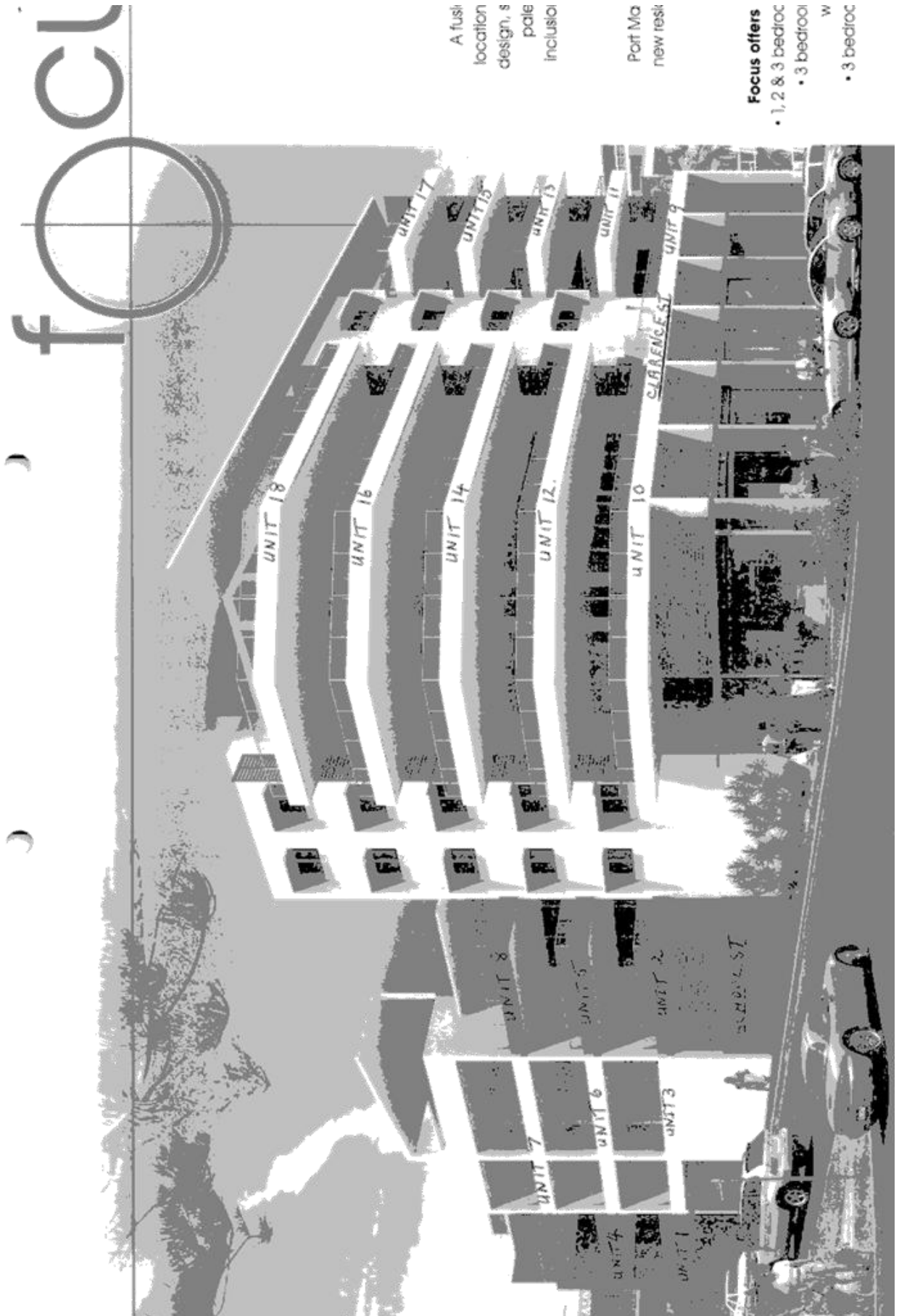


(Source Photo www.focusonport.com.au)

We are advised that the Port Macquarie Hastings LEP was a 'like for like' conversion of the existing provisions into the Standard Template LEP format thus indicating that the 19 m height limit at Clarence Street frontage was probably in place for prior to the current planning scheme.

The LJ Hooker sales website for the Focus Apartments indicates a date of September 2009. Meaning that the Focus Apartments were constructed and a number of them sold prior to the public exhibition of the current LEP height limits.

This is relevant to the discussion of view sharing in that any purchaser of a unit would not reasonably have a long term expectation of retaining views across private property, where such height limits are in place.



15/2 Clarence St

PortMacquarie

NSW 2444 65244.

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

Attention Christopher Gardiner

Dear Sir

RE: DA 2014.123.1 - 3 Clarence Street, Port Macquarie

PORT MACQUARIE HASTINGS	
TRIM No	CERT No
18 NOV 2014	
Keyword	
Activity	
Subject	
Folder	DA 2014.123.1

Reference is made to the abovementioned amended application for development. Please accept this letter as a further objection to this proposal and would ask that you refer to our previous letter of objection in relation to this matter. In addition we are aware that the Owners Corporation at the Focus Apartments has lodged a formal objection to this proposal through Mike George Planning Consultants.

Our primary objections can be summarised as follows :-

1. **Height of proposed building** (Port Macquarie LEP 2011 – Clause 4.3 Height of Buildings)
Council in its response to the applicants for this development acknowledged that the application did not comply with the adopted planning controls in terms of height. The amended application suggests that “the proposal has been amended to bring the building within the LEP height limits to the extent that the site slope permits”. On page 12 of the amended application they provide the following argument:-

“The amended proposal complies with the LEP height limits at both the front and the rear of the site. At the midblock, where the front & rear building join, is the lift shaft & stair well and combined with the slope of the site in this location, there is a short section of the building which exceeds the mapped height, when measure immediately above Natural Surface Level. This short section of height variation does not impinge upon or extend above the Clarence Street building height at the front of the property.”

The applicant openly admits that the building exceeds the allowed height. We would argue that it does matter how ‘short’ the section of height variation may be, as alluded to by the application. The simple fact is that it does exceed the allowed height.

Further on page 12 of the amended proposal the applicant suggests that “a reduced proposal would still result in essentially the same view impacts for the residents of the Focus Building.” We strongly disagree with this assertion and generalisation. At the level which we occupy, Unit 15 / Level 4, the height variation will be a major concern in blocking our view.

We would argue strongly that the height proposed in essence still fails to comply as acknowledged by council.

2. The **'view sharing'** from the Focus Apartments will be impacted which is acknowledged in this proposal. It is noteworthy that the amended application by the applicant focuses primarily on this issue and fails to truly address the other objections to this proposal. The reasoning put forward by the applicant seems to conveniently ignore or overlook the pure and simple fact that the proposal in its current form exceeds the height and floor space ratio standards which is what creates the primary problem or concern. In particular the significant variation to floor space ratio.
3. **Visitor parking** – It is noted in the proposal that visitors would park on the street with a commitment to provide line marking and landscape improvements. In a recent council exhibition of proposed changes in the CBD in 2014 it referred to Clarence Street being a key pedestrian access to the Town Beach area. I have not been able to locate these draft proposals again but from memory they included enhancements to the existing pedestrian strip and provision for cycles. It talked about some loss of street parking and a narrowing of the existing roadway adjacent to this proposal due to a widening of the pedestrian access. Thus the suggestions made in this proposal would appear to be inconsistent with the policy being proposed by council and need to be reviewed.
4. **Floor space ratio** – The amended application conveniently fails to address this issue in a manner that satisfies the relevant clause. They effectively attempt to argue that to submit an application that complies with the clause would result in a development that is not financially viable in their opinion. In other words it is all about the return on investment for the developers and who cares about the residents in this area. We make no apology for this assertion. They justify their existing application by reference to the proposed 'high density objectives' for zoning in this area

It is clear in Clause(s) 4.4 and 4.5 that an objective of this provision is to ensure 'that buildings are compatible with the bulk and scale of the existing and desired future character of the locality. The existing buildings of Flightdeck, Headlands and Heritage apartments on the northern side of Clarence Street and Focus Apartments are all the subject to strata ownership. There is a very remote chance that given the nature of ownership of these sites, they will be sold as a whole entity and subject to any form of amalgamation and redevelopment in the foreseeable future to provide for the "high density objectives".

Given the small width of proposed building block the developers in an attempt to maximise the number of lots available have designed a property that far exceeds the floor space ratio and limits permissible under the Port Macquarie Hastings LEP 2011. This has resulted in a proposal that has no consideration of the bulk and scale of surrounding buildings.

It is noted on page 22 of the original proposal that at a 'Council pre-lodgement meeting' on 12 December 2012 there was considered sufficient scope to 'pursue a Clause 4.6 variation' to do with the floor space ratio. The proposal goes on to justify why and refers to subclause (4) suggesting that the public interest would be served by achieving consistency with the objectives of the High Density Residential zone. (page 23). It is not unreasonable to ask whether it is the public interest of the developer, and we the public and rate payer are

ignored in this consideration. The public interest test should ultimately be influenced by members of our community and not a few individuals seeking a desired outcome.

It is argued that the proposed development in terms of floor space ratio results in the building being inconsistent with 'the desired future character for the area'. The character has been determined already as referred to previously. It would be unreasonable to suggest otherwise and thus any attempt to vary the application of the floor space ratio is not justified.

Referred for your consideration of the objections raised. We would welcome the opportunity to personally discuss these matters with Council or its representatives.

Yours sincerely

Greg and Kathy Hollis



16 November 2014.

15/2 Clarence St

Port Macquarie

NSW 2444

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

Attention Christopher Gardiner

Dear Sir

RE: DA 2014.123.1 - Clarence Street, Port Macquarie

SS244.

 PORT MACQUARIE HASTINGS	
TRIM No	CRM No
31 MAR 2014	
Keyword	
Activity	
Subject	
Folder	

052014-123.1.

Reference is made to the abovementioned application for development. Please accept this letter as an objection to this proposal. In addition we are aware that the Owners Corporation at the Focus Apartments has lodged a formal objection to this proposal through Mike George Planning Consultants.

My wife and I purchased Lot 15 during the early part of 2013 and we are physically located on the eastern side of the Focus apartments facing Clarence Street on the 4th floor. At present we have uninterrupted views to the North from our front verandah. When we purchased this property we did so with an understanding that there may be development at some stage at 3 Clarence Street. However our understanding and expectation was that such a development would not exceed the height of the existing buildings on the northern side Clarence Street opposite the Focus apartments.

Our primary objections can be summarised as follows :-

1. **Height of proposed building** (Port Macquarie LEP 2011 – Clause 4.3 Height of Buildings)
 - Sub-clause 'd' refers to the suitability of the development in the locality and the proposal suggests that it is suitable given it meets the high density zone objectives and building heights under the LEP 2011. We would argue strongly that the height proposed is neither suitable nor compatible with the character of the streetscape on the Northern side of Clarence Street between Munster Street and heading towards the Heritage Apartments at 1A Clarence Street. The 'Flight Deck' building provides the benchmark for what should be the acceptable height along this corridor. To approve this application in its current form opens the door to other development applications in the same corridor with the potential for a high rise corridor that would detract from the coastal foreshore. The proposal is in clear breach of the intent of clause 4.3 on this basis alone.
 - Whilst this proposal does not adjoin the foreshore it would in its proposed form be clearly visible from the coastal foreshore areas along the northern end of Town Beach and the break-wall. The existing height character is acceptable and does not obscure the skyline and surrounds from differing points.
 - The council has identified the break-wall and Clarence Street as key access points to the Town Beach area. To have a corridor of high rise buildings for tourists to walk through (Gold Coast style) in our opinion is not acceptable. Accordingly the scenic qualities of the coast as referred to in sub-clause 'f' would be significantly impacted by the development in

its current form with a negative visual impact for pedestrians and residents in this area which is contrary to the objectives of Clause 4.3.

The architectural features and overall design of the proposed building are not appropriate for the limited building width of this building site with an apparent attempt to cram as many apartments into the one site resulting in a proposal that is not balanced in width and height to the building site available when compared to surrounding buildings. Thus again the proposal is inconsistent with clause 4.3 with regard to 'bulk and scale' of existing buildings in the location. Given the recent age of the Flight Deck building and the Heritage Apartments it is difficult to accept that these will be pulled down and rebuilt given the nature of strata ownership. This could equally apply to the Headlands block given its strata ownership. Thus the 'future character of this locality' as defined by this clause has already been shaped and would not foreseeably change for another 20 years plus. In short the height character of this section of Clarence Street will not change as a result of approving this current proposal.

In summary the proposal in terms of height may satisfy current planning laws, however this is only one element of consideration under Clause 4.3 and the proposal fails to satisfy the remainder of the objectives of this clause as required under the Port Macquarie LEP 2011.

2. **Interpretation of building heights** – It is clear that under existing rules there are two building heights defined for 3 Clarence Street. 'Q' being 19 metres at the front of Clarence Street and 14.5 metres being for the northern end of this lot. There is a considerably slope to the northern end of the lot. We would question where this proposal takes its heights from in terms of the proposed building and allowable height limits. In simple terms is the height taken from the front boundary or at the rear of the 'Q' alignment (midpoint of the block). What is the law and acceptable standard when these proposals are designed and considered? If it is the rear or midpoint it would limit the height potential of this site.
3. The **'view sharing'** from the Focus Apartments will be impacted which is acknowledged in this proposal. This is in breach of the intent of Clause 4.3 and should not be eroded or overridden by the further reference to any proposed building not exceeding the maximum height limits. To do so would demonstrate a total disregard for reasonable expectations created by the other provisions in the clause. Why include them if they had no relevance in the decision making / consultative process.
4. There is an admission that the proposal in its current form **exceeds height limits at the middle of the site with the stairwell and lift well**. Do the solar panels proposed for the roof also exceed the allowable limits? It is our understanding that anything placed on the roof of the proposal must be within the height standards. We would object that the proposal in its current form is visually intrusive and would also question the sun reflection from the solar panels as they having the potential to inhibit our enjoyment of use of our front north facing verandah. Solar panels should be placed at the rear of the block to minimise sun reflection issues. Either at ground level or on the northern facing building tower which is stepped down in the current proposal.
5. **Visitor parking** – It is noted in the proposal that visitors would park on the street with a commitment to provide line marking and landscape improvements. In a recent council exhibition of proposed changes in the CBD in 2014 it referred to Clarence Street being a key pedestrian access to the Town Beach area. I have not been able to locate these draft proposals again but from memory they included enhancements to the existing pedestrian strip and provision for cycles. It talked about some loss of street parking and a narrowing of the existing roadway adjacent to this proposal due to a widening of the pedestrian access.

Thus the suggestions made in this proposal would appear to be inconsistent with the policy being proposed by council and need to be reviewed.

6. **Floor space ratio** – We do not fully understand the technical aspects of this part of the proposal, however it is again clear in Clause(s) 4.4 and 4.5 that an objective of this provision is to ensure ‘that buildings are compatible with the bulk and scale of the existing and desired future character of the locality. This proposal is solely relying on the reference in the clause ‘to encourage increased building height and site amalgamation at key location’. Again it should not be considered in isolation in the decision making process.

As indicated previously, the existing buildings of Flightdeck, Headlands and Heritage apartments on the northern side of Clarence Street are all subject to strata ownership. There is a very remote chance that given the nature of ownership these sites they will be sold as a whole entity and subject to any form of amalgamation. Given the small width of this building block the developers in an attempt to maximise the number of lots available have designed a property that ‘pushes the boundaries’ on the floor space ratio and height limits permissible under the Port Macquarie Hastings LEP 2011. This has resulted in a proposal that has no consideration of the bulk and scale of surrounding buildings.

It is noted on page 22 of the proposal that at a ‘Council pre-lodgement meeting’ on 12 December 2012 there was considered sufficient scope to ‘pursue a Clause 4.6 variation’ to do with the floor space ratio. The proposal goes on to justify why and refers to subclause (4) suggesting that the public interest would be served by achieving consistency with the objectives of the High Density Residential zone. (page 23). It is not unreasonable to ask whether it is the public interest of the developer and we the public and rate payer are ignored in this consideration. The public interest test should ultimately be influenced by members of our community and not a few individuals seeking a desired outcome.

It is argued that the proposed development in terms of floor space ratio results in the building being inconsistent with ‘the desired future character for the area’. The character has been determined already as referred to previously. It would be unreasonable to suggest otherwise and thus any attempt to vary the application of the floor space ratio is not justified.

Referred for your consideration of the objections raised. We would welcome the opportunity to personally discuss these matters with Council or its representatives.

Yours sincerely

Greg and Kathy Hollis


RECEIVED DATE 5/1/3 BY RP.		55244 PORT JACQUARIE HATINGS		Unit 7 HEADLANDS
Project No.		LRM No.		1 Clarence St, Port Macquarie 30.3.2014
1. 2014		Keyword		
Activity		Channel		
Folder		D12014		123

THE BUILDING DEPT
 PORT MACQUARIE HATINGS

Dear Sir,

RE PROPOSED BUILDING No 3 CLARENCE ST.

I viewed with some dismay the material for your consideration the proposed building on No.3. Clarence Street, How the council could under any circumstance consider a building as ugly as this to be built anywhere near the central part of Port Macquarie it is totally unsightly.

However as we live on the eastern side of this proposed building we have a few comments or objections to make,

1. The building is too high for the present as it will block out all the Western aspect of the sun particularly in the winter months when as P.M. sun will day out the western wall of 'Headlands'
2. Our privacy will be invaded as any windows on the Western side of the building will look directly into the Western windows of Headlands.
3. The nature of the on site parking leads to occupants leaving their vehicles in Clarence street rather than take the risk of parking in such confined space.

4. We also feel that since we have owned this unit since 1974 and have lived here since 1988 we have a long history of not paying behind us to have an objection to living in our late years to live in the shadow of such an ugly and how way of thinking a very badly designed structure.

We hope the Council in its wisdom will take some consideration of our objection to have a reason to send the proposal back to the planning board as the allotment is far too small.

Yours faithfully



To: VICTOR A. HAZEL HUME.

General Manager

Port Macquarie Hastings Council

PO Box 84

Port Macquarie NSW 2444

council@pmhc.nsw.gov.au

Attention: Christopher Gardiner

Dear Sir,

SS244.

 PORT MACQUARIE HASTINGS	
TRIM No	CRM No
31 MAR 2014	
Keyword	
Activity	
Subject	
Folder DA 2014.123.1	

DA 2014.123.1 3 Clarence Street, Port Macquarie

I am writing as an affected resident and neighbour from Unit 18, 2 Clarence Street (Level 5), located directly opposite the proposed development. I acknowledge that the Owner's Corporation has engaged a consultant to prepare a separate objection to be lodged with Council. I would like to state my personal objection to the DA based on the following key areas:

Height Limit and its impact

- The proposed development exceeds the building height limit that is allowed in the current Port Macquarie Hastings Local Environment Plan 2011.
- The application ignores Clause 4.3 Height of Buildings objectives:

To ensure buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality.

- The proposed height is NOT compatible with the current streetscape on the northern side of Clarence Street. See below photograph taken from the balcony of my apartment, showing the proposed development. The scale and bulk of this development is incongruous with its adjacent neighbours, Flightdeck and Headlands and will negatively impact on the future character of the locality. I believe the height should be compatible with the two adjoining building heights.



General Manager
Port Macquarie Hastings Council
PO Box 84
Port Macquarie NSW 2444
council@pmhc.nsw.gov.au
16 November 2014

18/2 Clarence Street
Port Macquarie NSW 2444

50244

PORT MACQUARIE HASTINGS	
TRIM No	ENV No
18 NOV 2014	
Keyword	
Activity	
Subject	
Folder	DA 2014-123.1

Att: Christopher Gardiner, chris.gardiner@pmhc.nsw.gov.au

Dear Sir,

DA 2014.123.1 3 Clarence Street, Port Macquarie

We are writing in response to the amended application for development and would like you to accept this second letter as a further objection to the proposal. We are affected residents and neighbours from Unit 18, 2 Clarence Street (Focus Apartments), located directly opposite the proposed development. We support the formal objection submitted separately by Mike George Planning Pty Ltd on behalf of the Owners Corporation of Focus Apartments.

When reviewing our objections, please also take into account our first letter. Our objections are as follows:

EXCEEDING HEIGHT LIMIT

The "amended application" still does not comply with the adopted planning controls in terms of height. (Port Macquarie Hastings Local Environment Plan 2011 – Clause 4.3 Height of Buildings) The applicant clearly acknowledges this variation with reference to the midsection of the block exceeding the mapped height.

Quite simply the proposal still exceeds the allowed height limit.

EXCEEDING FLOOR SPACE RATIO

The "amended application" ignores the previous objections raised regarding the doubling of the maximum Floor Space Ratio in the current Port Macquarie Hastings Local Environment Plan 2011 - Clause 4.4. The developer continues to assert that their request to change the FSR of 2:1, despite the current maximum FSR of 1:1 is necessary to allow development of the site.

It is clear that the proposed FSR of the development exceeds the allowed ratio as set by the LEP and permits overdevelopment of the site.

FURTHER IMPACTS

Buildings must be compatible with the height, bulk and scale of the existing and desired future character of the locality.

- The proposed height, bulk and scale is NOT compatible with the current streetscape on the northern side of Clarence Street – as clearly demonstrated by the photograph taken from our balcony showing the proposed development. *This photograph was acknowledged by the developer in the amended application to be a reasonable depiction of the building.*



- The scale and bulk of this development is incongruous with its adjacent neighbours, Flightdeck and Headlands and will negatively impact on the future character of the locality.
- The constrained site is a small, narrow and sloping block that does NOT lend itself to such a high density residential dwelling that the applicant is proposing.
- The applicant is not prepared to revise the current building concept to satisfy planning controls.

By blatantly ignoring the planning controls, the developer shows no concern for the height, bulk and scale of the existing and desired future character of the locality.

Views

- The proposed development will destroy the beautiful northern ocean and river views of Focus residents who have apartments fronting Clarence Street. This was acknowledged by the applicant in the amended proposal.
- We totally disagree with the applicant's suggestion that their proposal impacts to "an insignificant or minor extent on views" to our apartment. In purchasing the top floor apartment (Unit 18), we place paramount importance on the value of the unique combination of both ocean and river views. The proposed development will destroy our valued unimpeded views of the Hastings River entrance – see aforementioned photograph.

The view impact is totally unreasonable and is the result of doubling the allowable floor area and exceeding the height limit.

We appreciate you considering the objection points we have outlined. We are loyal Port Macquarie residents who understand there must be a balance between carefully considered residential development and the impact on the current environment and streetscape. We would suggest that a lesser degree of development on the proposed site, rather than exceeding the current limits would be reasonable in this instance.

Kind regards,

Alison Innes & Greg Maguire

On behalf of Finkpine Pty Ltd

[REDACTED]

[REDACTED]

31/3/2014

Port Macquarie Hastings Council

Objection to DA2014.123

I would like to object to the above development at 3 Clarence Street on the below basis:

1. The height is above the regulations and excessive compared to the surrounding buildings. It will overshadow the buildings either side, blocking their access to daylight and sunshine.
2. The building size is too big for the site and the FSR is outside of regulations.

I am the owner of 5/1 Clarence Street, which is outlined in the attached photo. The height and position of this proposed structure on the site at 3 Clarence Street will severely impact the current views that I have from my western balcony. It will also overshadow the balcony and reduce dramatically the daylight and sunshine currently received both by my balcony and the pool.

On a personal note, the building is ugly and out of place. The Development is not in keeping with the aesthetics of the surrounding environment and it will block the public's existing access to views of the foreshore.



Susan Gai Marsh

8/52 Calwalla Crescent

Port Macquarie NSW 2444



1/2



Western Balcony of
511 Clarence St
Port Macquarie

2/2

MIKE GEORGE PLANNING PTY LTD

ABN: 91 003 864 284

SUITE 103, 10-12 CLARKE ST

CROWS NEST NSW 2069

13 November 2014
General Manager
Port Macquarie Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444

Attention Christopher Gardiner

Dear Sir

DA 2014/123, 3 Clarence Street, Port Macquarie – Supplementary Information

This submission has been prepared on behalf of the Owners Corporation of SP 78063 at 2 Clarence Street, who remain severely impacted by the proposed development.

The "amended" plans do not demonstrate any apparent material changes that go to the core of the adverse impacts of the proposed development. The front façade is unchanged, and it is not apparent how the height is reduced (as asserted) to moderate view loss.

The View Sharing assessment by Hopkins Consultants in essence says that the impact of views on the residents of the Focus building, despite being described as "severe or devastating" in part, should be discounted because the residents are not entitled to assume that 3 Clarence Street will not be redeveloped to the maximum. This reasoning conveniently overlooks the fact that the proposed development exceeds the height and floor space ratio standards (the latter significantly), which is what creates the problem for affected residents. The Hopkins report does not address the Floor Space Ratio issue, other than to say it has previously been justified and that a complying development would result in a reduction of development yield to the point that the development would not achieve the high density objectives of the zoning.

This reasoning remains seriously flawed. The supplementary submission does nothing to address the issues raised in my previous submission on behalf of the owners in terms of the Council's ability to approve a significant variation to the FSR standard based on the spurious attempt at justification.

The simple proposition remains that a development on what is a constrained site, which satisfied the planning controls, would be likely to eliminate or reduce the extent of any unreasonable impact.

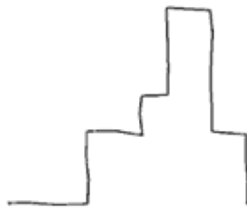
The supplementary material on exhibition does not address Council's request. The original submissions remain relevant. There is no justification provided for the variation of standards that satisfies accepted planning principles and practice. My previous conclusion that the application is unapprovable, remains applicable.

The Owners Corporation is seeking legal advice on these issues.

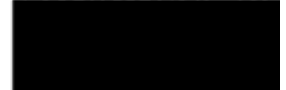

Mike George, Director

PO Box 135 Roseville 2069 

27/05/2015



MIKE GEORGE PLANNING PTY LTD

ABN 91 003 864 284 ACN 003 864 284
PO BOX 135 ROSEVILLE NSW 2069

25 March 2014

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

Attention Christopher Gardiner

Dear Sir

DA 2014/123, 3 Clarence Street, Port Macquarie

SS244

 PORT MACQUARIE HASTINGS	
TRAIL No	CPM No
27 MAR 2014	
Keyword	
Activity	
Subject DA2014/123	
Folder	

This submission has been prepared on behalf of the Owners Corporation of SP 78063 at 2 Clarence Street, who will be severely impacted by the proposed development. These impacts are detailed in separate submissions made by individual owners. This submission focuses on 2 fundamental issues relating to the variation of development standards and view sharing, both of which are the subject of clear principles established by the Land and Environment Court. If Council intends to approve the application, it would need be satisfied that these principles have been appropriately addressed and its decision was unlikely to be successfully challenged.

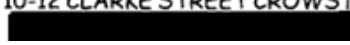
Variation of Standards

The application proposes a 98% variation of the statutory floor space ratio (FSR) standard, and a variation of the statutory height standard as a consequence of the excess floor area. The justification for this variation is said to be that

- the standard precludes the attainment of the "high density" zone objectives, which is argued as being in the public interest
- that the site can't be consolidated with other land, and is narrow, which is argued to constrain the 1:1 FSR
- That the 1:1 FSR would preclude the attainment of the maximum height (which is proposed to be exceeded)
- Strict compliance would produce a reduced dwelling yield.

Attached to this submission is a summary of the tests for the application of SEPP No 1 as determined by the Chief Judge of the Land and Environment Court in *Wehbe v Pittwater* (2007) NSWLEC 827. These tests apply equally to the variation of standards under the LEP mechanism that replaced SEPP No 1.

It is contended that Council will have difficulty in concluding that the objection is well founded. The arguments made in the application are spurious. They erroneously assume that attainment of maximum standards is some sort of right, and suggest



MIKE GEORGE PLANNING PTY LTD

that standards should be set aside in the interests of development feasibility. The constraints of the site point to a lesser level of development being reasonable, rather than doubling what is allowed. One objective of the FSR controls is to encourage site amalgamation, as a basis of optimising building height and density within the **maximum** levels set by the standards.

The application does not provide the Council with any valid grounds to justify an opinion that strict compliance is unnecessary and unreasonable in the circumstances.

The variation sought is contrary to state and regional planning policies that go to the restriction of overdevelopment of land in coastal areas.

It is ludicrous to suggest that the public interest is served in any way by the variation being sought. There may be a public interest in development standards that have been derived through logical processes being maintained and consistently applied, not the reverse as argued.

None of the 5 ways suggested by Preston for determining whether an objection is well founded, have any application to the circumstances.

View Sharing

The application does not address the planning principles for view sharing established by Roseth SC in *Tenacity Consulting v Warringah* (2004) NSWLEC 140.

The proposal effectively obliterates the primary northern view from my clients property towards the coastline and river, as illustrated in the Statement of Environmental Effects (SEE). This is largely the consequence of trying to squeeze twice the allowable floor space ratio on a constrained site. The SEE seeks to justify the view impact by arguing that an imaginary box of either 4 storey configuration or to the 19m height limit, would similarly block views. This argument is untenable because the imaginary boxes do not represent any form of approvable development.

Applying the 4 steps in the *Tenacity* planning principles to the proposal produces the following points in relation to my clients' property.

- The affected view is a highly valued one. As Roseth says "a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".
- The views are obtained from north facing living areas and balconies, at the front of the building. These are the most significant viewing positions according to *Tenacity*.
- The extent of the actual view loss is not addressed by the SEE, but the proposal presents a slab form with minimal side set-backs that effectively removes the majority of existing views.
- The proposal is unreasonable in its impact, particularly as it results from a doubling of the allowable floor area. Roseth says "a development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable".

MIKE GEORGE PLANNING PTY LTD

The view impact is the product not only of doubling the allowable floor area, but also encroaching on the building height limit. It is contrary to the objectives of the height controls, in that it is incompatible with established heights and streetscape, provides no transition in built form, and does not act to minimise visual impact and disruption of views.

The view impact is unreasonable and would warrant refusal of the application on its own.

It is our submission that the application is unapprovable, particularly in terms of the 2 key sets of case law principles. My clients seek Council's rejection of the application



Mike George
Director



Attachment - SEPP No 1 Tests

SEPP 1 Tests (As defined by Preston CJ, in *Wehbe v Pittwater* (2007) NSWLEC 827)

1. *The consent authority must be satisfied that the objection is well founded, and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*
2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with SEPP 1's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning & Assessment Act. (This is cumulative with 1)*
3. *The consent authority must be satisfied that a consideration of the matters set out in clause 8(a) and (b) of SEPP 1 justify the upholding of the SEPP 1 objection. That is-*
 - a. *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
 - b. *the public benefit of maintaining the planning controls adopted by the environmental planning instrument*

Preston CJ identified the following 5 potential ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy- .

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has virtually been abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance is unnecessary and unreasonable;*
5. *The compliance with the development standard is unnecessary or inappropriate due to the existing use of land and current character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

16/2 Clarence Street.
PORT MACQUARIE.....2444

D

RECEIVED	
DATE 31/3	BY KP
SS244	
CITY OF HASTINGS	
- 1 APR 2014	
Subject: DA2014/123	

31st. March, 2014.

Port Macquarie Hastings Council.
P.O. Box 84
PORT MACQUARIE...2444

Dear Sir,

Re: D.A. Application No. 2014/123
3 Clarence Street, Port Macquarie

We wish to lodge an objection to the above D.A.

Our objection is based on the suitability of the proposed structure to be in harmony with surrounding developments.

Our Council to date has done well in controlling development along our foreshores achieving a low impact development. Residence and visitors alike appreciate the fact that Port Macquarie has avoided the ugliness of "Gold Coast" type development.

This proposed development does not fall into this pattern and is entirely out of character with the surrounding area. Should it be allowed to proceed it would fly in the face of the good work done by our Local Council regulators to date.

I am aware that State Planning Authorities tend to favour higher density development but is that really what we want for our area?

The proposed development which is very tall, relative to surrounding development, could be the "thin edge of the wedge" of our area going down the Gold Coast path.

We, and I believe many others, do not want this to happen and must therefore oppose the proposed development as submitted.

Yours Faithfully,


Jeff Moore

Melinda Partridge
2 Oakland Lane
Inverell, NSW, 2360

Port Macquarie Hastings Council
PO Box 84
Port Macquarie
NSW Australia 2444

28 March 2014.

For the attention of Christopher Gardiner (Development and Environmental Services)

Reference:

Proposal: Demolition of Existing Building and Construction of Residential Flat Building Including Clause 4.6 Objection to clause 4.3 (Height of Building) and Clause 4.4 (Floor Space Ratio) of the Port Macquarie Hastings Local Environmental Plan 2011

Property: LOT: 101 DP: 1122606, 3 Clarence Street PORT MACQUARIE

I am writing in connection within the above planning application. I have examined the plans and know the site well. I wish to strongly object to the development.

It is noted that the proposed building is two storeys higher than "Flight deck" (neighbouring property). Pictures within the application outline the negative impact this will have on the surrounding properties and cityscape. In particular the roof level of the development does not fall with the gradient of the land like the surrounding buildings.

Furthermore, I am concerned about the proposed lift, motor room and stairwell. This will be similar to the height to the front section of the building. This is outside the height limits outlined in the LEP.

I am worried that the proposed development will create a shadow onto the "Headlands" properties. This may result in a lack of ventilation to units within this apartment block, of which one is mine.

I understand that many owners of the "Headlands" and neighbouring properties share the same concerns.

Upon purchasing our property twelve months ago we trusted that the Hastings Council would ensure that all developments comply with the LEP guidelines.

Yours Faithfully

Melinda & Glenn Partridge
Owner of Headlands Apartment 4/1
Clarence St
Port Macquarie 2444

From: PMHC Listening [REDACTED]
Sent: Sunday, 9 November 2014 11:57 AM
To: Christine Bannister; Approval Regulatory Group
Subject: patriciaphilp completed Submission - 3 Clarence St, Port Macquarie DA2014 - 123

patriciaphilp just submitted the survey 'Submission - 3 Clarence St, Port Macquarie DA2014 - 123' with the responses below.

Name:

Patricia Philp

Address:

9 / 89 William Street Port Macquarie

Email address:

[REDACTED]

Contact phone number:

[REDACTED]

Grounds for objection or support:

I realize that it is probably time for the apartments on number 3 Clarence to be updated but I would like to say that I believe the heights of the adjoining buildings on either side of 3 Clarence street are definitely high enough and any higher construction would block views of the apartments and housing behind for some distance. I also believe that it would be a mistake to set a precedence of going forever higher so that Port foreshore would look like the Gold Coast with a 'competitive skyscraper look' that is unappealing, lacking in the casual aesthetic that Port wishes to portray. Over developed and over height is not the way we need to go.

If you have additional information, files or images that further explain your submission please upload them here.

No Answer

■

Can

Date: Tue, 25 Mar 2014 11:07:30 +1100

Flightdeck
201/5-7 Clarence St
Port Macquarie 2444
[REDACTED]

Dear Sir

I wish to object to the proposed development of 3 Clarence St Port Macquarie. Proposal looks like a "120Kg man in a small mans Tshirt". The height of the building is out of context with the existing streetscape. Sunlight to flightdecks eastern units will be diminished by some hours. Width of entry for cars will result in more congestion on Clarence street with possible queing and or collision. Who will explain to visitors the existence of off street parking, denial of holiday rental should be considered in any approval. Disabled parking does not exist. Over flow of parking onto Clarence street will combine with councils move to electronically timed parking to exhaust available space for all day parking. Extention of nose to kerb parking east towards Mrs York s Garden will need to be investigated. An area for garbage collection will need to be allocated.

Regards
Stewart Robertson & Roslyn Green

D - CG

Ursula Schwarz
5/2 Clarence St
Port Macquarie NSW 2444

Christopher Gardiner
Port Macquarie Hastings Council
PO Box 84
Port Macquarie NSW 2444

28/3/14 PORT MACQUARIE HASTINGS	
TRIM No	CRM No
- 1 APR 2014	
Keyword	
City	
Subject DA2014 - 123	
Author	

Dear Sir,

I wish to express my concerns about the Development Proposal - DA 2014.123.1 ,
for 3 Clarence St, Port Macquarie.

I am the owner of Unit 5 in the Focus apartments, 2 Clarence St which is opposite
the development site.

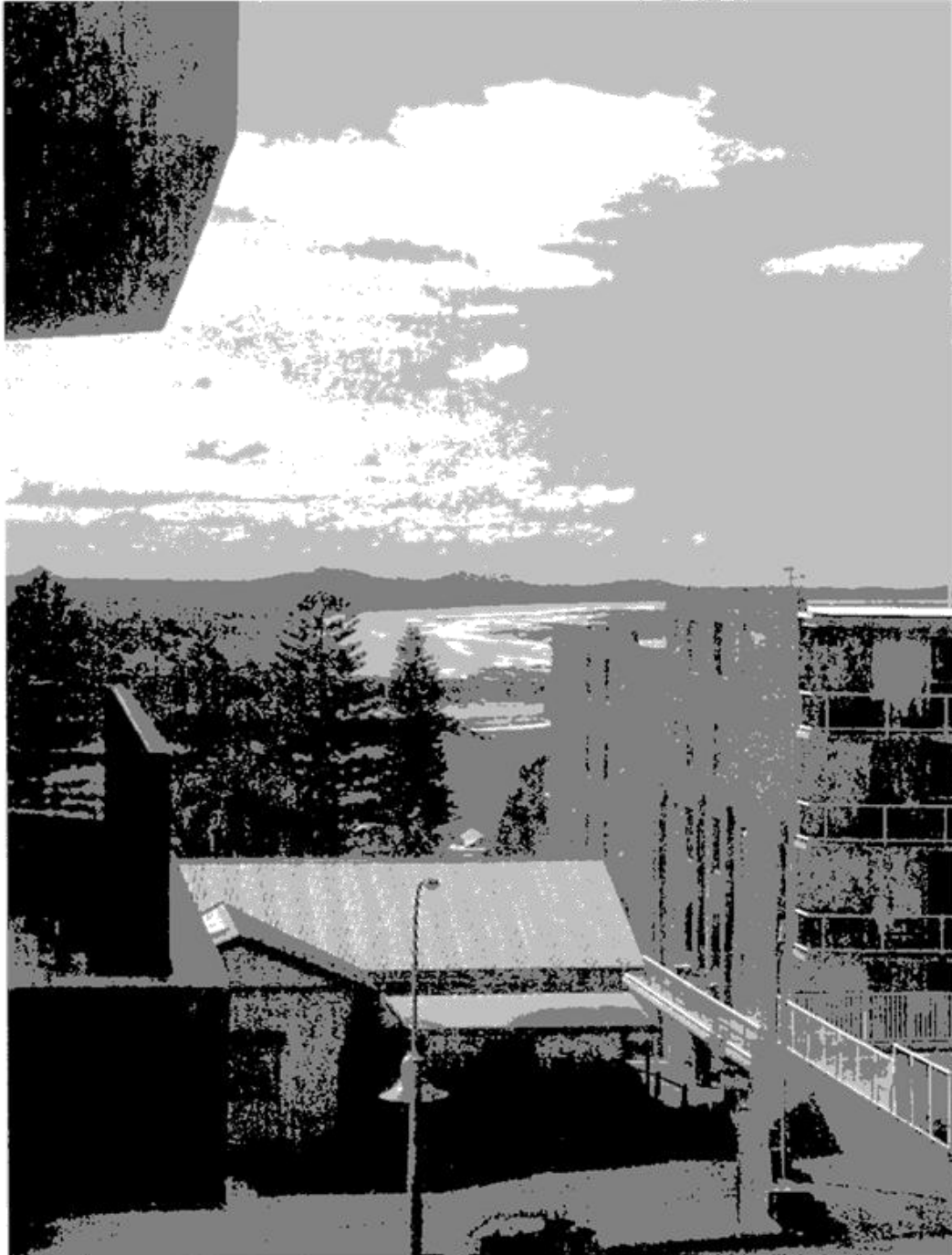
Due to being on the School St side of the building, from inside I overlook the school
grounds opposite. However I do have views across the road when standing
anywhere on the balcony and any acknowledgement of this was not considered in
the Development Proposal. (see the attached picture).

I accept that the majority of this view will be eventually blocked by a development. I
object to the current Development Proposal due to the excessive height when
compared to the adjacent buildings. This appears to be about 2 storeys higher than
the existing neighbouring buildings and would have an impact on the overall
streetscape.

The Development Proposal also mentions using car lifts for additional parking within
the complex. Parking at the top end of Clarence St and School St is already a
problem and with the addition of a 'high density' unit complex across the road will
contribute to even more parking issues in this vicinity. For this reason I also object to
the Development Proposal.

Ursula Schwarz
Unit 5

Unit 5 view from the balcony



Unit 203
Flightdeck
5-7 Clarence Street
Port Macquarie 2444

Attention Christopher Gardiner
Development and Environmental Services
Port Macquarie Hastings Council

Dear Sir,

Re Development Proposal reference DA2014.123.1

We wish to object to the Development Proposal at 3 Clarence Street Port Macquarie on the following grounds.

1. The mapped Floor Space ratio is inconsistent with the R4 zone objectives.
2. The Floor space Ratio exceeds the maximum height limit as defined by Council regulations.
3. The application of the 1:1 Floor Space Ratio would not meet the building height set by LEP 2011.
4. The PMHC sets a Floor Space Ratio of 1:1 for the subject land and two adjacent properties. The FSR surrounding these three lots is higher, being set at 1.5:1.
5. The single lane driveway will present all manner of problems.
6. The 18 car spaces would appear insufficient causing more cars to park on Clarence Street where parking is at a premium due to the parking restrictions in the CBD.
7. The proposed height of this development would cause shade to existing premises robbing them of their natural light and sunshine.

Yours Faithfully


Pam and Ken Steen



Vasanth Subbiah
Unit 13, Focus Apartments
2 Clarence Street
Port Macquarie NSW 2444

27 March 2014

The General Manager
Port Macquarie Council
17 Burrawan Street
Port Macquarie NSW 2444

PORT MACQUARIE HASTINGS	
CRM No	CRM No
31 MAR 2014	
Keyword	
Activity	
Subject	DA 2014-123.1
Folder	

Dear Sirs,

**NOTIFICATION OF DEVELOPMENT PROPOSAL (2014/123) – 3 CLARENCE STREET, PORT MACQUARIE
NOTICE OF OBJECTION**

My husband and I are owners in the Focus Apartments (Unit 13 on Level 3) and wish to lodge an objection to the proposed multi-unit residential development across the road. I have seen the plans for the building and was horrified to see that it is proposed to extend way above the height of the apartment buildings either side.

At present, we do enjoy good lines of sight to the north and north east which are, in part, blocked by the existing apartment buildings either side of the proposed development – see attached photograph taken from our balcony. The proposed building will obstruct a significant amount of view above the existing roof lines which will severely affect our amenity. This view was one of the main reasons we purchased this apartment instead of others in the town centre.

We understand that the floor space ratio (FSR) for the proposed development is well in excess of what Council has stipulated in its LEP (exceeds by approximately 200%) and we are at a loss to know how the architect for this development can be allowed to incorporate such an excessive deviation from Council policy.

The argument to object to Clause 4.3 seems ludicrous to us as we cannot see how this development is compatible with the height, bulk and scale of the existing and desired future character of the locality. The proposal also does not meet other rules for minimising visual impact, disruption of view, loss of privacy and loss of solar access to existing development. I can only take pity of the owners of the Flightdeck and the building to the east of the proposed development site who will lose considerable sunlight during morning and afternoon periods.

I know that this property is referred to as an "infill" site and the design needs to be sensitively considered – we would have expected that the development, in a worst case scenario, would

extend no higher than the adjoining properties and have a similar street alignment to blend in as best possible. The proposed development certainly does not meet the intention of Clause 4.3 – to nominate heights that provide a transition in built form and land use intensity. The only transition in built form is a huge spike in height!

I feel that the owner is being very greedy and trying to make this difficult, narrow site stack up financially so it can be sold to a developer for huge profit – the only way the owner can achieve this is by significantly exceeding the Council prescribed FSR.

We cannot see how this proposed development is in the public's interest and hope that Council will adhere to existing planning controls and reject the application as submitted.

Yours faithfully,



Vasantha Subbiah



View from Level 3 balcony – significant amount of view will be lost if building goes two levels above existing apartment buildings.

[REDACTED]

From: Pete Thompson [REDACTED]
Sent: Monday, 10 November 2014 8:14 AM
To: Chris Gardiner
Subject: Development proposal for 3 Clarence Street

Dear Chris,

My wife and I own a unit at No.5, next door, which we visit once per year for a month or more from our home in UK. We are very familiar with the charming house at No 3 and would be appalled if it were to be demolished in favour of the narrow block proposed. Please treat this email as an objection to the proposal. We'd rather keep the existing house!

Yours, Peter and Liz Thompson.

Sent from my iPad

General Manager


Port Macquarie Hastings Council

PO Box 84, PORT MACQUARIE NSW 2444

Attention Christopher Gardiner

Dear Sir,

SS2AA.

 PORT MACQUARIE HASTINGS	
TRIM No	CRM No
31 MAR 2014	
Keyword	
Activity	
Subject	
Folder	DA 2014-123.1

Re: DA 2014/123, 3 Clarence Street Port Macquarie

We, Lois and Douglas Walters, owners of Apartment 11, Focus Units, 2 Clarence Street, Port Macquarie are objecting to the above development.

In our original inspection of the unit we eventually bought, we realised that this view, over 3 Clarence Street, would be impeded when this site was eventually developed. We believed that council would place the same height restrictions on this site as was placed on the buildings on either side. To allow a development to extend in height a further six metres above Flightdeck and Headlands Apartments is giving no consideration to 'view sharing' and also departs from the streetscape harmony of upper Clarence Street.

We hope you can give due consideration to our point of view and the views of all those living in the Focus Units and apartments on either side of 3 Clarence Street. When we moved to Port 40 years ago we were stunned by the beauty of the area and the neatness of the little town, then about eight or nine thousand in population. We still enjoy living here and feel the overdevelopment of this site will reduce the quality and the consistency of this area.

Yours faithfully

Lois and Douglas Walters

11/2 Clarence Street Port Macquarie

PROPERTY LOT 101 DP 1122606
3 Clarence St., Port Macquarie, N.S.W. 2444
D.A. 2014/123

OBJECTION	
PORT MACQUARIE CITY COUNCIL	
CLARENCE STREET EASTINGS	
- 1 APR 2014	
Keyword	Subject
Activity	Folder

RECEIVED	
DATE	BY
31/3	VP

Dear Sir,

I am lodging objections to:

1. The height of the building
2. Floor space ratio
3. Non-existence of any communal space on the site
4. Non-compliance of a suitable flat 6.5metre driveway section prior to crossing the footpath, which is in a school zone
5. The interference or removal of any archeology from the site, noting that it has been listed LEP 2011 as being an early European Settlement site
6. The western wall of the building as seen from the "Flightdeck" site appears to be very tall, plain & lacking any architectural characteristics whatsoever.

After reading the D.A., I am concerned as to why the council is considering an FSR of 2:1 when the standard is 1:1. At 14.945 metres wide, this is an extremely narrow site for this address on Clarence Street. The subsequent narrow street footprint in ratio to the height, appears to be way out of proportion & lacks aesthetic appeal. The Floor Space Ratio is pushed to every conceivable limit in comparison to adjoining & adjacent buildings. The fact that car lifts are proposed for the basement, & a "Stop/Go" lighting system for the steep driveway & footpath crossing within a school zone, accentuates how the boundaries are being pushed to extreme limits, on this difficult site.

I can appreciate the developer wanting to maximise the development potential on this rather small 751.5 sq. m. block, however, practically & aesthetically speaking, I believe the boundaries are exceeding what is reasonable for this already established CBD apartment area.

Thanking You,
Graeme Williams.

31/3/2014

Item: 06

**Subject: DA2015 - 0193 - ANCILLARY BUILDING (SHED) - LOT 3 DP354485,
NO. 27 THE PARADE, NORTH HAVEN**

Report Author: Anthony Crane

Property: Lot 3 DP 354485, No 27 The Parade North Haven
Applicant: J Case
Owner: B A & K A Anderson
Application Date: 23 March 2015
Estimated Cost: \$17,000
Location: North Haven
File no: DA2015 - 0193
Parcel no: 23705

Alignment with Delivery Program

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

RECOMMENDATION

That DA2015 - 0193 for an ancillary building (shed) at Lot 3, DP 354485, No. 27 The Parade, North Haven, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for a detached shed at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

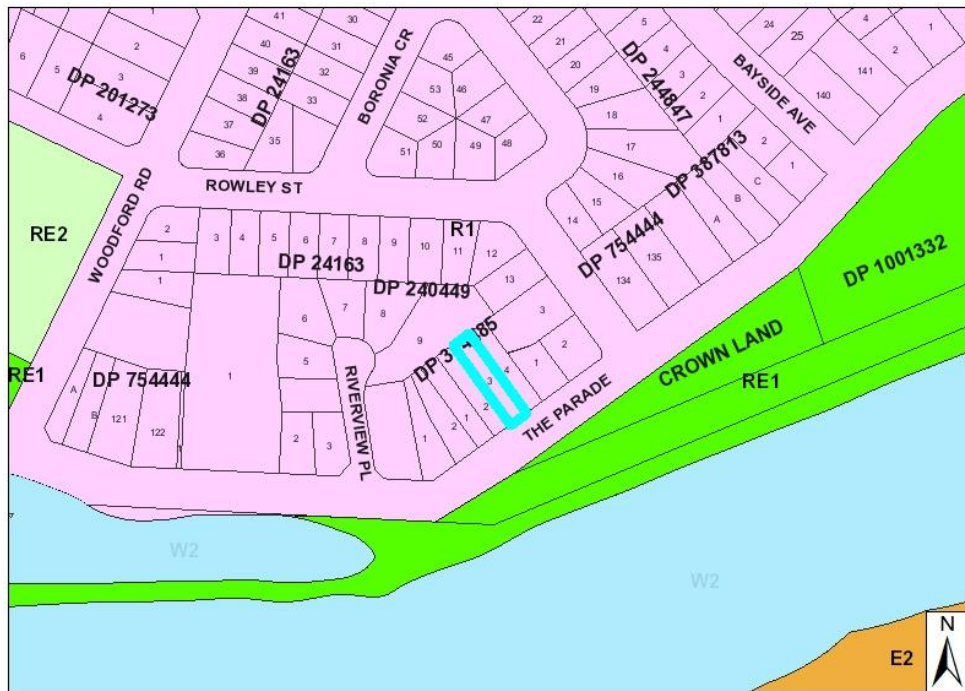
Following exhibition of the application, 2 submissions have been received.

1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 505.9m².

The site is zoned R1 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:

- The proposed building is an 11m X 8m shed. The south-eastern end bay of the building is open. The enclosed floor area of the shed is 58.7m². The total area under the roof is 88m².
- The overall height of the building is 4.28m. The north-eastern side will be set back 0.5m from the side boundary. The south-western side will be setback 1.5m from the side boundary. The rear setback will be 0.9m.

- The shed will be used to house the owner's caravan, boat & gardening equipment. The newly completed dwelling has an attached double garage.
- After construction of the shed, approx. 90m² of private open space will still be available in the rear yard.

Refer to attachments at the end of this report.

Application Chronology

- 23/03/2015 - Application lodged.
- 02/04/2015 - E-mail to applicant asking for submission requesting consideration of variation.
- 09/04/2015 - First supporting submission from applicant received.
- 16/04/2015 - E-mail to applicant requesting proper site plan to scale.
- 20/04/2015 - E-mail from applicant confirming no overshadowing to adjoining properties.
- 20/04/2015 - Received letter from solicitor on behalf of 2 adjoining owners objecting to proposal.
- 03/05/2015 - Further submission from applicant addressing objector's concerns.

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 62 - Sustainable Aquaculture

Given the nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries within the Camden Haven River approximately 56m from the site.

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 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.

The site is predominately cleared and located within an area zoned for residential purposes.

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 R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the building is ancillary to a dwellings and is therefore a permissible landuse with consent.

The objectives of the R1 zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

a)

In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives as it is a permissible landuse and consistent with the established residential locality,

- Clause 4.3, the maximum overall height of the building above ground level (existing) is 4.28 m which complies with the standard height limit of 8.5m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is 0.75:1.0 which complies with the maximum 1.00:1 floor space ratio applying to the site.
- Clause 5.9 - no listed trees in Development Control Plan 2013 are proposed to be removed.
- Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.1, the site is mapped as potentially containing class 3 acid sulphate soils (>1m). No excavation extending 0.5m below the natural surface level is proposed; therefore no adverse impacts are expected to occur to the acid sulphate soils found on site.
- Clause 7.3, the site is land within a mapped “flood planning area” (Land subject to flood discharge of 1:100 annual recurrence interval flood event (plus 0.6m freeboard West of the Pacific Highway or 0.9m East of the Pacific Highway) In this regard the following comments are provided which incorporate consideration of the objectives of Clause 7.3 & Council’s Interim Flood Policy 2007:

b)

- The proposal is compatible with the flood hazard of the land taking into account projected changes as a result of climate change
- The proposal will not result in a significant adverse affect on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties.
- The proposal is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses

- The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- Council's current Interim Flood Policy (as amended March 2010) requires floor levels to be at the 1:20 year level (2.6 m AHD) no freeboard allowance required. It is noted that Climate Change (i.e. sea level rise and changes to rainfall patterns) factors are taken into account within the applicable freeboard allowance.
- PMHC has implemented the use of Sea Level Rise planning benchmarks of an increase in mean sea level of 400mm by 2050 and 900mm by 2100. This benchmark has been based on the most up to date sea level rise projections. The New South Wales Department of Environment, Climate Change and Water (DECCW) released a Sea Level Rise Policy Statement in October 2009 which outlined the government's objectives and commitments to sea level rise with regard to climate change. The sea level rise policy recognises that under the Act consent authorities must consider the effects of sea level rise on coastal and flooding hazards when considering planning and development approval decisions. In March 2010, council adopted amendments to its flood policy to align with the NSW sea level rise policy, and among other matters, the amendments required freeboard requirements to be increased by 100mm. In October 2012, the NSW Sea Level Rise Policy was repealed. Following this, PMHC decided that in light of no new information being at hand that the existing SLR benchmarks were appropriate and should be maintained.

Clause 7.13, satisfactory arrangements are in place for provision of essential services

(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 2013

<i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development</i>			
	Requirements	Proposed	Complies
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> • 4.8m max. height • Single storey • 60m² max. area • 100m² for lots >900m² • 24 degree max. roof pitch • Not located in front setback 	4.28m Yes 58.72m ² (roof = 88m ²) -- 11 degs Rear yard	Yes Yes Yes Yes Yes
3.2.2.4	0.9m	0.9m	Yes
3.2.2.5	Side setbacks: <ul style="list-style-type: none"> • Ground floor = min. 0.9m 	0.5m at closest point	No

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development

	Requirements	Proposed	Complies
3.2.2.6	35m2 min. private open space area including a useable 4x4m min. area which has 5% max. grade	Approx. 90m2 - level ground	Yes

DCP 2013: General Provisions

	Requirements	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	Adequate casual surveillance available	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	<1.0m	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
	Driveway crossing/s minimal in number and width including maximising street parking	Existing	
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	Exist. attached double garage	Yes

The proposal seeks to vary Development Provision 3.2.2.5 a) "Ground floors should be set back a minimum of 900mm from side boundaries".

The relevant objectives are:- "To reduce overbearing and perceptions of building bulk on adjoining properties and to maintain privacy. To provide for visual and acoustic privacy between dwellings."

Having regard for the development provisions and relevant objectives, the variation is not considered acceptable for the following reasons:

- There appears to be no reason that the building cannot be set back 900mm from the north-eastern side boundary. A condition of consent will be imposed requiring a 900mm setback.
- Siting the proposed shed 900mm off the north-eastern boundary will still allow a setback of 1.10m from the south-western boundary. This will result in all boundary setbacks complying with Council's DCP.

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

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 proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.
- The proposal is considered to be consistent with other residential development in the locality and adequately addresses planning controls for the area.
- There is no adverse impact on existing view sharing.
- There is no adverse privacy impacts.
- There is no 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.

Utilities

Telecommunication and electricity services are available to the site.

Stormwater

Service available – details required with S.68 application.

Heritage

This site does not contain or adjoin any known heritage item or site of significance.

Other land resources

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

Water cycle

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

Soils

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

Air and microclimate

The 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.

Flora and fauna

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

Noise and vibration

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

Bushfire

The site is not identified as being bushfire prone.

Safety, security and crime prevention

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

Social impacts in the locality

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

Economic impact in the locality

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

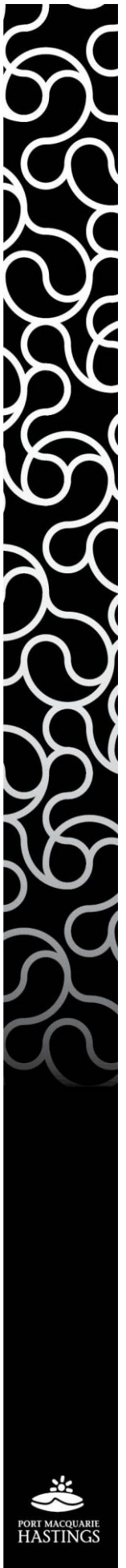
The proposal will fit into the locality and the site attributes are conducive to the proposed development.

Site constraints have been adequately addressed and appropriate conditions of consent recommended.

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

Two (2) 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 proposal is only 500mm from the side boundary with No. 29 The Parade.	Council's DCP requires 900mm setback from side boundary which can be imposed as a condition of approval.
The floor area is over the limit of 60m ² imposed by the DCP.	The closed in area of the shed is less than 60m ² . The overall floor area under the roof is 88m ² . The overall floor space ratio on the site is 0.75:1 which complies with the 1:1 maximum ratio prescribed under the LEP. The density of the development is not considered to be at odds with the existing and desired future character of the area.
Due to large roof area, stormwater runoff may adversely impact adjoining properties.	Considered capable of being managed as part of the required plumbing and drainage application under the Local Government Act.
The size and location of building will have significant impact on solar access to objectors' external living areas.	The proposed building will be located to the south & west of objectors' properties thereby having little or no impact on solar access. The proposal will not cause less than 3hrs sunlight to adjoining properties on 22 June between 9am and 3pm.
Concern about potential reflection of sunlight from proposed building.	Proposed building will be clad with pre-coloured sheeting and is not considered to be of excessive height so as to result in unacceptable reflectivity impacts.
Concern regarding heat generation from metal clad building into neighbouring property (No. 29 The Parade).	Heat generation from proposed building not considered to be significant. Building will only get part morning sun on objector's side.
Proposed building may impact on turning circle between No. 25A & No. 27 The Parade. Objector believes Council required ROW.	The open bay of the proposed shed will encroach over the turning bay of a private right-of-way between the subject property (No.27) and the adjoining property, No.25a The Parade. As this part of the structure will be open, vehicles will still be able to be manoeuvred without being impeded. The owner of No.25a, who has shared benefit of the right-of-way has consented to the proposal. The ROW is not for Council purposes.
Size & location of building will have significant visual impact on amenity of adjoining rear yard area of No. 29.	Adjoining dwelling set well back on block & rear yard area will be impacted by wall of new building. Proposed building will comply with height, density & setback requirements. Proposal will not affect large open space area of approx. 27m X 10m between front boundary & existing dwelling.
Siting of existing and proposed buildings may cause distortion of wind and may cause wind tunnel effects.	Wind tunnel effects unlikely to occur and not considered to be a significant issue.
Location of proposed building will significantly impact on visual amenity of property to rear (No. 2	Proposed building will not impinge on any views, but will present the end elevation of the shed to part of the south-eastern boundary of

Riverview Place).	the adjoining property to the rear. Visual amenity is not considered to be compromised as a result of the proposal.
Location of proposed building will have significant impact on morning solar access to living areas of property to rear (No. 2 Riverview Place).	There will be little impact on morning solar access to property at rear. This property has an existing large tree adjacent to the living areas that has far more impact on solar access than the proposed building.

(e) The Public Interest:

With the imposition of proposed conditions of consent, the proposed development satisfies relevant planning controls and is unlikely to impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

Contributions not applicable.

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.

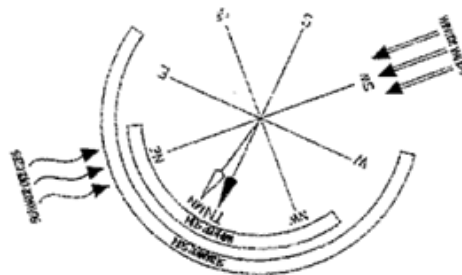
The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment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

Attachments

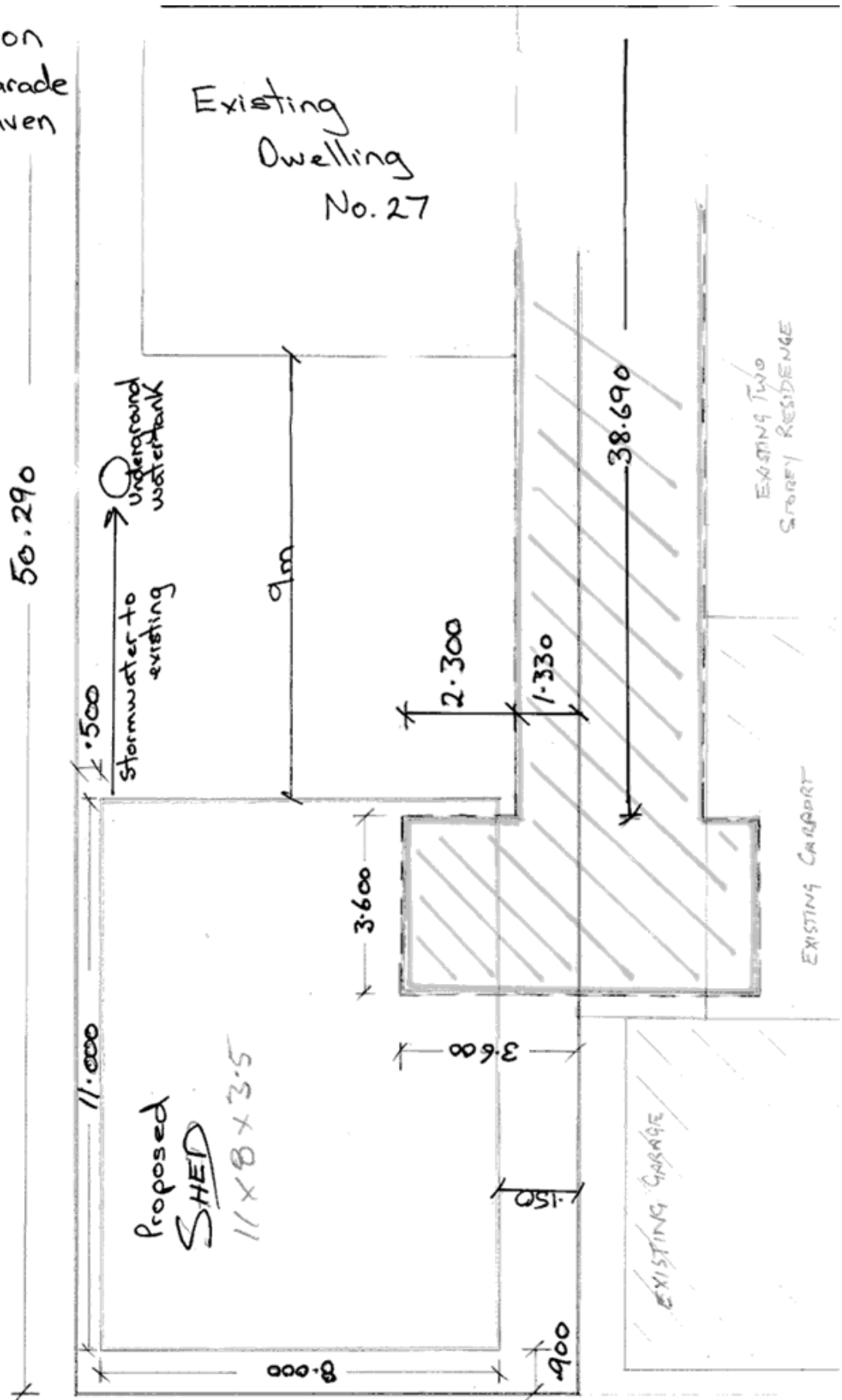
1[View](#). DA2015 - 0193 Plans.

2[View](#). DA2015 - 0193 Recommended Conditions

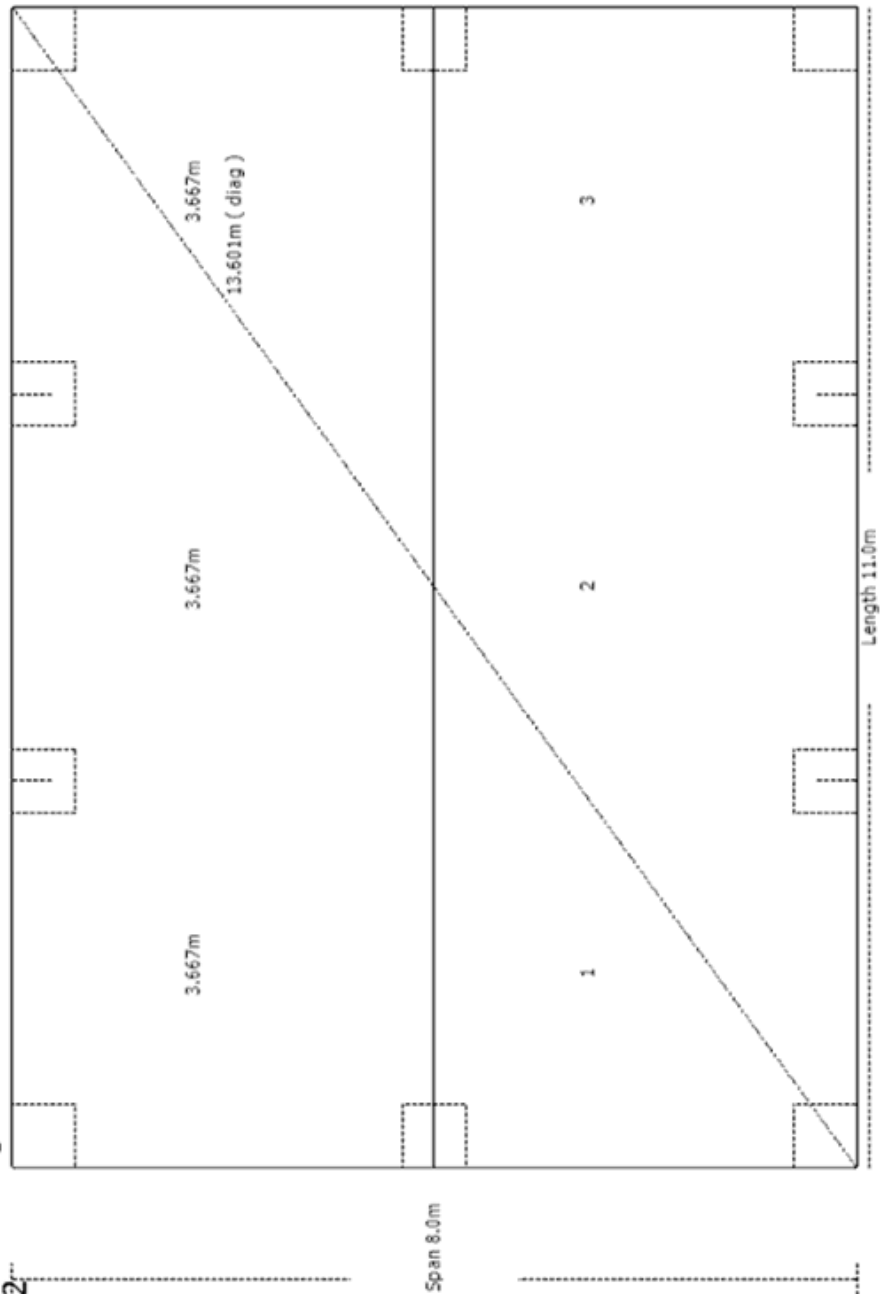
3[View](#). DA2015 - 0193 Submission - Higgins and Dix for Davis & Martin



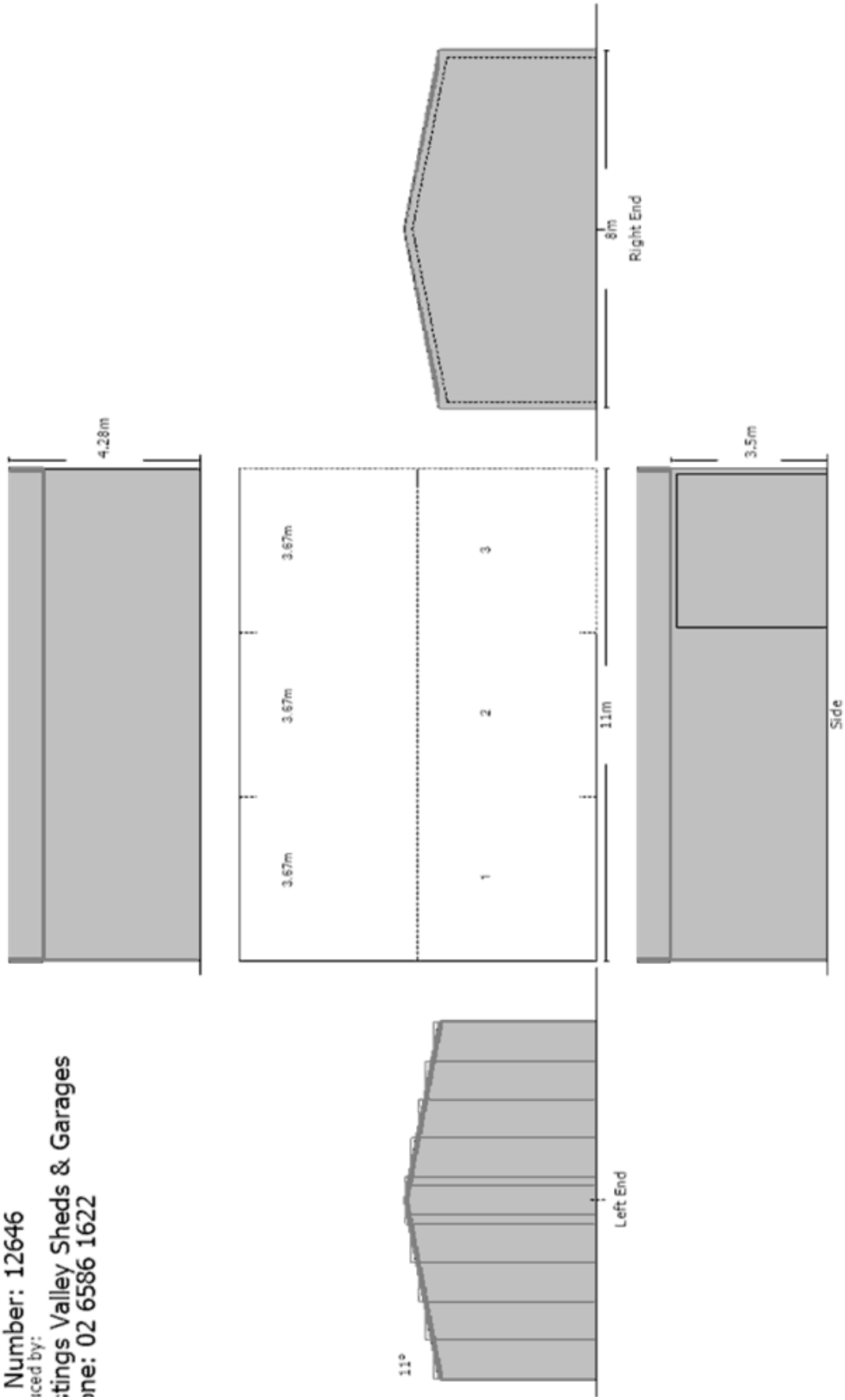
Anderson
27 The Parade
North Haven



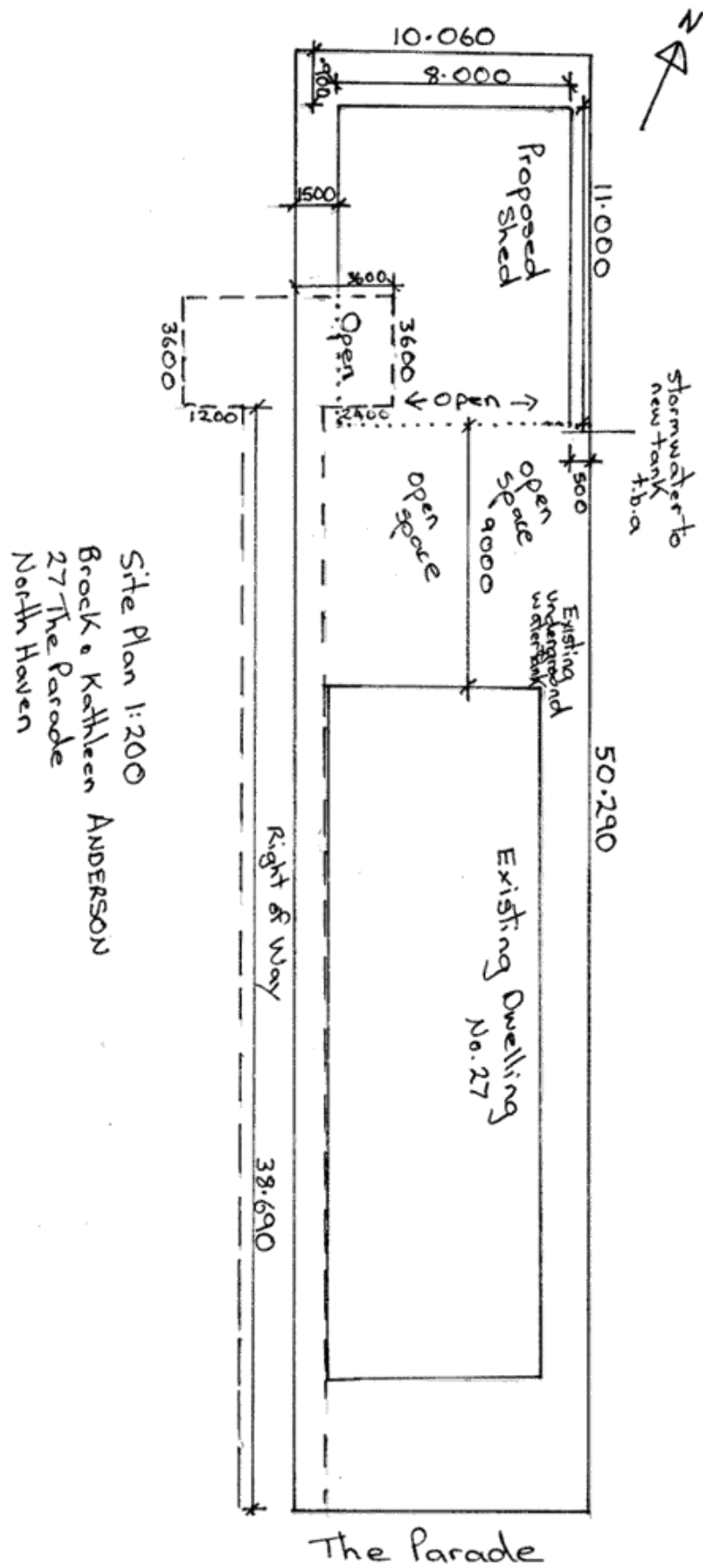
THE PARADE NORTH HAVEN
Number: 12646
sited by:
:tings Valley Sheds & Garages
ne: 02 6586 1622



THE PARADE NORTH HAVEN
Number: 12646
Submitted by:
Fair Dinkum Sheds & Garages
Phone: 02 6586 1622



cal distributoryou are dealing withis an authorised independent distributorof Fair Dinkum Sheds' products
iters into agreements with its customers on its own behalf and not as an agent of Fair Dinkum Sheds.



**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2015/193****DATE: 20/05/2015****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
Site plan to scale	No ref.	J Case	Undated
Floor plan & elevations	Job No. 12646	Hastings Valley Sheds & Garages	Undated
SOEE	No ref.	J Case	18/03/2015
Letter of objection	TM;NH:150322	Higgins & Dix	20/04/2015
Supporting letter	No ref.	J Case	01/05/2015

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.

6. 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) (A195) All parts of the structure below the applicable Flood Planning Level (1:100 flood level plus the relevant freeboard) shall be constructed from flood compatible materials compliant with the ABCB Standard for Construction of Buildings in Flood Hazard Areas.

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) (B039) Structural engineer's details for all reinforced concrete footings, slabs and walls are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
- (3) (B068) The minimum floor level of non-habitable areas is to be not less than the 1:20 year flood level. For the purpose of this requirement, the 1 in 20 year flood level may be assumed to be RL 2.6m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (4) (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 including the relevant freeboard level of 900mm. 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 plus freeboard. For the purpose of this requirement, the velocity for the 1:100 flood may be assumed to be 0.22m/s.
- (5) (B195) The proposed building shall be set back at least 900mm from the north-eastern side boundary. An amended site plan showing this setback shall be submitted to Council prior to release of the Construction Certificate.

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.

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) (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.

F – OCCUPATION OF THE SITE

nil

CONDITIONS APPLYING TO JETTIES AND BOAT RAMPS

nil

DRAFT

2014/15
HIGGINS & DIX
LAWYERS & CONVEYANCERS
ABN 18 280 726 946

SCANNED

PO BOX 59 LAURIETON NSW 2443
DX 7424 PORT MACQUARIE

20 April 2015

Our Ref: TM:NH:150322
Laurieton office
Your Ref: 2015/193

Port Macquarie Hastings Council
DX 7415
PORT MACQUARIE

Dear Sir/Madam

**OBJECTIONS TO DEVELOPMENT PROPOSAL
27 THE PARADE NORTH HAVEN
APPLICATION NO. 2015/193**

We act for Vic and Wendy Davis ("Mr & Mrs Davis") of 29 The Parade, North Haven and Kenneth and Diane Martin ("Mr & Mrs Martin") of 2 Riverview Place, North Haven.

We are instructed to prepare and lodge the following objections to the development proposal at 27 The Parade, North Haven.

Objections from 29 The Parade, North Haven

Mr & Mrs Davis, the registered proprietors of 29 The Parade, North Haven, raise the following objections with respect to the proposed development at 27 The Parade North Haven:

1. The distance between the boundary between 27 and 29 The Parade, North Haven and the proposed development is only 500mm. This is less than the 900mm required in accordance with paragraph 3.2.2.5(a) of the Port Macquarie-Hastings Development Control Plan 2013 ("DCP").
2. The floor size for the proposed development is 88m². The permitted area of a building should not be greater than 60m² for lots that are less than 900m² in accordance with paragraph 3.2.2.1(a) of the DCP and it is noted that the size of the lot at 27 The Parade is less than 900m².



87158 73 BOLD STREET LAURIETON
9/1613 OCEAN DRIVE LAKE CATHIE

-2-

Objections to Development Proposal
27 The Parade North Haven
Application No. 2015/193

-
3. Given the significant surface area of the roof for the proposed development, our client is concerned that the stormwater runoff generated may adversely impact on our clients' property should the existing stormwater drain be unable to meet the increased volumes.
 4. The size and location of the proposed building will have a significant impact on the solar access of both the outdoor area and the back verandah of our client's property. This needs to be considered in accordance with clause 4.3 of the Port Macquarie-Hastings Local Environment Plan 2011 ("LEP").

The reduced solar access will be more pronounced in the winter months and will impact on the clothesline of our client's property.

5. My clients' are concerned about the potential reflection of sunlight from the proposed building and how this will impact on their use and enjoyment of their private outdoor area and back verandah.
6. Given the size of the proposed development, my clients are concerned about the heat that will be generated and reflected back onto their property from the 11 metre frontage to 29 The Parade, North Haven. In addition to the heat, my clients are concerned about the reflection of sunlight onto their property given that the proposed development has an easterly frontage that would reflect back into my client's property in the mornings, especially in the warmer months.
7. The location of the proposed development may impact on the turning circle that our client understands was required by the Council when the right of carriageway was developed between 25 and 27 The Parade, North Haven. My clients' are concerned that the space available with the driveway may not be adequate for proposed traffic.
8. The size and location of the proposed development will have a significant visual impact on the amenity for my client's property as it would run from an area that is approximately adjacent to the rear of the dwelling at 29 The Parade, through to the back fence on the perimeter between 27 and 29 The Parade, North Haven.
9. Given the existing building on 27 The Parade, North Haven, and the proposed development along with the existing dwelling at 29 The Parade, North Haven, my clients are concerned of the distortion of wind and any potential wind tunnels that may be generated between the minimal spaces between the respective buildings.

-3-
Objections to Development Proposal
27 The Parade North Haven
Application No. 2015/193

Objections from 2 Riverview Place, North Haven

Mr and Mrs Martin are the registered proprietors of 2 Riverview Place, North Haven. The entire rear boundary of 27 The Parade, North Haven runs along the side boundary of 2 Riverview Place. I am instructed to make the following objections to the proposed development on behalf of Mr & Mrs Martin:

10. The floor size for the proposed development is 88m². The permitted area of a building should not be greater than 60m² for lots that are less than 900m² in accordance with paragraph 3.2.2.1(a) of the DCP.
11. Given the significant surface area of the roof for the proposed development, our client is concerned that the stormwater runoff generated may adversely impact on our clients' property should the existing stormwater drain be unable to meet the increased volumes.
12. The location of the proposed development may impact on the turning circle that our client understands was required by the Council when the right of carriageway was developed between 25 and 27 The Parade, North Haven. My clients' are concerned that the space available with the driveway may not be adequate for proposed traffic.
13. The proposed development in its current location will significantly impact on the visual amenity from the living area and private outdoor area at 2 Riverview Place.
14. My clients' are concerned about the potential reflection of sunlight from the proposed development. Mr Martin is a builder and has extensive experience with working in and around developments where white or light colours are used and how such colours do cause a significant increase in reflection and generation of heat.
15. The size and location of the proposed building will have a significant impact on the solar access of both the living areas and private outdoor of Riverview Place. This needs to be considered in accordance with clause 4.3 of the LEP.
16. The location will have a significant impact on the solar access with respect to morning sunlight as the proposed development sits east of the living area of 2 Riverview Place, North Haven. My clients are concerned that they may lose natural sunlight which will have a significant impact on continued use of the living area and private outdoor areas.

-4-
Objections to Development Proposal
27 The Parade North Haven
Application No. 2015/193

My clients would like to thank you for the opportunity to provide these objections. If you require any future assistance or information, please feel free to contact our office.

Yours faithfully



TONY MAHER
tony@higginsdix.com.au

Item: 07

Subject: DA2015 - 0231 - ADDITIONS TO DWELLING AND SWIMMING POOL -
LOT 2 DP 849392, NO. 18 COMMODORE CRESCENT, PORT
MACQUARIE

Report Author: Clint Tink

Property:	Lot 2 DP 849392, 18 Commodore Crescent, Port Macquarie
Applicant:	C T Bailey and S A McLuckie
Owner:	C T Bailey and S A McLuckie
Application Date:	29 April 2015
Estimated Cost:	\$180,000
Location:	Port Macquarie
File no:	DA2015 - 0231
Parcel no:	27904

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2015 - 0231 for additions to dwelling and swimming pool at Lot 2, DP 849392, No. 18 Commodore Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for additions to a dwelling and swimming pool at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

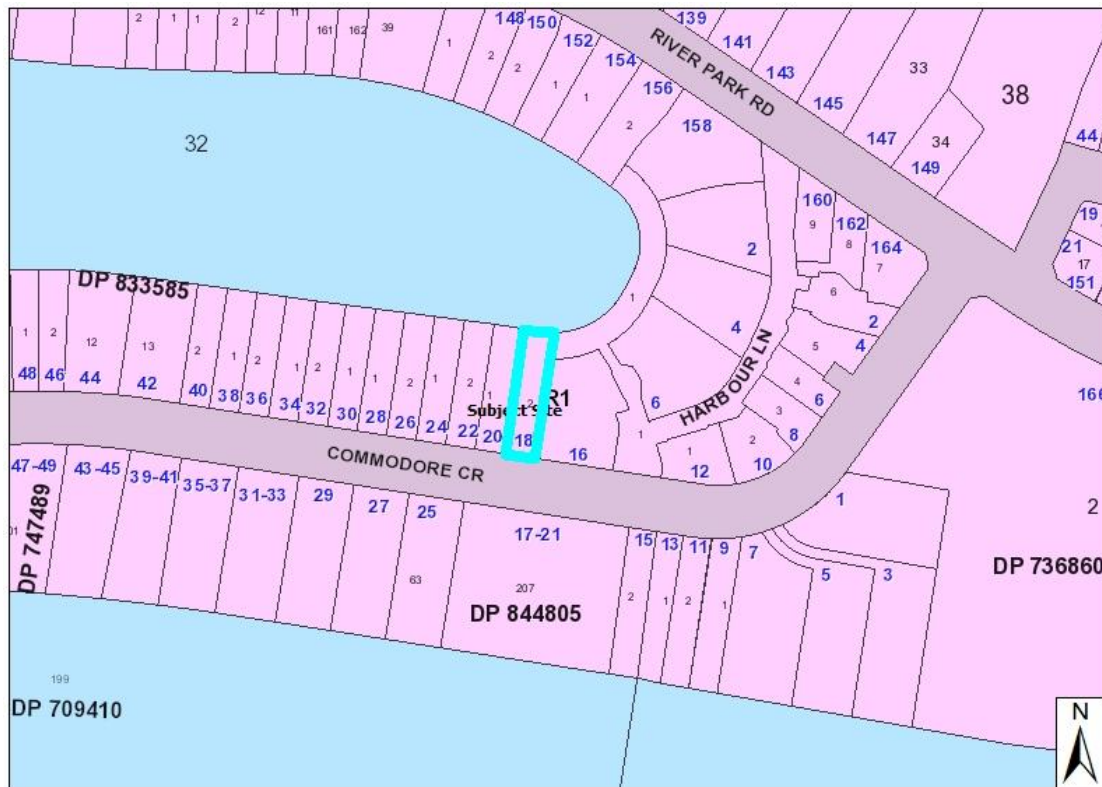
Following exhibition of the application, two submissions were received.

1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 530.9m².

The site is zoned R1 General 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 to an existing dwelling comprising replacing a rear alfresco area, installing front fencing and changing some room layouts.
- Installation of a swimming pool.

Refer to attachments at the end of this report.

Application Chronology

- 2/4/2015 - Application lodged with Council.
- 20/4/2015 to 4/5/2015 - Exhibition period.
- 21/4/2015 - Council requested additional information on canal setback and the rear roof structure.
- 22/4/2015 - Copy of exhibition material emailed to neighbour.
- 29/4/2015 - Applicant responded to Council's additional information request.
- 6-7/5/2015 - Applicant requested update on the processing of the development, which was provided by Council staff. Submissions were noted and the applicant requested copies. Redacted copies of submissions were provided.
- 18/5/2015 - Update on the application was provided to neighbour.

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.

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 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) being 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.

In particular, the site is located within an area zoned and already developed for residential purposes. It is considered that the additions and design are consistent with others in the area and would blend in with the existing house forms.

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

In accordance with clause 6, a BASIX certificate (number A213053) has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

Port Macquarie-Hastings Local Environmental Plan 2011

Clause 2.2, the subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the proposed development for additions to a single dwelling and swimming pool is a permissible landuse with consent.

The objectives of the R1 zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

In accordance with clause 2.3(2), the proposal is consistent with the zone objectives, particularly as the proposal is a permissible landuse and is consistent with the established residential locality. The additions result in a house type and density that provides individual variations but is consistent with the overall bulk and scale of other surrounding houses.

Clause 2.7, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying) 2008.

Clause 4.3, the maximum overall height of the proposal from ground level (existing) is less than 5.9m, which complies with the standard height limit of 8.5m applying to the site.

Clause 4.4, the floor space ratio of the proposal is approximately 0.36:1.0 which complies with the maximum 0.65:1 floor space ratio applying to the site.

Clause 5.9, no listed trees in Development Control Plan 2013 are proposed to be removed.

Clause 5.10, the site does not contain or adjoin any known heritage items or sites of significance. The site is already disturbed by virtue of the existing dwelling.

Clause 7.1, the site is mapped as potentially containing class 3 acid sulfate soils. However no significant excavation extending below the natural surface level is proposed. In addition, the majority of the land was formed up when the canals were originally constructed. As a result, the soil is known to contain limited acid sulphate.

Therefore no adverse impacts are expected to occur to the acid sulphate soils found on site.

• Clause 7.3, the site contains part land within a mapped “flood planning area”. In this regard the following comments are provided which incorporate consideration of the objectives of Clause 7.3 & Council’s Interim Flood Policy 2007:

- The proposal is compatible with the flood hazard of the land taking into account projected changes as a result of climate change
- The proposal will not result in a significant adverse affect on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties. In particular, the additions are minor and will occur predominately within the existing footprint and at the same floor level.
- The proposal does not change the existing evacuation process - still one residence.
- The proposal is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses
- The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

Clause 7.13, satisfactory arrangements are in place for provision of essential public utility infrastructure.

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

None relevant.

(iii) any Development Control Plan in:

Port Macquarie-Hastings Development Control Plan 2013

<i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development</i>			
	Requirements	Proposed	Complies
	Front setback (Residential not R5 zone): • Min. 6.0m classified road • Min. 4.5m local road or within 20% of adjoining dwelling if on corner lot • Min. 3.0m secondary road • Min. 2.0m Laneway	Front setback exceeds 4.5m.	Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	Garage is existing and setback over 5.5m. While the garage is not setback 1m behind the front façade, such a setback already exists by virtue of the existing dwelling design. Furthermore, such a	No, but acceptable.

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development

	Requirements	Proposed	Complies
		design element of garages being in line with the front façade/forward of the front facade is common for that area.	
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	The development is setback 13m from the rear boundary with the canal.	Yes
3.2.2.5	Side setbacks: <ul style="list-style-type: none"> • Ground floor = min. 0.9m • First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m 	The western side setback is built to the boundary and was established when 18 & 20 Commodore Crescent were originally constructed. This 0m setback is to be retained. The development is setback over 900mm from the eastern side boundary. There are no unarticulated walls (visible from a public area) measuring 12m.	Yes
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	The property retains 35m ² open space with 4m x 4m area directly accessible from a living area.	Yes
3.2.2.7	Front fences: <ul style="list-style-type: none"> • If solid 1.2m max height and front setback 1.0m with landscaping • 3x3m min. splay for corner sites • Fences >1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings • 0.9x0.9m splays adjoining driveway entrances • Front fences and walls to have complimentary materials to context 	A 1.8m high front fence is proposed incorporating suitable transparent areas and setback for landscaping to reduce the overall bulk of the fence. The fence is also less than 50% of the frontage width and/or 6m in width. The fence also contains a 0.9m splay for the driveway. A site inspection also showed that there are similar fences forward of the front building line	Yes

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
		in Commodore Crescent, ensuring no adverse impact on streetscape.	
3.2.2.10	Privacy: <ul style="list-style-type: none"> • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. i.e. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m 	The use of fencing to screen views and proposed window types will ensure no loss of privacy to the residence or adjoining properties.	Yes
DCP 2013: General Provisions			
	Requirements	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	Adequate casual surveillance available	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Noted
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	Existing garage to be retained.	Yes

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

None relevant.

iv) any matters prescribed by the Regulations:**New South Wales Coastal Policy**

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

Demolition of buildings AS 2601 - CI 66 (b)

To be conditioned to comply.

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

None relevant.

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

- The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.
- The proposal is considered to be consistent with other residential development in the locality and adequately addresses planning controls for the area.
- There is no adverse impact on existing view sharing.
- There is no adverse privacy impacts.
- There is no 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.

Utilities, Stormwater, Water, Sewer

The proposed development will not impact on existing services.

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 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.

Flora & Fauna

Construction of the proposed development will not require any removal/clearing of any significant vegetation.

Waste

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

Energy

The proposal includes measures to address energy efficiency and will be required to comply with the requirements of BASIX.

Noise & Vibration

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

Natural Hazards

Flooding is addressed in the LEP 2011 section of this report and the property is not identified as being bushfire prone.

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 and its' location the proposal is unlikely to result in any adverse social impacts.

Economic Impact in the Locality

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

Site Design and Internal Design

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

Construction

While there may be some standard short term impacts associated with a construction site (i.e. loss of off street parking due to construction workers, construction noise etc), no long term impacts to neighbouring properties will occur. In addition, standard conditions will be recommended to restrict hours of construction.

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:

It is considered that the proposal is consistent with other development in the area and will create no significant impact. The development satisfies relevant planning controls for the area and is not expected to impact adversely on the wider public interest.

Site constraints have also been adequately addressed and appropriate conditions of consent recommended.

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

Two written submissions were 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
Colour of the proposed roof additions is unknown. Will it be non reflective?	The new roof will be conditioned to a muted, non reflective colour.
Concern raised over use of metal roofing instead of tiles over the main part of the building and how it will blend in with the adjoining dwelling (i.e. while 18 & 20 Commodore are torrens titled they share a tiled roof in part).	The revised plans show that the tiles will be retained for the main part of the building with a metal roof being used to cover the alfresco area and eastern living room addition. It is noted that the above alfresco/living area already contains a metal roof and this is to be demolished and extended slightly. Based on the above, the works are not considered to impact on the adjoining property and will be consistent with what is already there. Regardless of the above, it should also be noted that the replacement of roofing can be done as exempt development. Therefore, either owner of 18 & 20 Commodore Crescent could change the roof without Council involvement.
The pool wall shall be visually amenable to the property to the west (20 Commodore Crescent).	The agreement to the subject boundary fence materials/colour will be subject to the Dividing Fences Act, which is not administered by Council.
Location of pool and wall to sewer should be to Council regulations.	Council's Sewer Section advised that the location of the works is acceptable, subject to a condition requiring engineering confirmation that no load will be placed on the sewer.
The rear work/additions should not impact on the structural integrity of 20 Commodore Crescent.	Being torrens title, the works on 18 Commodore Crescent should not impact on 20 Commodore Crescent. Both dwellings should be structurally independent. The owner/builder would be liable in the event of any damage caused by the development on the neighbouring property.

(e) The Public Interest:

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

The proposed development is consistent with the provisions of Deposited Plan 849392 and previous Deposited Plan 840701 with associated 88B instrument.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

There is an existing dwelling onsite with no additional dwellings or lots proposed. Therefore, contributions do not apply in this case.

5. CONCLUSION

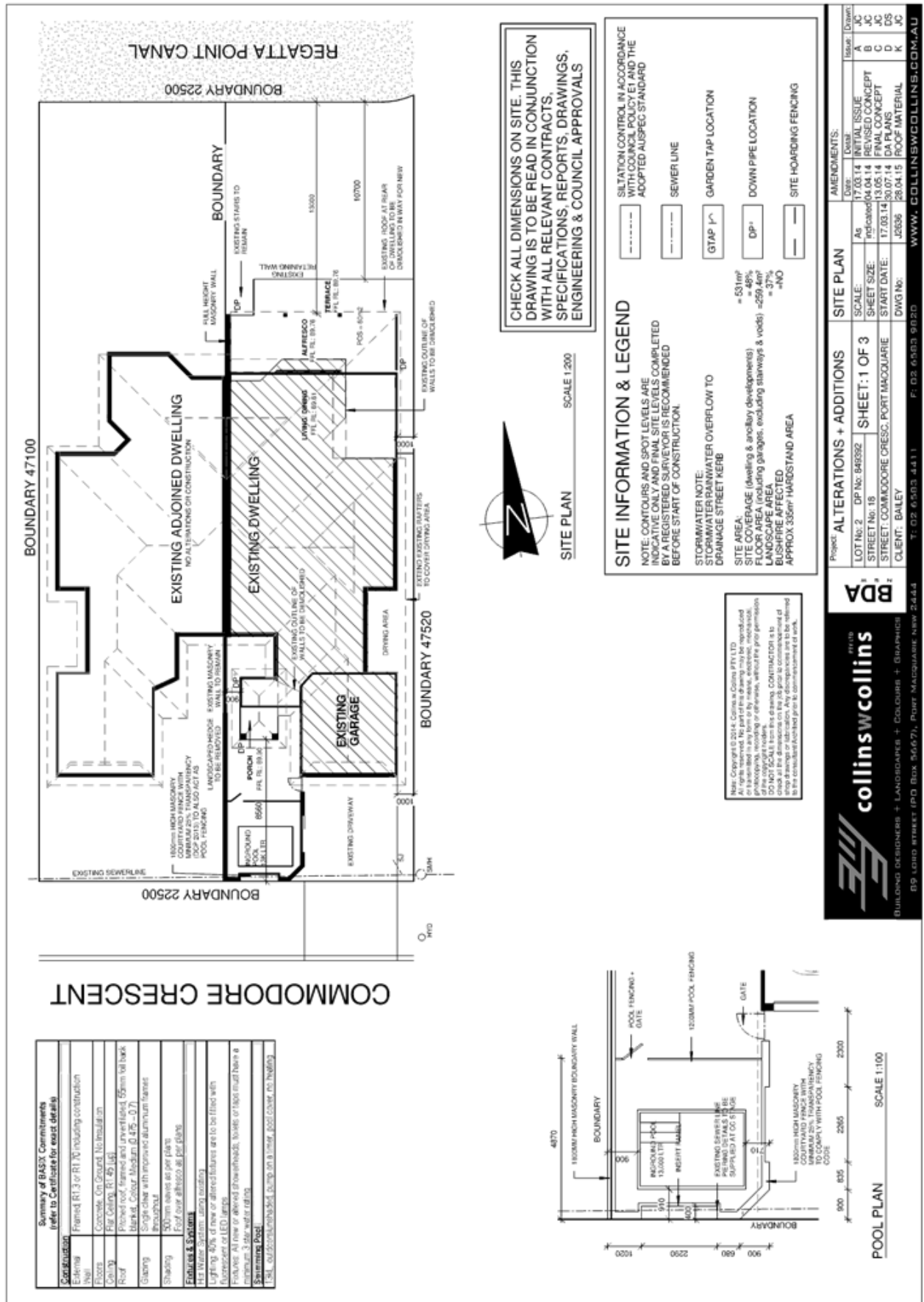
The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

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](#). DA2015 - 0231 Plans
- 2[View](#). DA2015 - 0231 Recommended Conditions
- 3[View](#). DA2015 - 0231 Submission - Allman
- 4[View](#). DA2015 - 0231 Submission - Thorn



**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2015/231****DATE: 27/5/2015****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 and DCP 2013 Compliance Table	J2636_DCP 2013 Compliance Table_RevMarch15	Collins W Collins Pty Ltd	March 2015
Plans	J2636 Sheet 1-3 of 3, Issue K	Collins W Collins Pty Ltd	28/4/2015
BASIX Certificate	Certificate A213053 No	Collins W Collins Pty Ltd	31/3/2015

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) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (4) (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;

3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
4. Building waste is to be managed via an appropriate receptacle;
5. 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.
6. 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.

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 any 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) (B038) Footings and/or concrete slabs of buildings adjacent to sewer lines are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- (3) (B069) Prior to release of the Construction Certificate and unless varied by Council staff, a practising chartered professional structural engineer is to provide certification to the PCA that the building and fence 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 including the relevant freeboard level of 900mm. 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 plus freeboard.
- (4) (B195) Prior to the release of the construction certificate, the plans are to be amended showing the roof will utilise non reflective materials.

C – PRIOR TO ANY WORK COMMENCING ON SITE

nil

D – DURING WORK

- (1) (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.

- (2) (D016) Where depth of water in the pool exceeds 300mm during construction a temporary barrier or fence in accordance with the current Swimming Pools Act and Regulations is to be erected or other precaution taken so as to prevent entry of children into the pool.
- (3) (D029) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601-1991: *The Demolition of Structures*. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

Should asbestos be present, its removal shall be carried out in accordance with the National OH&S Committee – *Code of Practice for Safe Removal of Asbestos* and *Code of Practice for the Management and Control of Asbestos in Workplaces*.

For further information on asbestos handling and safe removal practices refer to the following links:

[Safely disposing of asbestos waste from your home](#)

[Fibro & Asbestos - A Renovator and Homeowner's Guide](#)

[Asbestos Awareness](#)

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) (E021) Pool(s) to be fenced in accordance with the Swimming Pools Act, 1992.
- (3) (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.
- (4) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.

F – OCCUPATION OF THE SITE

- (1) (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.

From: Allman, Brad (Parramatta) AUS [REDACTED]
Sent: Monday, 27 April 2015 2:35 PM
To: Clinton Tink
Subject: FW: DRAFT RESPONSE RE: DA2015 - 231 additions to dwelling public notification documents

Re DA for 18 Commodore Crescent Port Macquarie I respond on behalf of my mother (Betty Allman) who owns 20 Commodore Cres (the other half of the duplex)

Hi Clinton

Thanks for your time the other morning and forwarding through the drawings and paperwork.
This has allowed me to have a discussion with Mr Bailey to clarify any grey areas that may have existed.

This has been talked about for some time and as such the final plan submitted does not reflect all the discussions held previously.
On these occasions Colin indicated he would be changing the roof on the main structure of the duplex on his side to iron. This would have had considerable impact on Mum's property as the roof is currently tiled and continuous across both properties. Mr Bailey has confirmed with me verbally on Friday that the main body of the roof would not be changed from tile and that he would probably re-seal and re-colour it instead. After discussion with his engineer he indicated an amendment would be forthcoming to the submitted plans early this week clarifying that position. As long as this occurs we have no issue

To summarize the development is in 2 main areas

- 1) The extension of the shared wall at the front of the two properties to allow Mr Bailey to build a pool. We have no objection to this as long as the finish on Mums side of the brick wall is visually amenable. I am sure there are council regulations regarding the proximity of the pool and brick wall to the sewer line and that this development is in accordance with them.
- 2) The removal of the "Spanline" roof at the rear of the property and replacement with Trimdeck at 4 degrees and the removal of a loadbearing wall to widen out the living area.

We have no objection to this as long as it has no effect on the structural integrity of Mum's property.

I re-iterate our position in relation to the roof. We do object if the tiles are to be removed and replaced with iron but trust Mr Bailey's word that this is not the case.

Regards Brad

Brad Allman

[REDACTED] [REDACTED]
-----Original Message-----
From: Clinton Tink [<mailto:Clinton.Tink@pmhc.nsw.gov.au>]
Sent: Wednesday, 22 April 2015 9:46 AM

To: Allman, Brad (Parramatta) AUS
Subject: DA2015 - 231 additions to dwelling public notification documents

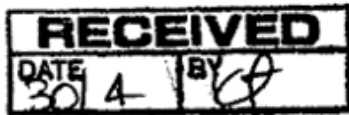
Hi Brad,

As requested, please find attached a copy of the exhibition material.

Should you have any questions, please call me on 65818538 or reply email.

Clinton Tink
Development Assessment Planner

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27904 3/16 Commodore

PORT MACQUARIE HASTINGS	
TRIM No	Thurs 30.4.15.
- 1 MAY 2015	
Keyword	
Activity	
Subject	
Folder	DA 2015 231 - 1

Port Mac. Hast. Council

Dev. & Env. Services

Clinton Turk.

Dear Sir.

I have received a notification of devel. proposal from you, concerning my neighbours in #18 Commodore! (Application #2015/231).

My only concern is the roof - knowing it is to be metal - When I reviewed the plans at council -

1. the colour was NOT mentioned.
2. I assume it WILL BE NON REFLECTIVE -

As I reside upstairs at #16 I could be affected by glare! I do spend much time outside on my balcony.

Hope you can resolve these queries for me - many thanks

Koem Hme 1 Nom.



#3/16 Commadore Cres.

Port Macquarie 2444.