

# Development Assessment Panel

# **Business Paper**

date of meeting: Wednesday 23 September 2015

Iocation: Function Room

**Port Macquarie-Hastings Council** 

17 Burrawan Street

**Port Macquarie** 

time: 2.00pm



# **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                       | 11/02/15 | 25/02/15 | 11/03/15 | 25/03/15 | 08/04/15 |
|------------------------------|----------|----------|----------|----------|----------|
| Paul Drake                   | ✓        | ✓        | ✓        | <b>✓</b> | <b>√</b> |
| Matt Rogers                  |          |          |          |          |          |
| Dan Croft                    | ✓        | ✓        | ✓        | <b>✓</b> | ✓        |
| Patrick Gailbraith-Robertson |          |          |          |          |          |
| (alternate)                  |          |          |          |          |          |
| David Fletcher               | Α        | ✓        | ✓        | <b>✓</b> | ✓        |
| Paul Biron (alternate)       |          |          |          |          |          |
| David Troemel                | Α        | Α        | <b>√</b> | <b>✓</b> | ✓        |
| Caroline Horan (alternate)   | ✓        |          |          |          |          |

| Member                       | 22/04/15 | 13/05/15 | 27/05/15 | 10/06/15 | 24/06/15 |
|------------------------------|----------|----------|----------|----------|----------|
| Paul Drake                   | <b>√</b> | ✓        | ✓        | <b>\</b> | <b>✓</b> |
| Matt Rogers                  |          |          |          |          |          |
| Dan Croft                    | <b>✓</b> | ✓        | ✓        | ✓        | ✓        |
| Patrick Gailbraith-Robertson |          |          |          |          |          |
| (alternate)                  |          |          |          |          |          |
| David Fletcher               | <b>✓</b> | ✓        | resigned | resigned | resigned |
| Paul Biron (alternate)       |          |          | resigned | resigned | resigned |
| David Troemel                | <b>✓</b> | <b>√</b> | Α        | <b>√</b> | <b>√</b> |
| Caroline Horan (alternate)   |          |          | ✓        |          | ļ        |

| Member                       | 08/07/15 | 22/07/15 | 12/08/15 | 26/08/15 | 09/09/15 |
|------------------------------|----------|----------|----------|----------|----------|
| Paul Drake                   | ✓        | ✓        | ✓        | <b>✓</b> | <b>✓</b> |
| Dan Croft                    | ✓        | ✓        | ✓        | <b>√</b> | ✓        |
| Patrick Gailbraith-Robertson |          |          |          |          |          |
| (alternate)                  |          |          |          |          |          |
| David Troemel                |          |          | ✓        | <b>✓</b> | <b>√</b> |
| Caroline Horan (alternate)   |          |          |          |          |          |
| Bevan Crofts (alternate)     | ✓        | ✓        |          |          |          |

**Key:** ✓ = Present

A = Absent With ApologyX = Absent Without Apology



# Development Assessment Panel Meeting Wednesday 23 September 2015

# **Items of Business**

| Item | Subject   | Page       |
|------|---|------------|
| 04   | A plus pulle decement of Country  | _          |
| 01   | Acknowledgement of Country  |            |
| 02   | Apologies   | <u>5</u>   |
| 03   | Confirmation of Minutes   | <u>5</u>   |
| 04   | Disclosures of Interest   | <u>11</u>  |
| 05   | DA2015 - 0350 - Dwelling and Swimming Pool Including Clause 4.6 Objection to Clause 4.3 (Height of Buildings) of the Port Macquarie- Hastings Local Environmental Plan 2011 at Lot 15 DP 1074785, No. 6 Ocean Ridge Terrace, Port Macquarie   | <u>15</u>  |
| 06   | DA2015 - 0448 - Relocation Of Cenotaph - Lot 7312 DP 1161732 Res 82306 & Horton Street Road Reserve, Horton Street, Port Macquarie  | <u>41</u>  |
| 07   | DA2015 - 0351 - Ancillary Building (Shed) - Lot 67 DP 1041677, No 46 Casuarina Drive, Lakewood.   | <u>131</u> |
| 08   | DA 2012 - 507 - Part Demolition of Existing Motel and Construction of Tourist and Visitor Accommodation and Ground Floor Commercial Tenancies including Clause 4.6 variation to Clause 4.3 (building heights standard) under Port Macquarie-Hastings Local Environmental Plan 2011 - Lot 1 DP 515434 and Lot 2 DP 505781, 25-29 Clarence Street, Port Macquarie | <u>154</u> |
| 09   | General Business  |            |



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

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 9 September 2015 be confirmed.





| PRESENT   |
|---|
| Members: Paul Drake Dan Croft David Troemel   |
| Other Attendees:  |
| Clinton Tink Steven Ford Chris Gardiner Pat Galbraith-Robertson                                   |
| The meeting opened at 2.05pm.   |
|   |
| 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 26 August 2015 be confirmed. |
| 04 DISCLOSURES OF INTEREST  |
| There were no disclosures of interest presented.  |



05 DA2014 - 0105 RESIDENTIAL FLAT BUILDING INCLUDING A CLAUSE 4.6
VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF PORT MACQUARIE
HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 - LOT 8 SECTION 23 DP
758853, 31 WAUGH STREET, PORT MACQUARIE

Speakers: Max Angel (o) Bob Nall (o) Ken Demlakian (applicant)

### **CONSENSUS:**

That DA 2014 - 0105 for a residential flat building including a Clause 4.6 variation to Clause 4.3 (height of buildings) of Port Macquarie Hastings Local Environmental Plan 2011 at Lot 8, Section 23, DP 758853, No. 31 Waugh Street, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Additional condition in Section E of the consent to read: 'Prior to issue of an
  occupation certificate, written advice is to be submitted by the electrical authority
  and telecommunications authority confirming that the respective services are
  available to each dwelling'.
- 06 DA2015 0361 MULTI DWELLING HOUSING AND TORRENS TITLE SUBDIVISION AT LOT 271 DP 236277, NO. 23 THE SUMMIT ROAD, PORT MACQUARIE

Speakers:

Rob Snow (applicant)

# **CONSENSUS:**

That DA 2015 - 0361 for multi dwelling housing and torrens title subdivision at Lot 271, DP 236277, No. 23 The Summit Road, Port Macquarie, be determined by granting consent subject to the recommended conditions.



# 07 DA2015 - 0474 SINGLE DWELLING, LOT B DP 387813, 43 THE PARADE NORTH HAVEN

Speakers: David McPherson (o) Rob Tate (applicant)

#### CONSENSUS:

That DA 2015 - 0474 for a single dwelling and ancillary shed at Lot B, DP 387813, No. 43 The Parade, North Haven, be determined by granting consent subject to the recommended conditions and as amended below:

- Additional condition in Section A of the consent to read: '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.'
- Additional condition in Section E of the consent to read: 'Prior to occupation or the
  issuing of the Occupation Certificate provision to the Principal Certifying Authority of
  documentation from Port Macquarie-Hastings Council being the local roads
  authority certifying that all matters required by the approval issued pursuant to
  Section 138 of the Roads Act have been satisfactorily completed.'

# 08 DA2015 - 0502 DEMOLITION OF DWELLING AND CONSTRUCTION OF DUAL OCCUPANCY WITH TORRENS TITLE SUBDIVISION, LOT 4 DP 21106, NO 58 HOME ST, PORT MACQUARIE

# CONSENSUS:

That DA 2015 - 0502 for Demolition of Dwelling and Construction of Dual Occupancy with Torrens Title Subdivision at Lot 4, DP 21106, No. 58 Home Street, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Additional condition in Section A of the consent to read: '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
- Additional condition in Section A of the consent to read '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.'

- Additional condition in Section B of the consent to read: 'Where augmentation is required on adjoining property, owner's consent shall be provided to Council with any Section 68 application and/or Construction Certificate application for subdivision works where augmentation is required on adjoining property including:
  - a. Council's sewer infrastructure (i.e. sewer junction, sideline or manhole)'
- Additional condition in Section E of the consent to read: '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.'
- Additional condition in Section E of the consent to read: 'Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.'
- Additional condition in Section E of the consent to read: 'Prior to the issue of a Subdivision Certificate, written advice is to be submitted from the electricity authority confirming that its requirements for the provision of electricity services (including street lighting where required) have been satisfied and/or from the telecommunications authority confirming that its requirements for the provision of telecommunication services (including fibre optic cabling where required) have been satisfied.'
- Additional condition in Section E of the consent to read: 'Lodgement of a security deposit with Council upon practical completion of the subdivision works.'
- Additional condition in Section E of the consent to read: '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.'

# 09 DA2015 - 0184 CHILDCARE CENTRE - 296 OXLEY HIGHWAY AND 1 FERNHILL ROAD, PORT MACQUARIE

# Speakers:

Natasha Alford (o) Margaret Kaye (o) James Munro (o) Julian Juls (o) Dave Smith (o) Steve Enders (applicant)

# **CONSENSUS:**

That DA 2015 - 0184 for a child care centre at Lots 5 and 6, DP 877124, No. 296 Oxley Highway and 1 Fernhill Road, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

 Additions condition in Section E of the consent to read; 'Car parking spaces numbered 17-21 are to be line marked and designated for staff parking'

| 10   | GENERAL BUSINESS |
|------|------------------|
| Nil. |                  |
|      |                  |

The meeting closed at 3.26pm.

Port Macquarie-Hastings Council

| Item:<br>Subject: | 04<br>DISCLOS                                 | SURES OF INTEREST  |
|-------------------|---|--|
| RECOM             | MENDATION                                     |  |
| That Dis          | closures of                                   | Interest be presented  |
|                   | DI  | SCLOSURE OF INTEREST DECLARATION   |
| Name of           | Meeting:                                      |  |
| Meeting           | Date:   |  |
| Item Nu           | mber:   |  |
| Subject           | :   |  |
| I,                |   | declare the following interest:  |
|                   | <b>Pecuniary:</b><br>Take no part<br>meeting. | in the consideration and voting and be out of sight of the                             |
|                   |   | ary - Significant Interest: in the consideration and voting and be out of sight of the |
|                   |   | ary - Less than Significant Interest: ate in consideration and voting.                 |
|                   |   |  |
|                   |   |  |
| Signed:           |   | Date:  |
| (Further          | explanation l                                 | is provided on the next page)  |

# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

### **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.



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# SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

| [insert name of environmental planning instrument]   |  |
|--|--|
| Which is to be considered at a meeting of the [insert name of meeting]   |  |
| Held on [insert date of meeting]   |  |
| PECUNIARY INTEREST   |  |
| Address of land in which councillor or associated person, company or body l proprietary interest (the identified lan   | has a  |
| Relationship of identified land to counce [Tick or cross one box.]   | □ 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).  |
|  | ☐ Associated person of councillor has interest in the land.  |
|  | ☐ Associated company or body of councillo  |
|  | has interest in the land.  |
| MATTER GIVING RISE TO PECU   |  |
| Nature of land that is subject to a char   | NIARY INTEREST   |
|  | NIARY INTEREST   |
| Nature of land that is subject to a char in zone/planning control by proposed LEP (the <b>subject land</b> [Tick or cross one box]  Current zone/planning control [Insert name of current planning instruand identify relevant zone/planning co  | NIARY INTEREST  The identified land.  Land that adjoins or is adjacent to or is in proximity to the identified land.   |
| Nature of land that is subject to a char in zone/planning control by proposed LEP (the subject land [Tick or cross one box]  Current zone/planning control [Insert name of current planning instruand identify relevant zone/planning coapplying to the subject land]  Proposed change of zone/planning coapproposed change change change change change  | NIARY INTEREST  The identified land.  Land that adjoins or is adjacent to or is in proximity to the identified land.  Imment Introlement   |
| Nature of land that is subject to a char in zone/planning control by proposed LEP (the subject land [Tick or cross one box]  Current zone/planning control [Insert name of current planning instruand identify relevant zone/planning coapplying to the subject land]  Proposed change of zone/planning coaplinsert name of proposed LEP and identify reproposed LEP and ident | NIARY INTEREST  The identified land.  Land that adjoins or is adjacent to or is in proximity to the identified land.  Imment Introlement Introduction Int |

# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

# **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.

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.



i. Section **443** (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative<sup>iv</sup> or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

ii. Section **442** of the *Local Government Act* 1993 provides that a *pecuniary interest* is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section **448** of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).

Item: 05

Subject: DA2015 - 0350 - DWELLING AND SWIMMING POOL INCLUDING

CLAUSE 4.6 OBJECTION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AT LOT 15 DP 1074785, NO. 6 OCEAN RIDGE TERRACE,

**PORT MACQUARIE** 

**Report Author: Chris Gardiner** 

Property: Lot 15 DP 1074785, No. 6 Ocean Ridge Terrace, Port

Macquarie

Applicant: A S & W M Evans

Owner: A S & W M Evans & Weshkeal Pty Ltd

Application Date: 26 May 2015 Estimated Cost: \$798,380

Location: Port Macquarie File no: DA2015 - 0350

Parcel no: 46394

# **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 2015 - 0350 for a Dwelling and Swimming Pool Including Clause 4.6 Objection to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 15, DP 1074785, No. 6 Ocean Ridge Terrace, Port Macquarie, be determined by granting consent subject to the recommended conditions.

# **Executive Summary**

This report considers a development application for a Dwelling and Swimming Pool Including Clause 4.6 Objection to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

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

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

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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.

# 1. BACKGROUND

# **Existing sites features and Surrounding development**

The site has an area of 704.5m<sup>2</sup>.

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:

Construction of a dwelling and swimming pool.

Refer to attachments at the end of this report.

# **Application Chronology**

- 26 May 2015 Application lodged.
- 2 June 2015 to 15 June 2015 Application publicly notified (one written submission received).
- 15 June 2015 Site inspected by assessing officer.
- 24 June 2015 Additional information requested from Applicant.
- 26 August 2015 Additional information and amended plans received from 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 44 - Koala Habitat Protection



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There is no Koala Plan of Management on the site. Additionally, the site is less than 1ha in area therefore no further investigations are required.

# 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 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.

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

A BASIX certificate (number 610219S) 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 R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the dwelling (or ancillary structure to a dwelling) is a permissible landuse with consent.

The objectives of the R1 zone are as follows:

- o 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 as it is a permissible landuse and consistent with the established residential locality. The proposal contributes to the range of housing available in the local government area.



• 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 as being 8.5m. The proposed development has maximum overall height of 10.1m in the south-west corner of the building, which exceeds the maximum permitted height by 1.6m (19% of the development standard).

The part of the building having a maximum height of up to 10.1m is part of a roof over the rear balcony. There is also a minor variation for a small section of roof over the 'Meals' room, which has a maximum height of 8.6m above existing ground level.

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 dwelling presents as single storey at the street frontage and two storeys at the rear where the land slopes away steeply. The floor space ratio of the dwelling is significantly below the maximum permitted for the area, and the bulk of the building is satisfactorily broken down by the building design. The proposed development is considered to be compatible with the character of the locality.

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

# Comment:

The part of the building exceeding the height limited is part of a roof over the rear balcony and a small section of roof over the 'Meals' room. These parts of the building are located at the rear of the site and would not have a significant visual impact.

The proposed variation does not result in any loss of solar access or loss of privacy to adjoining properties.

See detailed comments regarding disruption of views later in this report. The proposal is considered to be satisfactory in this regard.

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

## Comment:

Not applicable.



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

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

# Comment:

Nearby land in the locality is all subject to the same 8.5m height controls as the development site. The land is therefore not intended to provide a transition in land use intensity or built form to another area.

The applicant has lodged a written request in accordance with Clause 4.6 of the LEP objecting to the 8.5m building height standard applying to the site which is established under Clause 4.3 (see comments below).

- Clause 4.4, the floor space ratio of the proposal is 0.53:1 which complies with the maximum 0.65:1 floor space ratio applying to the site.
- 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 2.3 and 4.3 above, the proposed development would satisfactorily achieve the objectives of the R1 General Residential zone and Height of Buildings standards. It is therefore considered that the proposed variation is not contrary to the public interest.

The Applicant's written request has satisfactorily demonstrated that compliance with the development standard is unnecessary in the circumstances of the case as the proposal complies with the objectives of the development standard, despite the non-compliance with numerical controls.

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

- The site has a significant slope from front to rear and also a significant crossfall. There is a change in level of approximately 7.5m from the front of the site to the rear, and a 3m change in level across the site. The slope is particularly steep in the south-west corner of the site, where the non-compliance with the Height of Buildings standard occurs.
- The variation to the height of buildings would not result in any adverse amenity impacts in terms of privacy, solar access, visual impact, or disruption of views.
- The height, bulk and scale of the development are compatible with existing development in the locality.



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

It is therefore considered that the proposal satisfies the requirements of Clause 4.6 and it is recommended that the proposed variation be supported.

• 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 force:

# Port Macquarie-Hastings Development Control Plan 2013

|         | CP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling ouses & Ancillary development  |   |          |
|---------|--|---|----------|
|         | Requirements   | Proposed  | Complies |
| 3.2.2.2 | <ul> <li>Articulation zone:</li> <li>Min. 3m front setback</li> <li>An entry feature or portico</li> <li>A balcony, deck, patio, pergola, terrace or verandah</li> <li>A window box treatment</li> <li>A bay window or similar feature</li> <li>An awning or other feature over a window</li> <li>A sun shading feature</li> </ul> | Pergola structure over swimming pool at minimum 2.12m front setback.              | No*      |
|         | Front setback (Residential not R5 zone): • Min. 4.5m local road.   | 6.4m setback to local road.   | Yes      |
| 3.2.2.3 | Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided   | 7.04m setback and 4.92m pergola structure.  | Yes      |
|         | 6m max. width of garage door/s and 50% max. width of building  | 5.0m wide and 26% width of building.  | Yes      |
|         | Driveway crossover 1/3 max. of site frontage and max. 5.0m width   | 5m wide and 32% of site frontage.   | Yes      |
| 3.2.2.4 | 4m min. rear setback. Variation subject to site analysis and provision of private open space   | Minimum 3.11m rear setback to balcony and 4.11m rear setback to wall of dwelling. | No*      |
| 3.2.2.5 | Side setbacks:  • Ground floor = min. 0.9m  • First floors & above = min.  | Zero ground floor side setback to proposed covered barbeque area                  | No*      |

| houses 6 | & Ancillary development  |  |          |
|----------|--|--|----------|
|          | Requirements   | Proposed   | Complies |
|          | 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  | and pergola. Ground floor walls of the dwelling setback a minimum of 1.07m from the side boundaries.   |          |
|          |  | First floor side setback 1.21m to north-east boundary and 3.05m to south-west boundary. Reduced first floor setback to north-east boundary would not reduce solar access to adjoining properties.  Satisfactory wall articulation proposed for dwelling. |          |
| 3.2.2.6  | 35m2 min. private open space area including a useable 4x4m min. area which has 5% max. grade   | 42.5m² of ground level private open space at rear, plus first floor balcony of similar area, plus approximately 100m² in front courtyard. Private open space includes 4m x 4m area at maximum 5% grade and accessible from living area.                  | Yes      |
| 3.2.2.7  | Front fences:  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 | 1.8m high front fence built to the front boundary for less than 6m in length and including infill panels to achieve required 25% transparency. Remainder of front fence setback from boundary and landscaping provided forward of the fence.             | Yes      |
| 3.2.2.10 | Privacy:  • Direct views between living areas of adjacent dwellings screened when within 9m  | Privacy adequately protected through building design.  | Yes      |

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

| Requirements   | Proposed   | Complies |
|--|--|----------|
| 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 | Elevated rear balcony is setback more than 3m from the property boundary and does not require privacy screening. |          |

|         | Requirements   | Proposed   | Complies |
|---------|--|--|----------|
| 2.7.2.2 | Design addresses<br>generic principles of<br>Crime Prevention<br>Through Environmental<br>Design guideline | 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. | Yes      |
| 2.3.3.1 | Cut and fill 1.0m max. 1m outside the perimeter of the external building walls                             | Up to 2m of fill outside the perimeter walls.  | No*      |
| 2.3.3.2 | 1m max. height retaining walls along road frontage   | Retaining wall along north-<br>east boundary forward of<br>the dwelling is a maximum<br>of 0.7m high.  | Yes      |
|         | Any retaining wall >1.0 in height to be certified by structure engineer                                    | Condition recommended requiring certification of retaining walls higher than 1m.   | Yes      |
| 2.3.3.8 | Removal of hollow bearing trees  | None proposed to be removed.   | Yes      |
| 2.6.3.1 | Tree removal (3m or higher with 100mm diameter trunk at 1m above ground level and                          | None proposed to be removed.   | Yes      |



|          | Requirements   | Proposed   | Complies |
|----------|--|--|----------|
|          | 3m from external wall of existing dwelling)  |  |          |
| 2.4.3    | Bushfire risk, Acid<br>sulphate soils, Flooding,<br>Contamination, Airspace<br>protection, Noise and<br>Stormwater | Refer to main body of report.  |          |
| 2.5.3.2  | New accesses not permitted from arterial or distributor roads  | Access to local road.  | Yes      |
|          | Driveway crossing/s<br>minimal in number and<br>width including<br>maximising street parking                       | Single domestic driveway.<br>No significant loss of street<br>parking. | Yes      |
| 2.5.3.3  | Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)                         | Double garage.   | Yes      |
| 2.5.3.11 | Section 94 contributions   | Refer to main body of report.  |          |
| 2.5.3.14 | Sealed driveway surfaces unless justified  | Condition recommended requiring concrete surface.                      | Yes      |

The proposal seeks to vary Development Provision 3.2.2.2 in relation to the front setback of the proposed pergola structure over the swimming pool.

The relevant objective is that front setbacks should support attractive streetscapes.

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

- The setback of the structure ranges between 3m at the eastern end and 2.12m at the western end. The minor encroachment is partly due to the angular front boundary alignment.
- The pergola is an open, un-roofed structure and would be dominant in the streetscape.
- The proposed finished level of the outdoor area containing the pergola is below the street level and the structure would be substantially obscured from view behind the proposed front boundary fence.

The proposal seeks to vary Development Provision 3.2.2.4 in relation to the rear setback of part of the balcony.

The relevant objectives are:

- To allow natural light and ventilation between dwellings/buildings and to private open space areas.
- To provide useable yard areas and open space.

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

# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

- The rear balcony is a curved shape and a significant proportion of the structure complies with the minimum 4m rear setback.
- The balcony is an open structure and would not significantly affect natural light or ventilation between the development and neighbouring dwellings and open space.
- The development has been designed with its main outdoor space in the northeast corner of the site, where better solar access is available.

The proposal seeks to vary Development Provision 3.2.2.5 in relation to the proposed side setback of the covered barbeque area and pergola.

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 considered acceptable for the following reasons:

- The wall of the covered barbeque area has a length of 6.5m and a height ranging between 2.2m and 3.2m as is not considered to be perceived as bulky.
- The boundary wall does not contain any windows that would result in loss of visual or acoustic privacy.
- The wall is located adjacent to garage of the adjoining dwelling to the east and would not affect the amenity of any living areas.

The proposal seeks to vary Development Provision 2.3.3.1 in relation to the extent of fill proposed to be carried out more than 1m from the building walls.

The relevant objectives are to ensure that the building or structure integrates with the topography of the land to:

- Minimise the extent of site disturbance caused excessive cut and fill to the site.
- Ensure there is no damage or instability to adjoining properties caused by excavation or filling.
- Ensure that there is no adverse alteration to the drainage of adjoining properties.
- Ensure that privacy of adjoining dwellings and private open space are protected.
- Ensure that adequate stormwater drainage is provided around the perimeter of buildings and that overflow paths are provided.

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

- The slope of the site is particularly steep at the rear and filling to achieve a useable space is considered reasonable.
- The development is capable of achieving satisfactory stormwater drainage without impacting on neighbouring properties.
- Conditions have been recommended to ensure that retaining walls have appropriate engineering certification, to prevent damage or instability to adjoining property.
- The proposed filling would not result in significant adverse privacy impacts to adjoining property.



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

Based on the above assessment, the variations proposed to the provisions of the DCP are considered acceptable and the relevant objectives have been satisfied. Cumulatively, the variations do not amount to an adverse impact or a significance that would justify refusal of the application.

(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 <u>Coastal Protection Act 1979</u>), that apply to the land to which the development application relates:

No coastal zone management plan applies to the site.

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

# **Context & Setting**

The locality is characterised by one to three storey dwellings and dual occupancy developments. The land slopes towards the east and south and properties in the locality enjoy water views in these directions.

The site is burdened by a restriction on the use of land 1.5m wide adjacent to the rear boundary in the following terms:

No alterations to ground levels or installation of fences or structures that would obstruct the free flow of surface water is permitted within the area marked "C" without the consent of Hastings Council

The proposed retaining wall at the rear of the site is clear of the restricted area.

# Overshadowing

The proposal does not cause adverse overshadowing to adjoining living areas or main areas of private open space for more than 3 hours between 9.00am and 3.00pm on 21 June. The Applicant has submitted shadow diagrams for the development. These have been overlayed on aerial photography from Council's GIS to review impacts on neighbouring property.

The proposal would overshadow part of adjoining Lot 14 DP 1074785 (No. 4 Ocean Ridge Terrace) between 9.00am and 12.00pm. This site is currently vacant and there are no approvals on Council's records for residential development. The extent of overshadowing from the development is not likely to preclude a future dwelling on the adjoining property being designed to achieve satisfactory solar access to living area windows and private open space.



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

The development would also partially overshadow a north facing living room window in the dwelling on adjoining Lot 11 DP 835241 (13 Lillian Court) in the afternoon. However the overshadowing would not be for more than 3 hours between 9.00am and 3.00pm and is therefore considered to be satisfactory.

# **View Sharing**

The public exhibition of the proposal resulted in concerns being raised in relation to loss of views from the adjoining dwelling at No. 8 Ocean Ridge Terrace.

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 affected view is to the south-west and includes North Brother Mountain and the ocean. The ocean views do not include the interface between land and water. North Brother Mountain is considered iconic in the local context, while the ocean views are considered highly valuable.

#### 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 affected view is obtained from a sunroom in the dwelling at No. 8 Ocean Ridge Terrace across a side property boundary. Views are available from both standing and sitting positions, with sitting views towards North Brother Mountain slightly reduced due to existing trees on the western side of the development site.

As noted above views across side property boundaries are more difficult to protect and the expectation to retain side views is often unrealistic.

# 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



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comments: The proposed development would result in loss of views to North Brother Mountain to the south-west. Ocean views in this direction would be largely retained from most locations in the sunroom. No. 8 Ocean Ridge Terrace also enjoys significant views to the ocean and Tacking Point Lighthouse to the east. These views would be unaffected by the proposed development.

The overall impact on the existing extensive views is considered to be minor.

# 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 LEP maximum building height, as discussed earlier in this report. The non-compliant part of the building is a small section of roof over the rear balcony and a small section of the roof over the 'Meals' room. The section of roof over the balcony would be visible from the sunroom window of No. 8 Ocean Ridge Terrace. With the angle of the view, the balcony roof would project into the skyline, and is not considered to impact on the important elements of the view.

Of the four variations proposed to the DCP controls, only the rear setback of the balcony has the potential to impact on views. Variations to front and side setbacks and the extent of fill would have no impact on views. As noted above, the angle of the view would mean that the balcony roof would project into the skyline, and is not considered to impact on the important elements of the view. The development is therefore considered to be reasonable in this context.

Having regard to the planning principle, the view sharing of the proposed development is considered to be satisfactory.

# **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.

### Access

The development proposes a new access from Ocean Ridge Terrace. The submitted plans indicate that an AUSPEC compliant driveway profile is achievable. Details will be required with the Section 138 application.

# **Utilities**

Telecommunication and electricity services are available to the site.



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

### Stormwater

There is an existing interallotment drainage system at the rear of the site and the proposed development is capable of draining to this system. Details will be required with S.68 application.

The proposed retaining wall at the rear of the site will need to be designed to avoid any impact of the stormwater infrastructure in the south-west corner of the property. A condition is recommended confirming this requirement.

### Water

Service available – details required with S.68 application.

#### Sewer

Service available – details required with S.68 application.

The submitted plans show a retaining wall located over the sewer main and junction in the south-west corner of the site and in proximity to the vertical inspection shaft. Condition recommended requiring a minimum clearance of 1m between the retaining wall and vertical inspection shaft and for the retaining wall to be designed to avoid loads on the sewer infrastructure.

### 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 and therefore will be unlikely to have any significant adverse impacts on biodiversity or threatened species of flora and fauna. Section 5A of the Act is considered to be satisfied.

### Waste

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

# **Energy**

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 restricting construction to standard construction hours.

#### **Natural Hazards**

No natural hazards identified that would affect the proposed development.

# **Contamination Hazards**

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



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

# 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. 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:

One written submission has 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<br>Issue/Summary  | Planning Comment/Response  |
|--|--|
| Encroachment of wall on living room window of No. 8 Ocean Ridge Terrace - loss of light and views. | The northern wall of the proposed development would be separated by approximately 5m from the living room window, which is considered reasonable in an urban residential context. Submitted shadow diagrams indicate that the development would not overshadow the window between 9.00am and 3.00pm on 21 June.  See comments earlier in this report regarding view sharing. |
| Loss of property value   | A development of the nature proposed could be reasonably expected to be carried out on a vacant residential lot. No evidence has been provided to support the claim that property values of nearby land would be reduced.  |

# (e) The Public Interest:

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

### 4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will not 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 not be required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.

### 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.

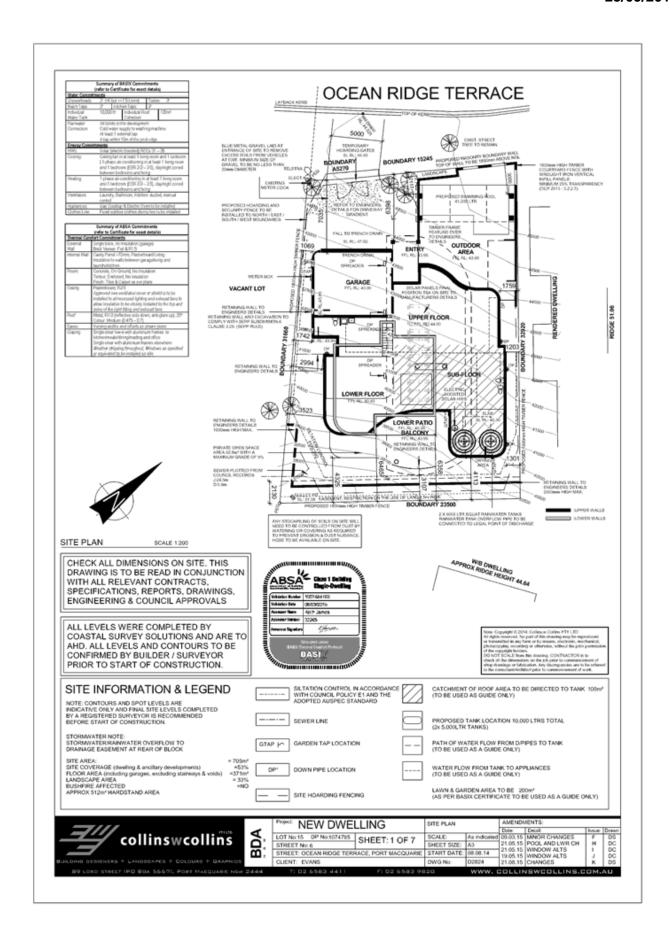
# **Attachments**

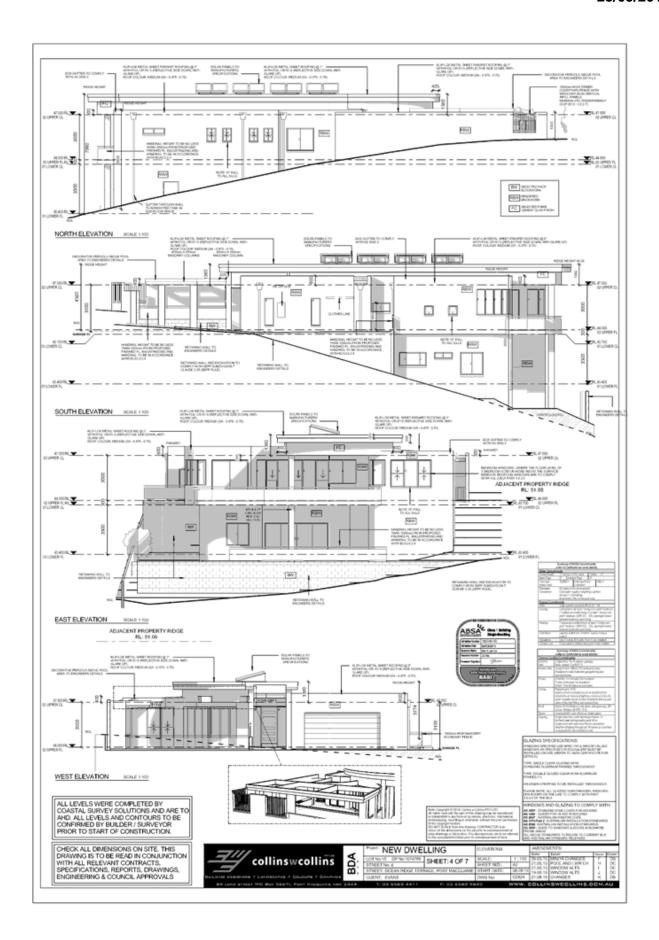
1View. DA2015 - 0350 Plans

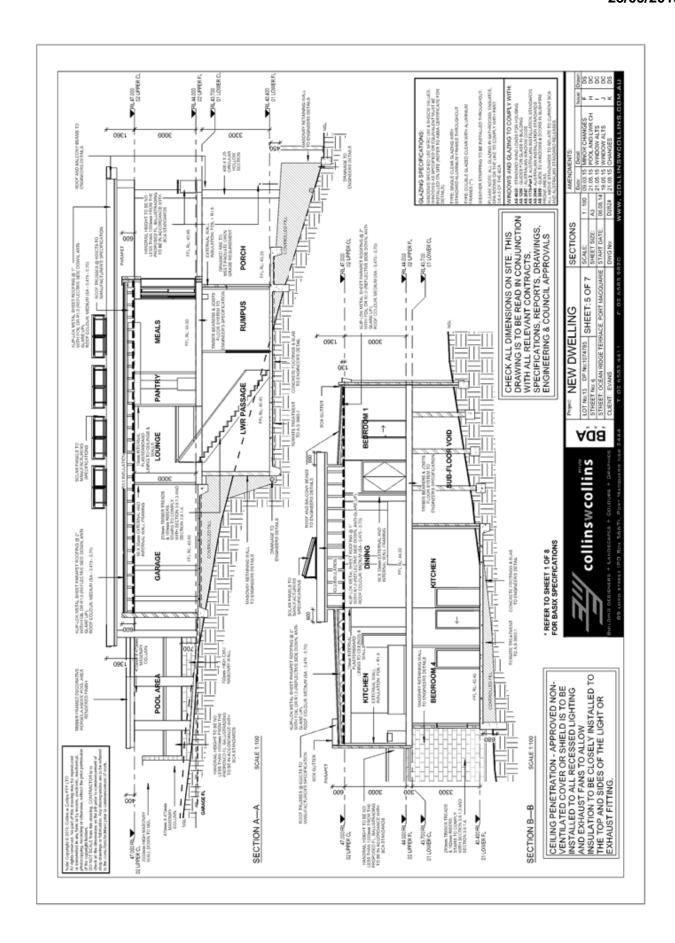
2View. DA2015 - 0350 Submission - Haire

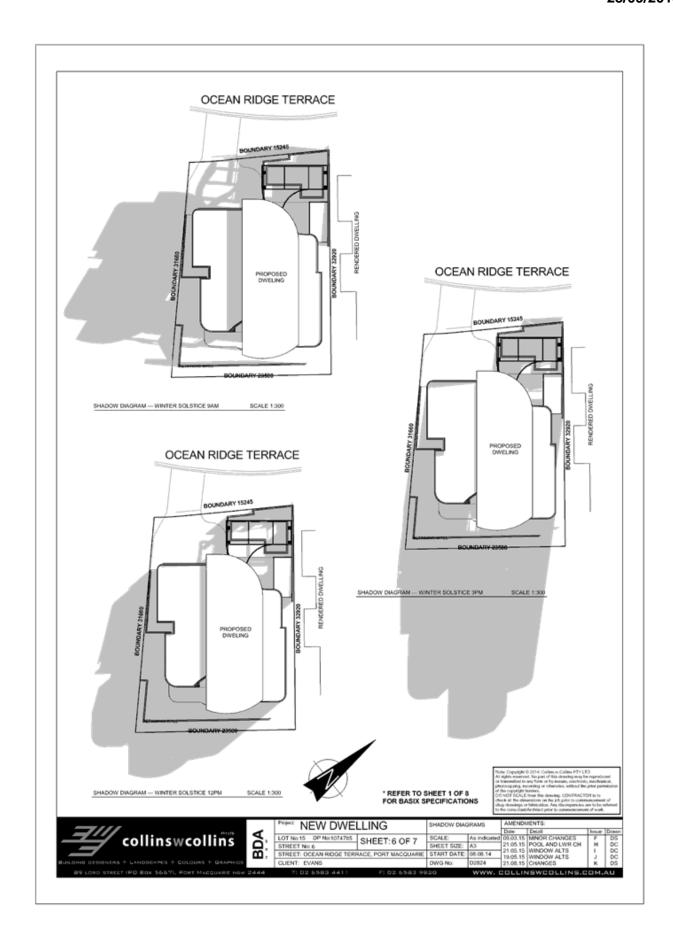
3View. DA2015 - 0350 Recommended Conditions











PORT MACOU > HASTIN TRIM No 1 6 JUN 2015 Activity Subject . Folder

15th June 2015

General Manager Port Macquarie Hastings Council PORT MACQUARIE NSW 2444

Dear Sir

Re: Development Proposal Lot: 15 DP: 1074785, 6 Ocean Ridge Terrace PORT MACQUARIE NSW 2444

As owners of a property adjacent to No. 10 Ocean Ridge Terrace, we are concerned re the situation of the brick wall encroaching on the one window which will eliminate light considerably to this room.

This is of great concern as this is the main living area of my family room,

We also brought to your attention the effect this would have on resale value of our property at some future date.

Thankyou for your condsideration before allowing builing to proceed.

Yours faithfully

S. Haire DJ & SM Haire

8 Ocean Ridge Terrace

PORT MACQUARIE NSW 24444

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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2015/350 DATE: 11/09/2015

#### 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<br>Document | Reference                      | Prepared by                  | Date           |
|-------------------------------|--------------------------------|------------------------------|----------------|
| Architectural Plans           | D2824 Sheets 1 to<br>6 Issue K | Collins W Collins<br>Pty Ltd | 21 August 2015 |
| Clause 4.6<br>Objection       | Job 6584                       | Love Project<br>Management   | August 2015    |
| BASIX Certificate             | 610219S                        | Collins W Collins<br>Pty Ltd | 9 March 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:
  - a. the appointment of a Principal Certifying Authority; and
  - b. the date on which work will commence.

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

- (3) (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;
  - 2. 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;
  - 4. Building waste is to be managed via an appropriate receptacle;
  - Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

- Building work being limited to the following hours, unless otherwise permitted by Council;
  - Monday to Saturday from 7.00am to 6.00pm
  - No work to be carried out on Sunday or public holidays

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

(4) (A057) The applicant is to ensure the proposed development will drain to the existing point of connection to Council's sewerage system.

#### **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) (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:

- Footway and gutter crossing
- Functional vehicular access
- (3) (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.
- (4) (B042) A certificate from an approved practising chartered professional civil and/or structural engineer certifying the structural adequacy of any proposed retaining wall exceeding 1 metre in height is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
- (5) (B195) The proposed retaining wall in the south-west corner of the site shall be located a minimum of 1 metre from the sewer vertical inspection shaft (VIS). Details are to be submitted for 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) (C015) Tree protection fencing, compliant with AS 4970/2009 Protection of trees on development sites must be provided. The fencing shall be in place prior to the commencement of any works or soil disturbance and maintained for the entirety of the works.

#### **D - DURING WORK**

- (D002) Fill material shall not raise the existing surface level within the area burdened by restriction on the use of land marked "C" on DP 1074785.
- (2) (D003) The site is in an area known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
- (3) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (4) (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) (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.
- (6) (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.
- (7) (D042) The washing of equipment and/or the disposal of building materials, including cement slurry, shall not occur within the drip line of any tree that has been nominated for retention on the site or adjacent land.
- (8) (D043) Any damage to a tree nominated for retention/protection during the construction phase shall be treated by an Arborist with a minimum qualification AQF level 5 (diploma level) or an international qualification considered equivalent by Council, or a person deemed suitable by Council at the developer's expense.
- (9) (D050) The capacity and effectiveness of tree protection fencing, compliant with AS 4970/2009 Protection of trees on development sites shall be maintained at all times in accordance with the approved management plan until such time as the site is no longer subject to any construction or earth moving works.

#### E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (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) (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).
- (3) (E021) The swimming pool is to be fenced in accordance with the Swimming Pools Act 1992.

- (4) (E022) Depth markers are to be installed on the swimming pool.
- (5) (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.
- (6) (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.
- (7) (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.
- (8) (E061) Landscaped areas being completed prior to occupation or issue of the Occupation Certificate.

#### F - OCCUPATION OF THE SITE

- (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (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.

Item: 06

Subject: DA2015 - 0448 - RELOCATION OF CENOTAPH - LOT 7312 DP

1161732 RES 82306 & HORTON STREET ROAD RESERVE, HORTON

STREET, PORT MACQUARIE

**Report Author: Jesse Dick** 

Property: Lot 7312 DP 1161732 RES 82306 & Horton St Road Reserve

Applicant: RSL Sub Branch (Port Macquarie) c/- Jeff Gillespie

Owner: Port Macquarie-Hastings Council

Application Date: 29 June 2015

Estimated Cost: \$30,000

Location: Port Macquarie File no: DA2015 - 0448

Parcel no: 61692 and Adjacent Road Reserve

## **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 2015 - 0448 for Relocation of the Port Macquarie Cenotaph at Lot 7312, DP1161732, Horton Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

## **Executive Summary**

This report considers a Development Application for the relocation of the Port Macquarie Cenotaph (War Memorial) from its current location on Town Green to the intersection of Clarence and Horton Streets (southern end of the future Horton Street - Town Square plaza precinct) and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition and advertisement of the application, five (5) submissions were received.

In accordance with the Development Applications - Conflict of Interest Policy, as the application relates to development on Council land and there have been objections, the matter must be reported to Council for determination.

#### In accordance

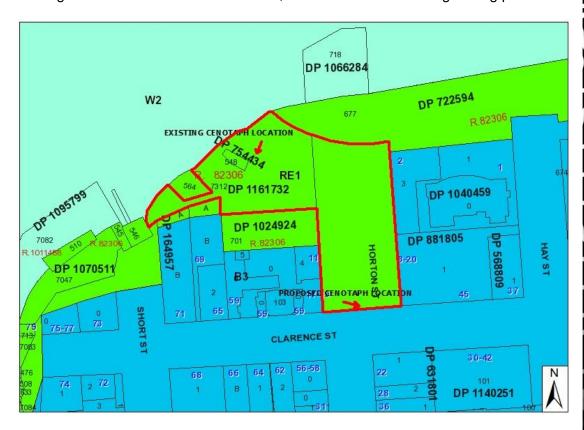
## 1. BACKGROUND



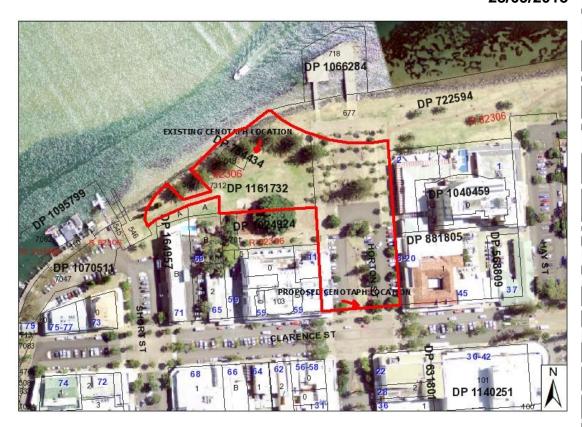
## **Existing sites features and Surrounding development**

The lot which the cenotaph currently situated upon has an area of 4008m². The cenotaph will be located within the proposed 'Town Square' precinct which will have an area of approximately 3500m². Note: this area only includes the Town Square precinct plaza area only, the total area surrounding the site; including the Horton / Clarence Street road reserve areas (which are anticipated to be available in special ceremonial occasions - ANZAC day etc) totals approximately 4500m².

Both sites are zoned RE1 - Public Recreation in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



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



#### 2. **DESCRIPTION OF DEVELOPMENT**

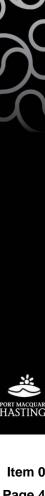
Key aspects of the proposal include the following:

- Removal of the cenotaph from its current location on Town Green.
- Restoration of the current cenotaph site so that it is reverted back to a grassed open area.
- Offsite repair of the cenotaph prior to its re-installation on the new site.
- Installation of the cenotaph at its new location at the southern end of the future 'Town Square' precinct on the intersection of Clarence and Horton Streets.
- Integration of the cenotaph into the future 'Town Square' precinct. Conditions of consent have been recommended so that the cenotaph can only be relocated once the Town Square detailed design plans have been finalised.

Refer to attachments at the end of this report for further details, including the concept plans for the Town Square precinct upgrade.

## **Application Chronology**

- 29/6/2015 Application Lodged with Council.
- 1/7/2015 Notification of neighbours undertaken.
- 6/7/2015 Application referred to OEH (Heritage Council) under Clause 5.10 (7) of the LEP.
- 10/7/2015 24/7/2015 Advertisement of application.
- 14/7/2015 Council's Heritage Adviser reviewed the application & provided comment.
- 17/7/2015 21/7/2015 Submissions Received.
- 22/7/2015 Application considered by Town Centre Masterplan Committee.
- 24/7/2015 Application forwarded to Essential Energy.



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

 1/9/2015 - Comments received from Office of Environment Heritage (Heritage Council).

### 3. STATUTORY ASSESSMENT

## **Section 79C(1) Matters for Consideration**

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

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

(i) any Environmental Planning Instrument:

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

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

## State Environmental Planning Policy No. 62 – Sustainable Aquaculture

In accordance with clause 15C, given the nature of the proposed development, proposed stormwater controls and its' location, the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries within the nearby Hastings River approximately 12m to the north of 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.

The site is further identified as being within a sensitive coastal location in accordance with clause 18 of SEPP 71 (land within 100m of mean high water mark of an estuary bay - in this case, the Hastings River).

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

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

- a) any restricted access (or opportunities for access) to the coastal foreshore (see comments under DCP assessment below);
- b) any identifiable adverse amenity impacts along the coastal foreshore and on the scenic qualities of the coast (see comments under DCP assessment below);
- 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 (including Aboriginal / European) - (See comments under 'Heritage' heading below);
- g) reduce the quality of the natural water bodies in the locality (due to effluent & stormwater disposal, construction impacts, landuse conflicts);
- h) adverse cumulative impacts of the proposed development on the environment;
- i) development within a zone to be consented to as if it were in a neighbouring zone.



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

 j) development relying on flexible zone provisions. (refer to clause 5.3 of LEP 2011 -Development near zone boundaries unable to be undertaken when SEPP 71 applies).

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

## State Environmental Planning Policy (Infrastructure) 2007

The application has not been referred to the NSW Roads and Maritime Service (RMS) as the Horton Street / Clarence Street intersection is a local road under the ownership and control of PMHC.

## 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 RE1 - Public Recreation. In accordance with clause 2.3(1) and the RE1 zone landuse table, the proposed development for a Cenotaph is best characterised as a 'community facility', which is a permissible landuse with consent.

The objectives of the RE1 zone are as follows:

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

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

- the proposal is a permissible landuse;
- the proposal directly contributes to the significance of the recreational public open space and is a highly valued item.

In accordance with Clause 4.3, the maximum overall height of the structure above ground level (existing) is 6.8m (approx). There is no maximum standard height limit applying to the site.

In accordance with 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 addressed below, however none apply to the site.

In accordance with Clause 5.9 - No listed trees in Development Control Plan 2013 require removal. However an existing Street Tree (Tuckeroo - Cupaniopsis Anacardiodes) which is located in close proximity to the proposed cenotaph will ultimately require removal once the cenotaph is constructed. The application has been referred to the Parks & Gardens Section of Council for comment and no issue was raised to the potential removal of this tree. It is noted that the long term Town Square concept plan shows this tree as being removed, therefore it is likely that regardless of this application the tree will require removal in the near future.

In accordance with Clause 5.10 – Heritage. The site contain and adjoins known heritage items or sites of significance. See comments under 'Heritage' section below. The development is considered to satisfy the requirements of this section of the LEP.

# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

In accordance with Clause 7.1, the site is mapped as potentially containing class 3 acid sulfate soils. However the proposed development does not include any excavation extending 1.0m below the natural surface level, therefore no adverse impacts are expected to occur to the acid sulphate soils found on site.

(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:

## Port Macquarie-Hastings Development Control Plan 2013

No specific development controls apply to this development under DCP 2013.

The development is considered to meet the overall objectives of the Port Macquarie Town Centre precinct controls. The development meets the provisions of the Town Centre precinct by providing the following:

- The development facilitates a range of other functions that are imperative to the social fabric the Port Macquarie—Hastings region.
- The development allows the town centre to function as an environment that provides opportunities for social interaction and engagement, for recreation and for entertainment.
- The development enhances the town centre by providing a cultural quality which contributes towards the natural, architectural and social qualities that abound within the CBD.
- (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 & Assessment Officers Assessment Table under section (b) for assessment against Coastal Policy Objectives)

## Demolition of buildings AS 2601 - CI 66 (b)

Demolition of any existing structures (Pebblecrete pavement etc) which are not proposed to be relocated with the Cenotaph are capable of being demolished in compliance with this Australian Standard.

v) any coastal zone management plan (within the meaning of the <u>Coastal Protection Act 1979</u>), 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 street frontage orientation to the Horton and Clarence Street Intersection & the Town Green precinct.

The existing cenotaph site is located within the Town Green precinct. The proposed cenotaph site will be located within the Town Square precinct. The cenotaph is proposed to be located within the southern extremity of the Town Square near the intersection of Horton & Clarence Streets.

Adjoining the site to the west is an existing residential and commercial building (Quay North) comprising multiple units and commercial uses over 5 storeys. Adjoining the site to the east and south are the Heritage Listed Macquarie Hotel Building and the Ritz Cinema Buildings respectively. Adjoining the site to the north is the Town Green Precinct and Lady Nelson Wharf.

With regard to the nearby built Heritage items it is anticipated that the proposed cenotaph location will not adversely impact on the heritage significance of these structures. The Ritz Theatre, the Royal Hotel and the Macquarie Hotel are all items of local environmental significance and are in the immediate vicinity of the proposed relocated cenotaph. The proposed location is considered to be compatible with these buildings given that there will be no adverse impacts on views from the proposed location of the cenotaph towards the heritage items, nor from the heritage items towards the cenotaph.

It is considered that the proposed cenotaph location will be well situated in terms of context and setting with regard to the Town Square upgrade concept plans.

It is also considered that the proposed location of the cenotaph is desirable given that the cenotaph will be within 20m to its original location when unveiled in 1921.

Conditions of consent have been recommended to ensure the relocation of the cenotaph is integrated into the final designs for the Town Square.

## **Access, Transport & Traffic**

The proposal will be unlikely to have any adverse impacts within the immediate locality in terms access, transport and traffic.

The concept plans for the Town Square precinct show the cenotaph being located within a plaza space which is largely used as a carpark/roadway, however when necessary it can be used as an open space area which is not accessible to traffic.

The concept plans for the Town Square show the cenotaph being located within an open strip which is accessible to pedestrians at all times. This location is conducive to foot traffic as it will be located near the informal crossing points at the Horton/Clarence Street intersections and will encourage visitation of the cenotaph.

### **Water Supply Connection**

A water service is available to the road reserve within which the cenotaph is proposed to be located. The application does not propose a water supply connection, however Council staff have requested that a hose cock be provided in proximity of the cenotaph to aid in maintenance of the structure and its surroundings. Water servicing will be dealt with throughout the formulation of the final detailed design plans for the Town square precinct.

## Heritage

Following a site inspection (and a search of Council records), known items of Aboriginal heritage and European heritage significance exist on the existing/proposed subject sites. A search of Council's archaeological mapping shows that the development site has the potential to contain archaeological items associated with the use of the site during the convict era. An aboriginal grave has also been located nearby and is located within a garden bed at the northern extremity of Horton Street.

Council's Heritage Advisor has assessed the application and raised no objection to the works proposed. However some omissions and oversights were noted and have been required to be addressed in subsequent plans (see points 1-5 below). The development has been conditioned so that the Heritage Advisor's comments, suggestions and requests are met prior to works commencing. Refer to attached conditions for details.

The Heritage Advisor's comments were as follows:

This area is close to the original location of the Memorial, which was located in the centre of the abovementioned intersection. So its repositioning is in line with good interpretation policy.

Earlier discussions were held in February 2015 with Council staff to identify any heritage related issues arising from the proposed relocation and new location of the War Memorial "Cenotaph".

The issues raised have been generally addressed in the documentation that accompanied the Development Application.

Public consultation has not been addressed in the documentation however there have been local newspaper articles relating to the Memorial and its impending move as well as the advertising required in the DA assessment process.

The Office of Environment and Heritage have been provided with the DA submission and invited to comment. As the site is in the area of Item S.08 of the Archaeological Management Plan, the OEH may have some recommendations further to those stated in the SOHI and the AMP.

From the documentation provided there are a number of questions to be answered to clarify the ultimate arrangement and design of the re-sited memorial.

- 1. The flagpoles form an inseparable part of the memorial. They should be incorporated within the enclosure and the paving selected, extended around the base of the flagpoles.
- 2. There is no indication of a lighting design, for security and as highlighting the memorial at night as a landmark element.
- 3. The raised Bluestone/Basalt base course with raking sides is considered appropriate particularly as the memorial will be in close proximity to vehicular traffic and the intersection of Clarence and Horton Streets.
- 4. This end of Horton Street has developed into a focal urban space within the CBD and the location selected for the Memorial provides better circulation, and visibility within the townscape.
- 5. The detailed design for the Horton Street upgrade is still in progress, and the paving material and colour has not been selected. It is considered that the

# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

paving for the Memorial area should be of a noble material and compatible with the materiality of the monument. Materials should also be locally sourced if possible. Any pebble-crete or concrete paving is not considered to be appropriate. My suggestion is for a honed basalt similar to the proposed base stone.

Beyond this, I don't believe there are any heritage related issues that would preclude the relocation of the Memorial to its proposed location

## **Pedestrians and Public Domain**

The proposed site for the cenotaph is a within prominent position in the streetscape and within an area that will cater well with crowds that attend ANZAC Day and other commemorative services.

The proposal is considered appropriate as the memorial will be located within a new purposely designed plaza that is anticipated to better cater for the expected increase in attendances at special commemorative services. It is expected that once the cenotaph is relocated it will be in a prominent position which in itself will ensure the long term survival of the cenotaph as it will provide for enhanced usage capacity.

#### Water

The proposed development will be unlikely to have any adverse impacts on water resources and the water cycle subject to implementation of standard conditions requiring sediment and erosion control.

#### Soils

The proposed development will be unlikely to have any adverse impacts on soils in terms of erosion and stability.

#### Air & Micro-climate

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 adverse impacts on biodiversity or threatened species of flora and fauna.

## Waste

No adverse impacts anticipated.

#### **Noise & Vibration**

No adverse noise or vibration impacts are expected as a result of undertaking the development.

## **Natural Hazards**

No natural hazards have been identified which would be prohibitive to the carrying out of this development.

### **Contamination Hazards**

The site is not identified as being contaminated.

## Safety, Security & Crime Prevention



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

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. There is good casual surveillance of the cenotaph.

## **Social Impact in the Locality**

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

## **Economic Impact in the Locality**

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

## **Site Design and Internal Design**

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

#### Construction

Whilst it is acknowledged that the potential for adverse impacts on neighbouring properties exists with the construction of the proposal, the impacts are considered acceptable due to the short term nature of the construction activities required on site.

## **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 proposed development is compatible with other development in the area and directly contributes to the purpose and function of the recreational open space.

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

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

Five (5) 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**

The War Memorial should be left where it is. The Town Green is a better place to take crowds of people. Port Macquarie is growing fast and to move it would be a waste of money. Spend the money on a garden around the Memorial

### **Planning Comment/Response**

See comments under 'Pedestrians and Public Domain' heading above.

The proposed location for the cenotaph is considered to be more conducive to large crowds. The cenotaph will be located within an open plaza adjacent to the Horton/Gordon Street intersection, which, when closed off on special ceremonial occasions, will provide a larger area for public



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

gatherings than is currently provided by the current Town Green location.

While the cost of the development is not a matter for consideration in the determination of the development application, it should be noted that the RSL are the application and the Council will not be funding the proposal.

I do not agree to the new location as it is hard enough for motorists to travel along Horton Street now and if the community was to lose more car parking places it would be stupidity. I think it would be better left where it is or take it away from the town centre all together. I do believe we should remember the fallen soldiers as my grandfather was in the first world war. Port Macquarie has a problem with parking as it is and I would prefer to see it in a more suitable place.

Based on the concept plans for the Town Square precinct there will be no net loss in parking spaces available within the northern end of Horton Street. The proposed cenotaph location does not result in a reduction in available spaces the northern end of Horton Street.

The cenotaph is already in a perfect spot to allow for public access at all times and is located with a perfect backdrop for commemoration ceremonies. Don't waste money needlessly moving it. Put the money to better use fixing the roads in and around Port Macquarie.

Refer to above comments.

I think this is an ideal position for the Memorial. I came to Port in 1949 and that is where it was then so I know it will work.

Noted.

The proposal of putting it on the corner of Horton St and Clarence St, I think is a very good move.

Noted.

## (e) The Public Interest:

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

### 4. DEVELOPMENT CONTRIBUTIONS APPLICABLE



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

Development contributions are not required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.

Development contributions are not required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, 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**

1View. DA2015 - 0448 Plans

2View. DA2015 - 0448 Recommended Conditions.pdf

3<u>View</u>. DA2015 - 0448 Statement of Heritage Impact - Relocation of War Memorial, Port Macquarie

4View. DA2015 - 0448 Town Square Detail Concept Design

5View. DA2015 - 0448 Submission - Cook

6View. DA2015 - 0448 Submission - Doyle

7View. DA2015 - 0448 Submission - Hackett

8View. DA2015 - 0448 Submission - Hall

9View. DA2015 - 0448 Submission - Leeson

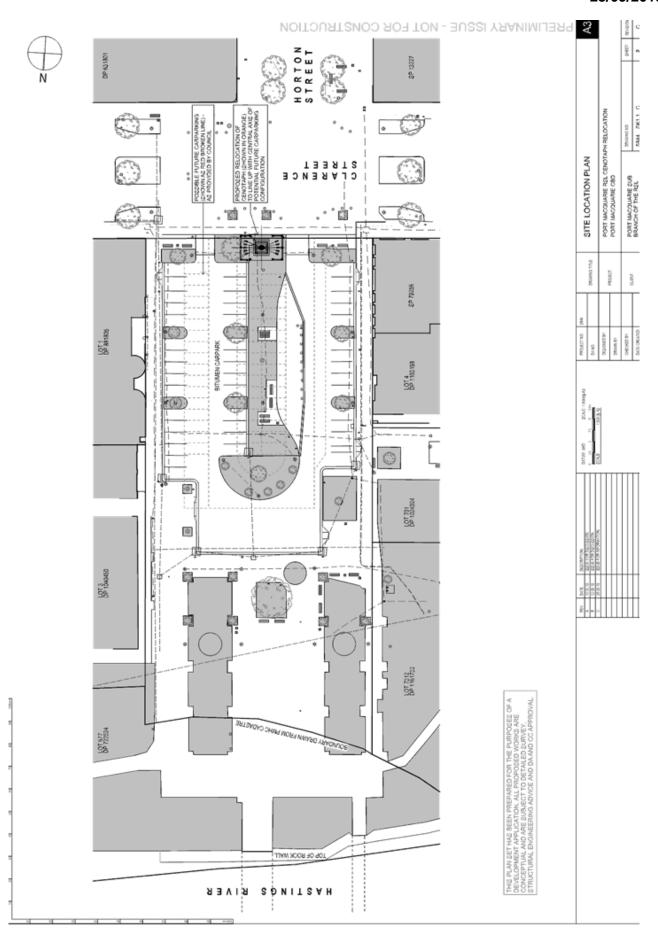


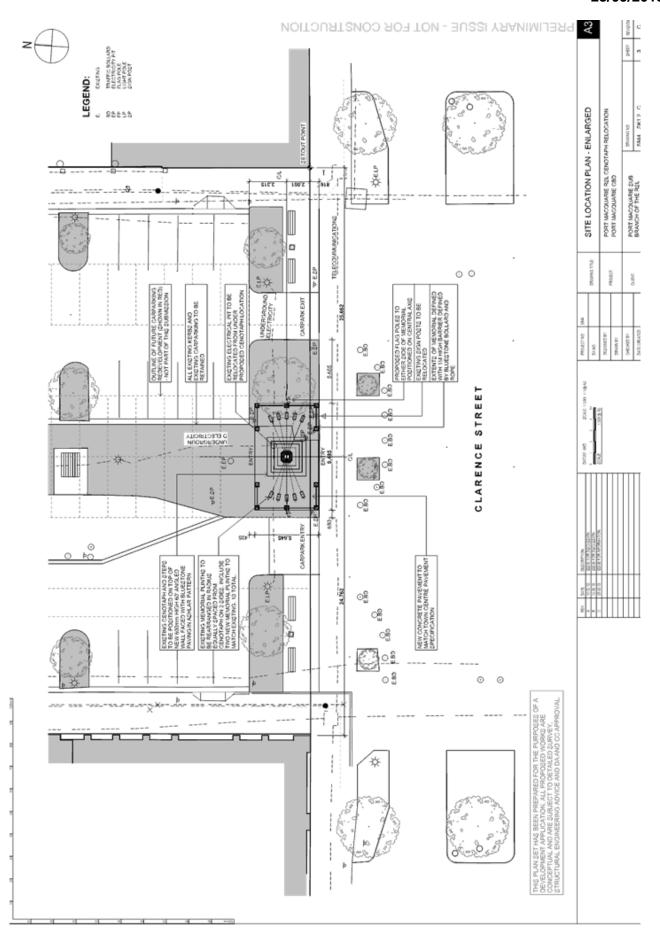
SHEET 1

PORT MACQUARIE RSL CENOTAPH RELOCATION PORT MACQUARIE CBD

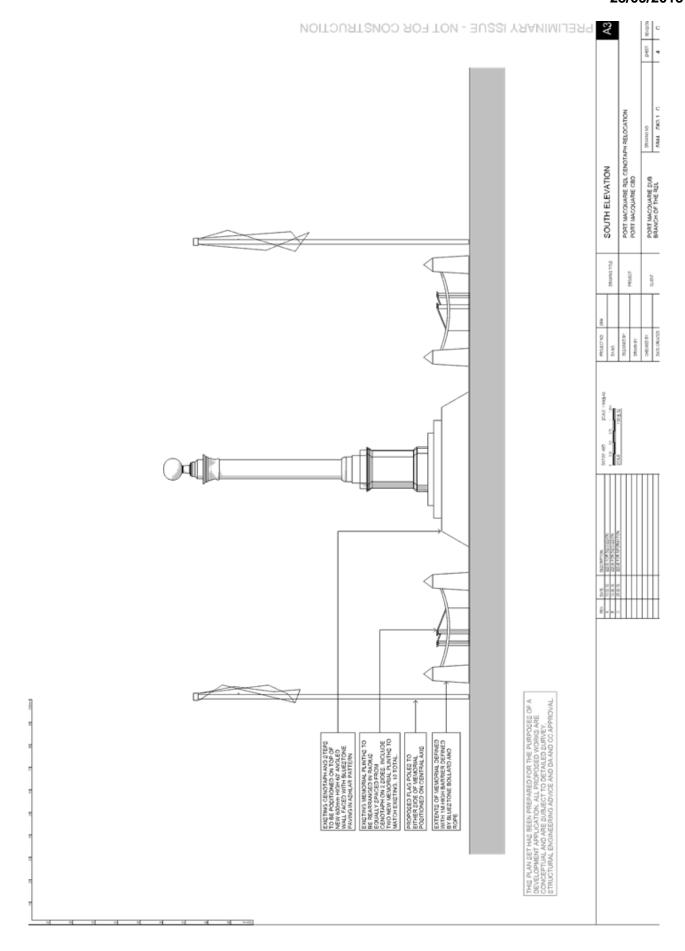
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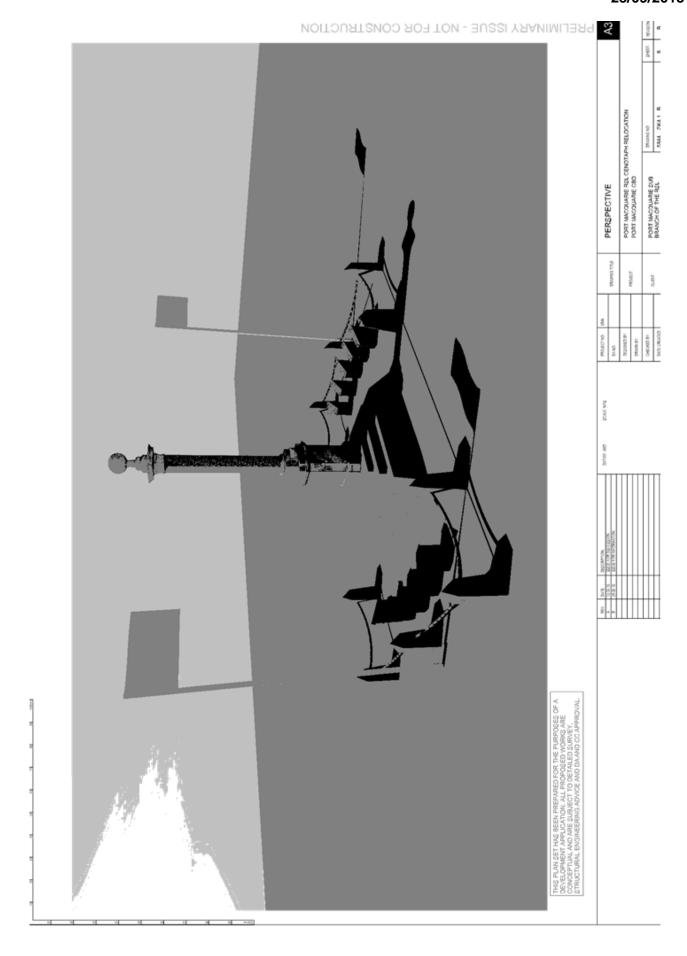
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Page 55





NOITOURTENOO ROT FOR CONSTRUCTION

S PRELIMINARY ISSUE - NOT FOR CONSTRUCTION

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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2015/448 DATE: 1/09/2015

#### 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<br>Document    | Reference | Prepared by                         | Date         |  |
|----------------------------------|-----------|-------------------------------------|--------------|--|
| Site Location Plan               | SK1.1_C   | Unknown                             | No Date      |  |
| Site Location Plan<br>(Enlarged) | SK1.2_C   | Unknown                             | No Date      |  |
| South Elevation                  | SK3.1_C   | Unknown                             | No Date      |  |
| Statement of Heritage<br>Impacts |           | Port Macquarie<br>Hastings Heritage | June<br>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) (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;
  - 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.
  - 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.

- (3) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (4) (A013) The general terms of approval from the following authorities, as referred to in section 93 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.
  - NSW Office of Environment and Heritage The General Terms of Approval, Reference DOC15/255336 and dated (21 AUGUST, 2015), are attached and form part of this consent.
- (5) (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.
- (6) (A077) Trees growing on the land on which the structure is erected or on adjoining land must not be damaged as a result of the erection or use of the structure.
- (7) (A195) The flagpoles should be incorporated within the enclosure and the paving (as selected) must extend around the base of the flagpoles.
- (8) (A196) A lighting design which highlights the memorial at night as a landmark must be provided with the application for a Construction Certificate.
- (9) (A197) Pebblecrete or concrete paving is not considered to be an appropriate pavement treatment for the cenotaph. Final selection of the pavement material should not involve either of these two surface treatments. Final selection of the pavement material must be made in discussion with and agreed to by relevant Council Staff once the Horton Street - Town Square design plans are finalised.
- (10) (A198) A power outlet (GPO) and water supply to a hose cock should be provided within the vicinity of the memorial. Final location details must be made in discussion with relevant Council Staff.
- (11) A(198) Removal (or otherwise) of the nearby Street Tree Tuckeroo (Cupaniopsis Anarcardiodes) must be discussed with relevant Council Staff prior to commencement of works within the Horton Street road reserve.
- (12) A(199) The final detailed design of the cenotaph must be integrated into the final design of the surrounding Horton Street - Town Square upgrade. Cenotaph design plans showing the structure integrated into the final Town Square design must be submitted to Council for approval prior to any relocation and/or construction works commencing on the cenotaph.
- (13) A(200) The existing cenotaph site must be re established as an open grassed area to the satisfaction of Council.
- (14) A(201) The existing cenotaph site should be demarcated with a marker or plaque or similar as record of the cenotaph's previous location on Town Green. Discussion should be made with relevant Council staff and Council's Heritage Adviser.
- (15) A(202) before any relocation work commences, the following is to be undertaken
  - · the new site is to be prepared before dismantling occurs;
  - a detailed schedule of works for dismantling, moving, temporary storage (if required) and re-erecting the cenotaph is to be prepared;
  - · identify any restoration work needed;

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

- (1) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DOS:
  - Location of all existing and proposed utility services including:
    - Conduits for electricity supply and communication services (including fibre optic cable).
  - 2. Traffic management control plan in accordance with dated .
  - Erection of hoardings and buildings in and/over the public road space in accordance with dated.
- (2) (8006) 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:

- Traffic management
- · Work zone areas
- Hoardings

#### 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.

## D - DURING WORK

- (1) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (2) (D033) Should any Aboriginal objects be discovered in any areas of the site then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service, Department of Environment and Conservation is to be informed in accordance with Section 91 of the National Parks and Wildlife Act 1974. Subject to an assessment of the extent, integrity and significance of any exposed objects, applications under either Section 87 or Section 90 of the National Parks and Wildlife Act 1974 may be required before work resumes.

### E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (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) If any archaeological artefacts are uncovered, 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) (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.

- (4) (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:
  - The relocation of underground services where required by civil works being carried out.
  - b. The relocation of street lighting
  - The matching of new infrastructure into existing or future design infrastructure

#### F - OCCUPATION OF THE SITE

- F(195) After relocation, a management plan should be established for the future maintenance of the cenotaph.
- (2) F(196) The RSL Sub-Branch should advise the State Library of NSW (Digital & Library Systems) and the Office of Environment & Heritage (OEH) of the war memorial's relocation and provide them with information to assist them to update their records of the New South Wales Register of War Memorials and Heritage Inventory Data Sheets.





proposed relocation of war memorial

Town Green Horton St, Port Macquarie

Port Macquarie Hastings Heritage

> PO Box 9495 Port Macquarie. NSW 2444

Ph: 0447 429 016

June 2015

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Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

### 1. Introduction

Port Macquarie Hastings Heritage has been commissioned by the Port Macquarie RSL Sub-Branch to prepare this Statement of Heritage Impact for the proposed relocation of the war memorial from the Town Green foreshore to within a proposed Town Green plaza.

This Statement is a requirement of Port Macquarie-Hastings Council.

## 1.1 Authorship

This report has been prepared by Mitch McKay of Port Macquarie Hastings Heritage.

Prior to establishing Port Macquarie Hastings Heritage in 2009 Mitch, who has a town planning background, was the Heritage Officer at Port Macquarie-Hastings Council for 10 years.

Since establishing the practice Mitch has been responsible for preparing Statements of Heritage Impact for items of State and local heritage significance, Heritage Assessments for items of local significance and grant applications for items of State heritage significance. Mitch is also Heritage Advisor to a number of Councils in New South Wales.

## 1.2 Methodology

This report draws on the guidelines from the NSW Heritage Office on Statements of Heritage Impact.

Preparation of this report involved the following:

- an on-site visit,
- · review of relevant documents as identified in the References section of this report.

## 2. Background

# 2.1 Status of the site, its zoning and the status of adjoining heritage sites

The war memorial, which is the subject of this report, is an item of local environmental heritage under Port Macquarie-Hastings Local Environment Plan (LEP) 2011.

Under the LEP the war memorial is on land zoned RE1 Public Recreation and will also be on land in the same zoning if relocated.

The item is identified below:

#### Schedule 5 Environmental heritage

(Clause 5.10)

#### Part 1 Heritage items

| Suburb            | Item name    | Address                       | Property description  | Significance | Item no |
|-------------------|--------------|-------------------------------|---|--------------|---------|
| Port<br>Macquarie | War Memorial | Horton Street<br>(Town Green) | Lot 548, DP<br>754434; Reserve<br>No 82306, Lot<br>7048, DP 1070509 | Local        | 1061    |

There are also two items of environmental heritage in the vicinity of the proposed to be relocated war memorial as well as an archaeological site - of built form.

### Part 1 Heritage items

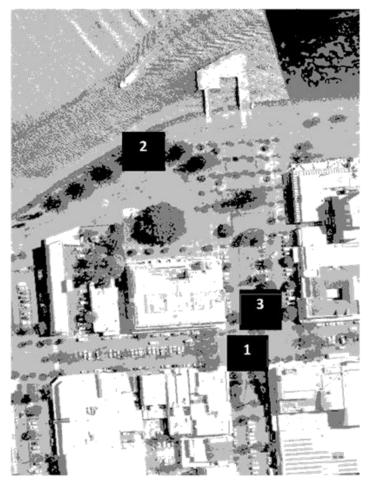
| Suburb            | Item name               | Address                | Property description                  | Significance Item no |      |
|-------------------|-------------------------|------------------------|---------------------------------------|----------------------|------|
| Port<br>Macquarie | Macquarie<br>Hotel      | 8 Horton Street        | Lot 1, DP 881805                      | Local                | 1052 |
| Port<br>Macquarie | Ritz Theatre<br>Complex | 22–28 Horton<br>Street | Lot 1, DP 631801;<br>Lot 2, DP 631810 | Local                | 1053 |

### Part 3 Archaeological sites

| Suburb            | Item name   | Address         | Property<br>description | Significance | Item no |
|-------------------|-------------|-----------------|-------------------------|--------------|---------|
| Port<br>Macquarie | Royal Hotel | 2 Horton Street | Lot 3, DP 1040459       | Local        | A039    |

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

### Location of War Memorial



Map source: Port Macquarie Hastings Council

- 1. Original location
- 2. Current location
- 3. Proposed location

## 2.2 Statutory documents that affect the site

This Statement of Heritage Impact has been prepared in compliance with the requirements of Port Macquarie-Hastings Local Environment Plan (LEP) 2011.

The following is the relevant extract from the LEP that applies to development with respect to Heritage Impact.

#### 5.10 Heritage conservation

**Note.** Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the <u>Heritage Map</u> as well as being described in Schedule 5.

#### (1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Port Macquarie-Hastings,
- to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

#### (2) Requirement for consent

Development consent is required for any of the following:

- demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
  - (i) a heritage item,
  - (ii) an Aboriginal object,
  - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
  - on which a heritage item is located or that is within a heritage conservation area, or
  - on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land:
  - on which a heritage item is located or that is within a heritage conservation area, or

Port Macquarie Hastings Heritage posed relocation of war memorial

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Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

#### (3) When consent not required

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
  - is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
  - (ii) would not adversely affect the heritage significance of the heritage item,
     Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
  - is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
  - would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

### (4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

#### (5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

#### (6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

#### (7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the <u>Heritage Act 1977</u> applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

#### (8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the
  place and any Aboriginal object known or reasonably likely to be located at the place by
  means of an adequate investigation and assessment (which may involve consideration
  of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

#### (9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and
- take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

#### (10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

### 2.3 Port Macquarie's early history and relevant studies

The town of Port Macquarie was discovered by the Surveyor-General John Oxley in 1818. Lachlan Macquarie, then Governor of New South Wales, was impressed by reports of the area noting its valuable timber reserves, its suitable farm lands, and its seaboard location for ready passage by ship to and from Sydney.

Port Macquarie was established in 1821 as a place of secondary punishment within the News South Wales convict system, one of only two places for secondary punishment of convicts in New South Wales outside Sydney. a role it served until 1832. By the mid-1820s the convict population was at its greatest with almost 1,500 men engaged in public works, timber getting and various agricultural enterprises at a number of outstations. The settlement assumed a more permanent form when the military, convicts and civil officials housed in separate areas.

In 1830 Port Macquarie was officially opened to free settlement and in 1831 a town plan on a grid layout was imposed over the rudimentary street plan of the penal settlement. Port Macquarie was closed as a place of secondary punishment in 1832 but while a town open to free settlement it was also a convict depot for specials, the sick, infirmed and insane until 1847.

Over the ensuing years it gradually developed into a fishing village and a quiet holiday destination. With the expansion of the Pacific Highway in the 1950s Port Macquarie developed as a coastal resort town and eventually in to one of the fastest growing regional centres in New South Wales.

However, by the early 1990s Port Macquarie's town centre was in a state of decline due to high rents, the fragmentation of the town centre due to the construction of the Settlement City shopping complex in the Westport area and major businesses with large staff, including Council, relocating their offices out of the town centre.

Realising that businesses needed to be attracted back into the town centre the Port Macquarie Chamber of Commerce and Council developed the Port Macquarie Town Centre Masterplan in 1992. The Plan's objective was to create a 'visually attractive town centre that was vibrant, safe, pleasant for users and enhanced business opportunities for the benefit of the community.' Streetscape works identified in the Plan commenced in 1995 and continue today.

It was during this period that Council engaged Suters Architects Snell to prepare the Hastings Heritage Study. The study identified and analysed the environmental heritage of the Hastings as well as made practical recommendations for its conservation and management.

The study identified the war memorial as a site that should be included as an item of heritage significance within the Local Environmental Plan (LEP) and also identified the importance of the Port Macquarie town centre as an archaeological resource of the town's convict period.

Following on from the Heritage Study in 1994 Council engaged Edward Higginbotham and Associates Pty Ltd to prepare an Archaeological Management Plan for Port Macquarie. This plan identified sites of archaeological significance and provided strategies aimed at ensuring that the town's unique archaeological resources were managed properly.

Council continues to review the Town Centre Masterplan.

These documents and the implementation of their recommendations has not only helped to revitalise the Port Macquarie town centre but has made locals and visitors alike more aware of the town's history turning Port Macquarie into a cultural tourist destination.

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# 2.4 History of the war memorial

During the First World War, also known as the Great War, a temporary Honour Board had been established by the community to acknowledge those who had served their country. At that time a promise was made by the local citizens to establish a fitting permanent memorial to "the boys who had fought for them".

Moves were made to form a Citizens Committee to manage the erection of a suitable monument even before the armistice was signed in 1918. A committee was eventually established and meetings were held under the title "Port Macquarie Soldiers Memorial" and the primary purpose was to organise the collection of donations for the erection of a suitable monument.

In an endeavour to compile an accurate list of those whose names should be inscribed on the memorial The Port Macquarie News & Hastings River Advocate published an invitation to parents or other citizens to forward to the Committee the names of soldiers from the town and district.

In late 1918 the committee made an application for permission to raise money to erect a war memorial but the Department of Repatriation refused to grant permission. However, by February 1919 the embargo had been lifted.

In 1919 discussion took place on the opinion expressed by the public and elsewhere that the public wanted a hall instead of a monument but after a review by the committee the committee unanimously agreed that it had been appointed by the public of Port Macquarie for the definite purpose of erecting a monument at the intersection of Horton and Clarence Streets and for no other purpose. The design sub-committee was directed to invite competitive designs in granite or trachyte that would cost in the vicinity of £400 to £500. This figure was later revised to £600 but this price did not include the cost of inscribing the names of the expected soldiers

The site chosen for the memorial was at the intersection of Horton and Clarence Streets with the backdrop being the Post Office, which has since been demolished. It was considered to be the prime position in the town at the time. Being at the northern end of the town's main thoroughfare the monument complemented the vista of the historic cemetery which was and still is located on the knoll at the southern end of Horton Street.

Other towns and villages within the district were asked to unite and support the erection of one monument which would be emblazoned with the name of every district man who went to the war. As Port Macquarie was the oldest settled part of the district, and had made a good start with the fund, it was requested that others in the district support the proposal to erect a District Soldiers Memorial in the town.

As required at the time, sketch plans of the intended memorial were forwarded to the War Memorial Advisory Board in Sydney, together with a sketch of the proposed site. The monument design, which was initially prepared by the contractor Mr. Alfred Goode, was later modified under advice from the Ministry of Local Government.

Permission for the proposal to proceed was also obtained from the local Council.

During October 1920 it was reported that subscriptions were forthcoming and a meeting of all interested parties was held. The Committee instructed its Secretary to inform the contractor, Mr. Goode, of the acceptance of his plan and estimate and to ask him to proceed with the construction, with the proposed completion date to be 1 April of the following year.

On 30 March 1921 the war memorial was unveiled as part of the Centenary of Port Macquarie celebrations.

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As its centrepiece the memorial consists of a traditional Doric column which was highly polished and carved from a single piece of stone ten feet six inches (3.23metres) high and one foot six inches (0.46metres) in diameter. Atop the column is mounted, on a carved stone base, a sphere representing the universe with the continents said to be depicted. This feature is not readily seen from the ground today.

The column is mounted on a pedestal of three steps, the whole being architecturally correct, both in design and proportion. The stone used is a combination of Bowral trachyte and Aberdeen red granite, partly polished and partly fine axed.

What is not clear is whether the word soldier was meant to include men from the local area who had enlisted in the navy or the infant Australian Flying Corp. or, indeed, the young women who served in the Nursing Corps.

There is no record of why the Citizens Committee that had been formed to plan for the intended monument, continued to call it "The Soldiers Memorial" or why no mention was made of those who served in the other services including the Australian Army Nursing Service.

Records also do not show if the original plans included the erection of a complimentary stone and chain fence around the squared off base of the memorial. Early photographs depict rough carved stone corner and centre posts with smooth pyramid shaped tops, connected together with a steel link chain. Centre posts at the southern end formed a gateway to the base of the monument. The addition of the chain acted as a barrier to anyone using the memorial for any activity other than its intended purpose.

However, we do know that the memorial was built on time although the Committee had a shortfall of £60 in its funds. However, on the afternoon of the unveiling and while the crowd was gathered at the monument an appeal was made for contributions of cash to defray the £60 shortfall and it was pleasing to note that this quite considerable sum was collected in a few minutes.

The memorial, now free of debt, was then formally handed over to the Mayor, as the people's representative, with the expressed hope than Council would always see that it was well cared for.

At the time of the unveiling of the memorial the chosen position could be seen by almost every traveller using the Pacific Highway, which then ran through the town.

A picnic site adjacent to the memorial, looking on to the Hastings River and well shaded by tall pine trees provided an excellent spot for weary travellers to enjoy their break.

At the time no consideration was given to recording the names of previous sons of Port Macquarie who had served the Empire in other conflicts. Records showed that at least 27 local men and boys served in the Boer War of 1899-1902 but no memorial had previously been erected to commemorate their commitment and apparently no consideration was given to including their names on the new memorial.



Photograph dated 1921 Unveiling of War Memorial



Photograph undated
War Memorial intersection of Horton and Clarence trets looking south down Horton Street

The names of 254 personnel who were known to have enlisted in the First World War were graven into the stone in the form of an Honour Roll. The edifice is also a memorial to the 51 local servicemen who paid the supreme sacrifice and they are especially recognised by a star which has been carved following their name.

On one side of the base is inscribed "Erected to Commemorate the Great War 1914-1919 and the Victory of the Allies" and on another side "Unveiled on Port Macquarie Centenary 30/3/21 J.H. Hill Mayor."

It is interesting that there was no move to form a committee to arrange for the erection of a memorial to those men and women who served following the cessation of the Second World War in 1945.

On 1 August 1949 a public meeting was called to discuss renovating the Soldiers' Memorial by making the names carved in gold leaf but was adjourned due to a lack of public interest. The Council having called tenders for doing the names on the monument – one tender of £121/15/for gold leaf and £57/10/- for bronze paint. At that same meeting a suggestion was put forward to remove the memorial to a site next to the band rotunda so that drivers "who didn't like the posts surrounding the memorial wouldn't have to knock them down."

During the late 1950s it was found that the site was too small for the number of people who gathered for ceremonial occasions and neither shade nor room for the placement of chairs for the needy were available.

In 1961 plans were initiated to relocate the memorial. One of the sites recommended by Council was on reclaimed land fronting Kooloonbung Creek opposite the then RSL club in Short Street. This was rejected by the RSL Sub-Branch as being "most unsuitable."



Photograph dated 1964 War Memorial intersection of Horton and Clarence Streets looking south down Horton Street.

By 1969 a much more aesthetically appropriate location was identified. It was described as "beautiful and ideal" and one that would add dignity to the edifice. This site was approved by both the RSL Sub-Branch and Council and is the memorial's current location.

The cost to relocate the memorial was \$1,300 - the RSL Sub-Branch contributing \$500.

The memorial had to be dismantled and this was not without drama. One of the features of the column is a globe with the continents in relief, representing the world, cemented to its top. To the dismay of the contractors, the world was found to be upside down when it was re-erected and careful chiselling had to be done to put the matter right. Letters form part of a sentence that runs at an angle across the map — 'They crossed the ocean.'

The memorial was also altered when it was relocated. The stone and chain fence was removed and a concrete block was placed under the memorial. Forming a 'first step' to the structure. The base was painted green and gardens were laid at each corner and planted with rosemary – the flower of remembrance.

On 7 November 1969 a re-dedication ceremony was conducted with three chaplains. Archdeacon Warr (Church of England), Father Mills (Roman Catholic) and Reverend Allan (Presbyterian) officiating.

In 1997 a Commonwealth program titled "Their Service Our Heritage" was established with the intention of encouraging local communities to commemorate the memory of all who served Australia during times of war. Small cash grants were made available for projects that met the criteria.

The Port Macquarie RSL Sub-Branch formed a sub-committee with the purpose of researching the best way of having our local men and women who served in all services and in all conflicts recognised publicly in a permanent manner. A decision was reached to apply for funding to have the present memorial, still historically called the Soldiers Memorial restored to a suitable condition and to be enhanced with the names of all those who served in the forces in all conflicts both before and since the original dedication.

Following the receipt of a Commonwealth Grant of \$3,000, the project was launched publicly through the formation of a Citizens War Memorial Committee. This was done because the memorial belongs to the citizens of Port Macquarie and not the RSL Sub-Branch.

Research by members of the Port Macquarie Historical Society confirmed that the names of several local citizens who served in the First World War had not been recorded on the memorial. This situation could now be rectified and their names added along with the names of those who had served in later wars or conflicts or in support of more recent United Nations activities as well as the names of those who served during the Boer War 1899-1902.

In September 1997 the committee commenced the task of gathering additional names.

As there was no space available on the existing memorial a suitable adjunct had to be designed and the committee decided to conduct a design competition. The design by local artist Gloria

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie 1.4

# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

Muddle was selected. Her concept was slightly modified to meet criteria laid down by the committee and then it was further developed by Council.

The result was the replacement of the four garden beds and the installation of a circular pavement of Kempsey Cream exposed aggregate and paving blocks, following the same colours as those adopted in the Town Centre Masterplan work, and eight pedestals constructed from Imperial Black granite placed on the northern side of the original memorial with the additional names cast in bronze and attached to the pedestals.

There are also three round Imperial Black granite plaques inlaid in the circular pavement commemorating the Australian Army, Royal Australian Navy and the Royal Australian Air Force.

The memorial now takes account of all conflicts involving Australians from the Boer War onwards.

The restoration and enhancement was completed during October 2000 at a cost \$32,000 which was met from the Commonwealth Grant of \$3,000 and donations from the community. The memorial was again re-dedicated in November 2000.

It should be noted that by 1999 only two small bronze plaques were attached to the sides of the memorial. One plaque reads:

World War II 1939-1945, Egypt, Libya, Greece, Crete, Syria, Papua New Guinea, Bougainville, Borneo, Malaya, Singapore, on all the oceans and in the air.

In memory of those who served Australia in the armed forces - monument dedicated July 1969

Similar plaques have since been added and read:

"Korea War 1950-1953, "Kapyong 25<sup>th</sup> April 1951", "Sarawon" "Chongju" "Pakchon" "Chaum-Ni" and "Malaya Anti Terrorist Operations 1950-1957"

Vietnam War 1962-1973 "Long Tan", "Saigon", "Nui Dat", "Vung Tau."

# 3. The current setting

The war memorial is situated on what is known as Town Green, a large block of land overlooking the Hastings River in the town centre of Port Macquarie.

The immediate landscape is dominated by several Norfolk Island pines in various stages of maturity. The site's landmark setting is enhanced by two large Norfolk Island pines.

The war memorial is located within a circular pavement of Kempsey Cream exposed aggregate and paving blocks, following the same colours as those adopted in the Town Centre Masterplan work. There are eight pedestals constructed from Imperial Black granite placed on the northern side of the original memorial with the additional names cast in bronze and attached to the pedestals and three round Imperial Black granite plaques inlaid in the circular pavement commemorating the Australian Army, Royal Australian Navy and the Royal Australian Air Force on the southern side of original memorial.

In addition there are two flagpoles located in front of the war memorial on the southern side.

The war memorial is set well away from the items identified as being of environmental heritage under Port Macquarie-Hastings Local Environment Plan (LEP) 2011 these being the Royal Hotel, Macquarie Hotel and Ritz Theatre.



Photograph looking north to War Memorial with the Hastings River in the background.



Photograph looking south to War Memorial with the playground in the background.



Photograph looking east to War Memorial with Royal Hotel and Macquarie Hotel in the background.

# 4. Description of proposed works

The proposal is to relocate the war memorial to elsewhere within the Town Green - within a newly constructed plaza at the intersection of Horton and Clarence Streets.

The new location will be less than 20 metres from where it was originally located in 1921.

The war memorial will sit on a new plinth which will elevate the memorial approximately 700-750mm giving it prominence within the streetscape.

An existing Tuckeroo and associated hard and soft landscaping, which were part of the Town Centre Masterplan work in 1995, may need to be removed for this to occur.

# 5. Heritage Impacts of the Proposed Works

# How is the impact of the proposal on the heritage significance of the items or area to be minimised?

The relocated war memorial will be within a newly constructed plaza within the Town Green.

It will not impact on the heritage significance of the Ritz Theatre which is located at the intersection of Clarence and Horton Streets nor the Royal or Macquarie Hotels which are located adjoining the Town Green.

While these buildings are all items of environmental heritage of local significance and in the vicinity of the proposed relocated war memorial the war memorial is considered to be located well away from each of these items – the closest being the Macquarie Hotel which will be approximately 21 metres away at its closest point.

# How does the proposal affect views to, and from, the heritage item/s? What has been done to minimise negative effects?

The photographs on pages 20-22 clearly show the views from the proposed location of the war memorial to the Ritz Theatre, Royal Hotel and Macquarie Hotel and from those buildings towards the proposed location of the war memorial.

The perspectives on pages 29-31 show how the war memorial will sit within the streetscape including how it will look in relation to the Ritz Theatre, Royal Hotel and Macquarie Hotel.

It is considered that the proposed location of the war memorial is well-sited so as not to impact on views to or from the heritage items – remembering that the war memorial is a heritage item is a site of the s



View to Ritz Theatre from proposed location of War Memorial.



View to Macquarie and Royal Hotels from proposed location of War Memorial.



View from Ritz Theatre towards location of proposed War Memorial.



View from Macquarie Hotel towards location of proposed War Memorial.



View from Royal Hotel towards location of proposed War Memorial.



View towards Ritz Theatre and Macquarie Hotel from location of proposed War Memorial and showing Tuckeroo that may need to be removed.

#### Is the development sited on any known, or potentially significant archaeological deposits?

The Town Green, and in particular the area identified for the proposed location of the war memorial, was developed in 1995 as part of Stage 1 of the Town Centre Masterplan works. At that time an Archaeological Assessment and Archaeological Monitoring Report, which formed part of the excavation process, was undertaken.

This relocated war memorial will sit on top of what formed part of Stage 1 Construction Package 1A of the Masterplan works identified in those reports.

It is believed that no further excavation is proposed and it is considered unlikely that archaeological deposits remain in the proposed location for the war memorial.

However, the applicant needs to be aware that should the Office of Environment and Heritage deem otherwise then the works will require approval under Section 140 of the NSW Heritage Act 1977.

The Office may also require that an archaeologist be on-site or on-call during the excavation.

The applicant should also be aware that should any historical relics be unexpectedly discovered then all excavations or disturbance to the area would need to stop immediately and the Heritage Council of NSW informed in accordance with Section 146 of the Heritage Act, 1977.

Remnants and artefacts discovered during excavation would then need to be photographed, catalogued by location and description and stored and preserved in a place that would need to be agreed to by the Office, Council and the Church.

#### The following alternatives were considered and discounted for the following reasons:

No other alternatives have been considered.

The intention has been to relocate the war memorial to a prominent position within the streetscape and within an area that will cater for not only current crowds that attend ANZAC Day services and other commemorative services throughout the year but also an expected increase in future crowd.

It is fortuitous that the proposed plaza, which will be part of the Town Centre Masterplan improvement works, will be within the Town Green and close to where the war memorial was when it was unveiled in 1921.

### Conclusion

The purpose of war memorials is commemoration. The site and setting of war memorials are an intrinsic part of their significance. Whether grand and monumental or smaller and more intimate these spaces have a function as sites for gathering, contemplation and ceremony and their values should be safeguarded.

As stated in this report the memorial was relocated to its current position in 1969. It has served the community well in the ensuing years, however, due to the increase in attendances in recent years at commemorative services such as ANZAC Day the memorial's location has become unsuitable for these services.

The proposal to relocate it closer to its original location is considered appropriate as the memorial will be located within a new purposely designed plaza that will cater for the increase in attendances, once again give the memorial the prominence it deserves and ensure the long term survival and enhanced use of the item which is considered to be the fundamental purpose of protecting the heritage item.

While it is acknowledged that the removal from its current location will alter a small part of the vista along the Hastings River foreshore it is considered the use of the memorial in commemoration services is vital.

However, before any relocation work commences, it is recommended the following occur:

- the new site should be prepared before dismantling occurs
- a detailed schedule of works for dismantling, moving, temporarily storing if required and re-erecting the memorial should be prepared,
- · identify any restoration work needed once the memorial is in its new location, and
- establish that the contractor has the experience to complete the project.

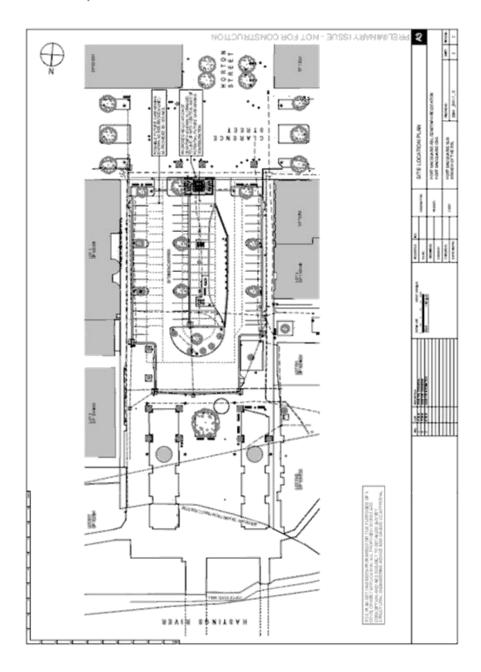
After relocation a management plan should be established for the future maintenance of the war memorial and consideration should be given to insuring the war memorial if it is not currently insured.

In addition to the above recommendations Council and/or the RSL Sub-Branch should advise the State Library of NSW (Digital & Library Systems) and the Office of Environment & Heritage of the war memorial's relocation and provide them with information to assist them to update their records, as they are the custodians of the New South Wales Register of War Memorials and Heritage Inventory Data Sheets.

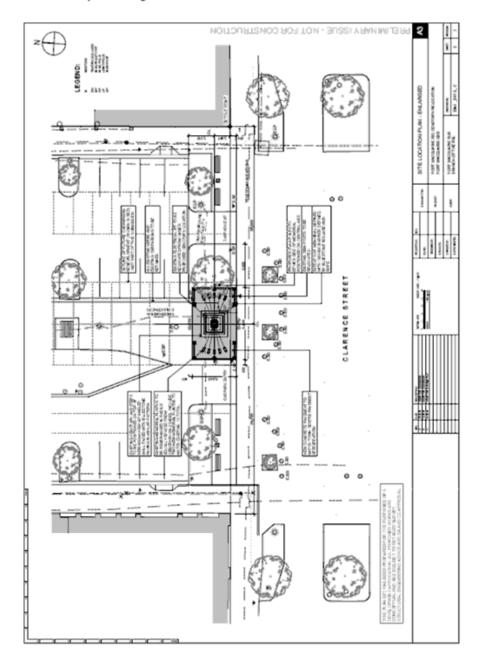
Council will also need to update the property description in the Port Macquarie-Hastings Local Environment Plan (LEP) 2011.

# 7. Attachments

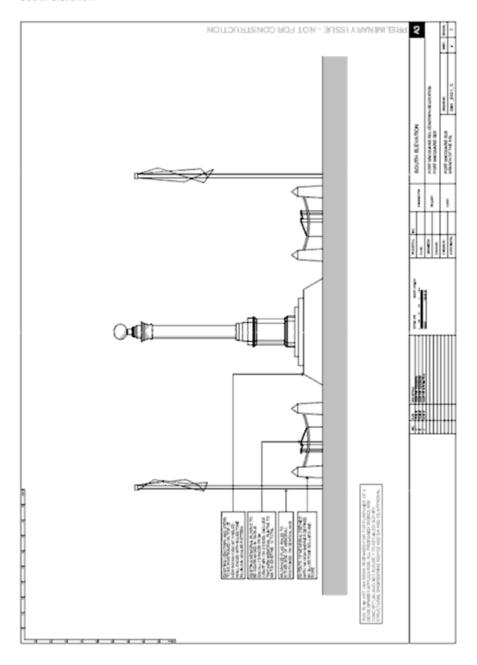
Site location plan



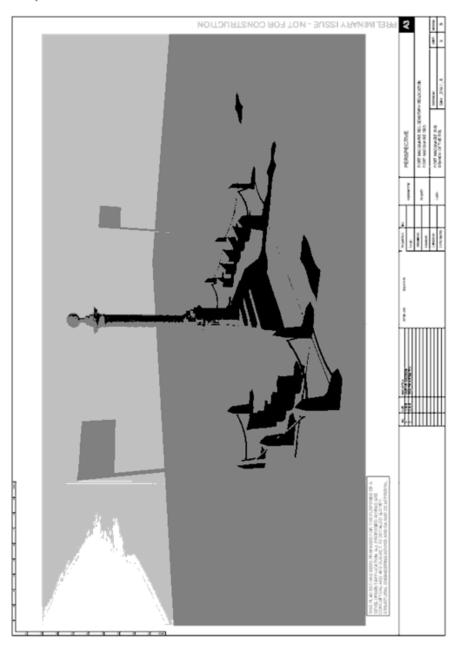
# Site location plan - enlarged

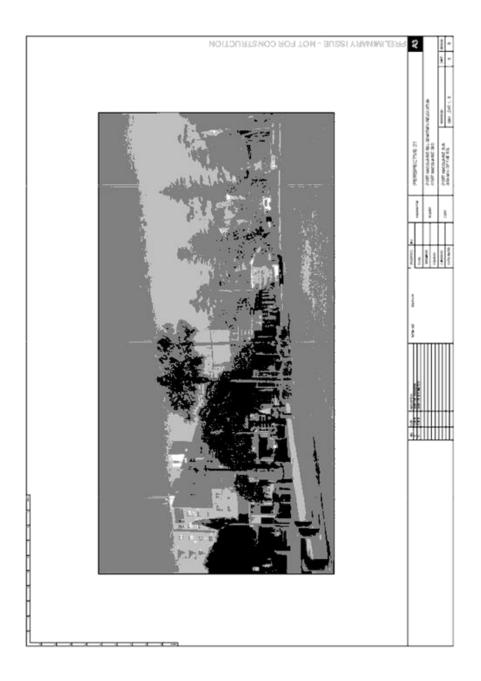


### South elevation

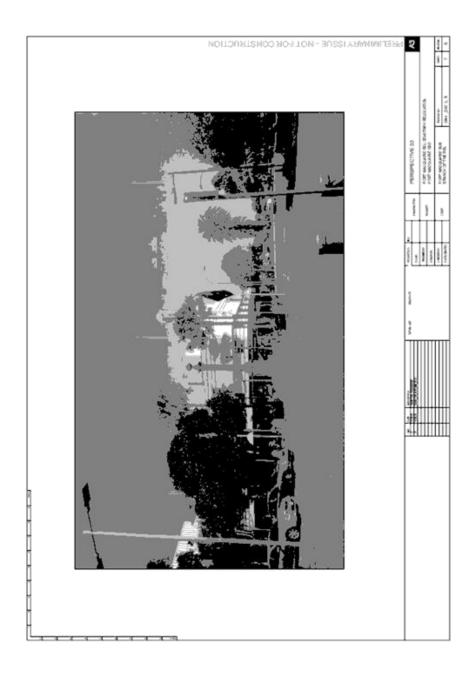


# Perspective









### NSW State Heritage Register Inventory Database No. 1730061



# War Memorial

### Item details

Name of item: War Memorial

Other name/s: Soldiers Memorial

Type of item: Complex / Group

Location: Lat: 0 Long: 0

Primary address: Town Green, Port Macquarie, NSW 2444

Parish: Macquarie

County: Macquarie

Local govt. area: Port Macquarie-Hastings

### All addresses

| Street Address | Suburb/town    | LGA                     | Parish    | County    | Туре              |
|----------------|----------------|-------------------------|-----------|-----------|-------------------|
| Town Green     | Port Macquarie | Port Macquarie-Hastings | Macquarie | Macquarie | Primary Address   |
| Horton Street  | Port Macquarie | Port Macquarie-Hastings | Macquarie | Macquarie | Alternate Address |

### Statement of significance:

This monument is representative of the beliefs of the community, its patriotism, and allegiances. It provides physical evidence for the study of settlement and community in the post war period. The monument includes information which is of particular relevance to the local community.

Note: There are incomplete details for a number of items listed in NSW. The Heritage Branch intends to develop or upgrade statements of significance and other information for these items as resources become available.

### **ATTACHMENT**

### Description

Construction years: 1921-

**Physical** description: Located in prominent landscape adjacent beach in Port Macquarie surrounded by grassed areas and trees. Originally surrounded by 10 stone or concrete obelisk

shaped posts supporting chains and forming a square curtilage.

Physical condition Intact structure

and/or Archaeological potential:

**Further** information: Plinth, stepped base (concrete) pedestal (granite, polished?) and column (marble).

Memorial to those lost during WWI, WII, the Vietnam and Korean Wars.

Current use: Monument/cemetery

Former use: Monument/cemetery

### History

Historical notes:

Monument to those lost during the Great War, World War II, the Korean conflict and

First unveiling 30.03.1921 in its first position.

Second unveiling 11.11.1969 in its present position. Cost was 651.18 pounds handed over

to Council free of debt.

### Historic themes

| Australian theme (abbrev) |   | Local<br>theme |
|---------------------------|---|----------------|
|                           | Persons-Activities of, and associations with, identifiable<br>individuals, families and communal groups | (none)-        |

### Assessment of significance

SHR Criteria a) [Historical significance]

This item is assessed as historically significant locally.

SHR Criteria c) [Aesthetic significance] This item is assessed as aesthetically significant locally.

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

SHR Criteria d) This item is assessed as socially significant locally.

[Social significance]

SHR Criteria e) This item is assessed as scientifically significant locally.

[Research potential]

SHR Criteria f) [Rarity] This item is assessed as aesthetically rare locally.

SHR Criteria g) This item is assessed as socially representative statewide.

[Representativeness]

Assessment criteria:

Items are assessed against the State Heritage Register (SHR) Criteria to determine the level of significance. Refer to the Listings below for the level of

statutory protection.

# Recommended management:

Monument relocated to this site in 1969 from Horton Street. Maintenance.

# Listings

| Heritage Listing            | Listing Title        | Listing<br>Number | Gazette<br>Date | Gazette<br>Number | Gazette<br>Page |
|-----------------------------|----------------------|-------------------|-----------------|-------------------|-----------------|
| Local Environmental<br>Plan | Hastings LEP<br>2001 | HS0061            | 08 Jun 01       | 95                | 3538            |
| Local Environmental<br>Plan |                      | HS0061            | 06 Aug 93       | 86                | 4445            |
| Heritage study              |                      | HS0061            |                 |                   |                 |

# Study details

| Title                   | Year | Number | Author                  | Inspected by | Guidelines used |
|-------------------------|------|--------|-------------------------|--------------|-----------------|
| Hastings Heritage Study | 1991 | HS0061 | Suters Architects Snell |              | Yes             |

### References, internet links & images

| Туре | Author | Year | Internet<br>Links |
|------|--------|------|-------------------|
|      |        |      |                   |

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie 2.4

| Graphic | (written sources) Inscriptions on the monument itself. Port Macquarie<br>Newsì February 5, 1921 "Port Macquarie Soldiers' Monument". |  |
|---------|--|--|
|---------|--|--|

Note: internet links may be to web pages, documents or images.



(Click on thumbnail for full size image and image details)

Data source

The information for this entry comes from the following source:

Name: Local Government

Database number: 1730061

Return to previous page

### NSW State Heritage Register Inventory Database No. 1730052



# Macquarie Hotel

#### Item details

Name of item: Macquarie Hotel

Type of item: Built

Location: Lat: 0 Long: 0

Primary address: 8 Horton Street, Port Macquarie, NSW 2444

Parish: Macquarie

County: Macquarie

Local govt. area: Port Macquarie-Hastings

### All addresses

| Street Address      | Suburb/town    | LGA                     | Parish    | County    | Туре              |
|---------------------|----------------|-------------------------|-----------|-----------|-------------------|
| 8 Horton Street     | Port Macquarie | Port Macquarie-Hastings | Macquarie | Macquarie | Primary Address   |
| cnr Clarence Street | Port Macquarie | Port Macquarie-Hastings | Macquarie | Macquarie | Alternate Address |

### Statement of significance:

Good example of a hotel of the late 1930's. Constructed around the same time (but later) as the Ritz theatre opposite.

Illustrates the importance of Port Macquarie as a centre for entertainment in the pre war period.

The only example of an early 20th Century Hotel in Port Macquarie. The best example of inter-war functionalist style in Hastings.

Note: There are incomplete details for a number of items listed in NSW. The Heritage Branch intends to develop or upgrade statements of significance and other information for these items as resources become available.

> Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

# Description

Construction

1934-1939

years:

Physical description:

Two storey brick hotel with asymmetrically arranged rectangular brick elements juxtaposed on horizontal composition. Located on prominent corner position in Horton Street opposite Ritz Theatre, nicely proportioned design includes excellent steel detail

and graphics. Brickwork on north end curve requires restoration.

Modifications and dates: . Largely intact except for ground floor tiling removed and replaced with white render

. Some unsympathetically located graphics

Further information:

Current use: Social/Recreational

Former use: Social/Recreational

### History

Historical notes:

Use of this site as a tavern is reported to date back to 1850 when the "Shamrock" was opened in an old store originally owned by Mr H Cohen.

The existing hotel was developed just before WWII when the population of the centre was still small, possibly due to the deteriorating condition of earlier hotels, and possibly serving demand for tourism from the Railway and Oxley Highway. Probably traded off business generated by the Ritz Theatre opened in 1936.

### Historic themes

| Australian theme (abbrev)                                | New South Wales theme  | Local<br>theme |
|--|--|----------------|
| Peopling-Peopling the continent                          | Migration-Activities and processes associated with the resettling of people<br>from one place to another (international, interstate, intrastate) and the<br>impacts of such movements  | (none)-        |
| Settlement-<br>Building settlements,<br>towns and cities | Towns, suburbs and villages-Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages   | (none)-        |
| cultural institutions                                    | Creative endeavour-Activities associated with the production and<br>performance of literary, artistic, architectural and other imaginative,<br>interpretive or inventive works; and/or associated with the production and<br>expression of cultural phenomena; and/or environments that have inspired<br>such creative activities. | (none)-        |
|  |  |                |
|  |  |                |

Port Macquarie Hastings Heritage

Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

Assessment of significance

SHR Criteria a) [Historical significance] This item is assessed as historically significant locally.

SHR Criteria c) [Aesthetic significance]

This item is assessed as aesthetically significant statewide.

SHR Criteria e)

This item is assessed as scientifically significant locally.

[Research potential]

SHR Criteria f) [Rarity]

This item is assessed as aesthetically rare locally.

SHR Criteria g) [Representativeness] This item is assessed as historically representative regionally.

Assessment criteria:

Items are assessed against the State Heritage Register (SHR) Criteria to determine the level of significance. Refer to the Listings below for the level of

statutory protection.

Recommended management:

None

# Listings

| Heritage Listing                     | Listing Title        | Listing<br>Number | Gazette<br>Date | Gazette<br>Number | Gazette<br>Page |
|--------------------------------------|----------------------|-------------------|-----------------|-------------------|-----------------|
| Local Environmental Plan             | Hastings LEP<br>2001 | HS0052            | 08 Jun 01       | 95                | 3538            |
| Local Environmental Plan -<br>Lapsed | Hastings LEP<br>1987 | HS0052            | 18 Dec 98       | 176               | 9884            |
| Heritage study                       |                      | HS0052            |                 |                   |                 |

# Study details

| Title                   | Year | Number | Author                  | Inspected by | Guidelines used |
|-------------------------|------|--------|-------------------------|--------------|-----------------|
| Hastings Heritage Study | 1991 | HS0052 | Suters Architects Snell |              | Yes             |

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

References, internet links & images

None

Note: internet links may be to web pages, documents or images.



(Click on thumbnail for full size image and image details)

Data source

The information for this entry comes from the following source:

Name: Local Government

Database number: 1730052

### NSW State Heritage Register Inventory Database No. 1730053



# Ritz Theatre

### Item details

Name of item: Ritz Theatre

Other name/s: Ritz Arcade

Type of item: Built

Location: Lat: 0 Long: 0

Primary address: 28 Horton Street, Port Macquarie, NSW 2444

Parish: Macquarie

County: Macquarie

Local govt. area: Port Macquarie-Hastings

### All addresses

| Street Address      | Suburb/town    | LGA                     | Parish    | County    | Туре              |
|---------------------|----------------|-------------------------|-----------|-----------|-------------------|
| 28 Horton Street    | Port Macquarie | Port Macquarie-Hastings | Macquarie | Macquarie | Primary Address   |
| cnr Clarence Street | Port Macquarie | Port Macquarie-Hastings | Macquarie | Macquarie | Alternate Address |

### Statement of significance:

Represents an important development in the Role of Port Macquarie as a centre of entertainment (in association with the Macquarie Hotel).

Only example of the Art Deco style in Port Macquarie.

The only example of an early 20th Century Theatre in the Area.

Good example of Art Deco architecture of the mid 1930's, many of which were constructed in towns throughout Australia. Represents the importance of cinemas in social life and entertainment during the 1930's. Located on a prominent corner site in the heart of Port Macquarie.

Date significance updated: 10 Apr 00

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

Note: There are incomplete details for a number of items listed in NSW. The Heritage Branch intends to develop or upgrade statements of significance and other information for these items as resources become available.

### Description

Designer/Maker: G.N. Kenworthy

Builder/Maker: Building & Trading Co. Limited

Construction years: 1936-

**Physical** description: Equivalent 3 storey scale asymmetrical design with art deco massing and detail including a mixture of horizontal and vertical elements incorporating neon "Ritz

Theatre" sign. Good example although substantially modified.

Modifications and Altered 1980s.

dates:

Further information:

Social/Recreational Current use:

Social/Recreational Former use:

# History

Historical notes:

In 1934 land and building (former boarding house) were submitted for auction. The Theatre was officially opened on Wednesday December 22, 1937. On site of the former Paget Hall.

Recently converted to a commercial complex including cinemas, retail and commercial space.

### Historic themes

| Australian theme<br>(abbrev)                 | New South Wales theme  | Local<br>theme |
|--|--|----------------|
| Developing cultural<br>institutions and ways | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | (none)-        |
|  |  |                |

Port Macquarie Hastings Heritage

Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

### Assessment of significance

SHR Criteria a) [Historical This item is assessed as historically significant locally.

[Historical significance]

This item is assessed as aesthetically significant locally.

SHR Criteria c) [Aesthetic significance]

SHR Criteria e) This item is assessed as scientifically significant regionally.

[Research potential]

SHR Criteria f) [Rarity] This item is assessed as aesthetically rare locally.

SHR Criteria g) [Representativeness] This item is assessed as aesthetically representative statewide.

Assessment criteria:

Items are assessed against the State Heritage Register (SHR) Criteria to determine the level of significance. Refer to the Listings below for the level of

statutory protection.

### Recommended management:

Adaptation recently carried out. Building substantially modified.

# Listings

| Heritage Listing                     | Listing Title        | Listing<br>Number | Gazette<br>Date | Gazette<br>Number | Gazette<br>Page |
|--------------------------------------|----------------------|-------------------|-----------------|-------------------|-----------------|
| Local Environmental Plan             | Hastings LEP<br>2001 | HS0053            | 08 Jun 01       | 95                | 3538            |
| Local Environmental Plan -<br>Lapsed | Hastings LEP<br>1987 | HS0053            | 18 Dec 98       | 176               | 9884            |
| Heritage study                       |                      | HS0053            |                 |                   |                 |

# Study details

| Title                   | Year | Number | Author                  | Inspected by | Guidelines used |
|-------------------------|------|--------|-------------------------|--------------|-----------------|
| Hastings Heritage Study | 1991 | HS0053 | Suters Architects Snell |              | Yes             |

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

# References, internet links & images

| Туре    | Author | Year |  | Internet<br>Links |
|---------|--------|------|--|-------------------|
| Written |        |      | News extracts (from local newspapers, March 1934). "Spinster a Hardy Soul" "Emerging from Sleepy Hollow Image" |                   |

Note: internet links may be to web pages, documents or images.



(Click on thumbnail for full size image and image details)

Data source

The information for this entry comes from the following source:

Name: Local Government

Database number: 1730053

### NSW State Heritage Register Inventory Database No. 1730039



# Royal Hotel Incorporating convict built Cellars

Item details

Name of item: Royal Hotel Incorporating convict built Cellars

Other name/s: The Royal Hotel

Type of item: Built

Location: Lat: 0 Long: 0

Primary address: 2 Horton Street, Port Macquarie, NSW 2444

Parish: Macquarie

County: Macquarie

Local govt. area: Port Macquarie-Hastings

### Property description

| L | _ot/Volume Code | Lot/Volume Number | Section Number | Plan/Folio Code | Plan/Folio Number |
|---|-----------------|-------------------|----------------|-----------------|-------------------|
| Ľ | ОТ              | 1                 |                | DP              | 607258            |

### All addresses

| Street Address  | Suburb/town    | LGA                     | Parish    | County    | Туре              |
|-----------------|----------------|-------------------------|-----------|-----------|-------------------|
| 2 Horton Street | Port Macquarie | Port Macquarie-Hastings | Macquarie | Macquarie | Primary Address   |
| Clarence Street | Port Macquarie | Port Macquarie-Hastings | Macquarie | Macquarie | Alternate Address |

#### Statement of significance:

Rare example incorporating convict labour and early construction techniques Important associations with Major Innes and early penal settlement Reflects development of period immediately following free settlement Represents rare example of late 19th Century Hotel building in Port Macquarie. Illustrates form and style of hotel development in late 19th Century. Reflects social life of local community Has potential to reveal further knowledge about construction and life style Important association with Major A.C. Innes (Commandant 1826)

Note: There are incomplete details for a number of items listed in NSW. The Heritage Branch intends to develop or upgrade statements of significance and other information for these items as resources become available

#### Description

Builder/Maker: Major A C Innes

Construction years:

1841-1879

Physical description: This 2 storey Victorian Hotel occupies an important location at end of major shopping

street adjacent to the water.

The earlier cellars are only accessible via a manhole and include rendered brickwork

with arched recesses.

The later building has been substantially modified, with removal of verandahs and a later conversion of the area adjacent to the reserve reducing its visual significance.

dates:

Modifications and Existing Hotel (1877) constructed on foundations of earlier (1841) Hotel and incorporates below ground remnants and possibly other elements.

Modifications since this time include:

- . Two storey decorative iron bullnosed verandahs removed
- Unsympathetic awning added
- Ground floor facade bricked up
- Motel rooms added to north
- Upper area rendered and lined Upper parapet detail removed
- Interior extensively modified

**Further** information:

Current use: COM Social/Recreational

Former use: COM Social/Recreational Social/Recreational

#### History

Historical notes:

The Hotel Royal first opened its doors in 1841 with Georgina Kinnear as manageress. The hotel had been built for Major Innes, a prominent local citizen and was primarily intended to

accommodate visiting officers and new arrivals to the settlement.

The hotel was one of 3 that opened its doors shortly after the first sale of crown land in 1840.

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie 45

It is reported to have been constructed using bricks from Innes own brickyard by his convict tradesmen.

#### Historic themes

| Australian theme (abbrev)                                | New South Wales theme  | Local<br>theme |
|--|--|----------------|
| 2. Peopling-Peopling<br>the continent                    | Convict-Activities relating to incarceration, transport, reform, accommodation and working during the convict period in NSW (1788-1850) - does not include activities associated with the conviction of persons in NSW that are unrelated to the imperial 'convict system': use the theme of Law & Order for such activities       | (none)-        |
| Settlement-<br>Building settlements,<br>towns and cities | Towns, suburbs and villages-Activities associated with creating, planning<br>and managing urban functions, landscapes and lifestyles in towns, suburbs<br>and villages   | (none)-        |
| Developing cultural                                      | Creative endeavour-Activities associated with the production and<br>performance of literary, artistic, architectural and other imaginative,<br>interpretive or inventive works; and/or associated with the production and<br>expression of cultural phenomena; and/or environments that have inspired<br>such creative activities. | (none)-        |

#### Assessment of significance

| SHR Criteria a) |
|-----------------|
| [Historical     |
| significance]   |

This item is assessed as historically significant regionally.

SHR Criteria c) [Aesthetic significance]

This item is assessed as aesthetically significant statewide.

SHR Criteria d)
[Social significance]

This item is assessed as socially significant locally.

SHR Criteria e) [Research potential]

This item is assessed as scientifically significant statewide.

SHR Criteria f) [Rarity]

This item is assessed as historically rare regionally.

SHR Criteria g)
[Representativeness]

This item is assessed as scientifically representative statewide.

Assessment criteria:

Items are assessed against the State Heritage Register (SHR) Criteria to determine the level of significance. Refer to the Listings below for the level of statutory protection.

Port Macquarie Hastings Heritage

46

Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

| R | ecom | mer   | nded  | man | ager | nent: |
|---|------|-------|-------|-----|------|-------|
|   |      | 11101 | 10000 |     | 4401 |       |

None.

#### Listings

| Heritage Listing                     | Listing Title        | Listing<br>Number | Gazette<br>Date | Gazette<br>Number | Gazette<br>Page |
|--------------------------------------|----------------------|-------------------|-----------------|-------------------|-----------------|
| Local Environmental Plan             | Hastings LEP<br>2001 | HS0039            | 08 Jun 01       | 95                | 3538            |
| Local Environmental Plan -<br>Lapsed | Hastings LEP<br>1987 | HS0039            | 18 Dec 98       | 176               | 9884            |
| Heritage study                       |                      | HS0039            |                 |                   |                 |

#### Study details

| Title                   | Year | Number | Author                  | Inspected by | Guidelines used |
|-------------------------|------|--------|-------------------------|--------------|-----------------|
| Hastings Heritage Study | 1991 | HS0039 | Suters Architects Snell |              | Yes             |

#### References, internet links & images

| Туре    | Author                         | Year | Title  | Internet<br>Links |
|---------|--------------------------------|------|--|-------------------|
| Written |                                |      | PM - PM Historical Society Some historic buildings of PM |                   |
|         | John Ferry & Andrew<br>Messner | 2000 | The Royal Hotel Port Macquarie                           |                   |

Note: internet links may be to web pages, documents or images.



(Click on thumbnail for full size image and image details)

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

#### **ATTACHMENT**

Data source

The information for this entry comes from the following source:

Name: Local Government

Database number: 1730039

Port Macquarie Hastings Heritage Statement of Heritage Impact for proposed relocation of war memorial Town Green, Horton St, Port Macquarie

#### 8. References

Australia ICOMOS, 2004

The Illustrated Burra Charter - Good Practice for Heritage Places

Colin Purbrick, 2001

The Port Macquarie War Memorial 1921-2000

Edward Higginbotham and Associates Pty Ltd, 1994

Archaeological Management Plan Port Macquarie – Volumes 1 and 2

Edward Higginbotham and Associates Pty Ltd, 1999

Report on the Archaeological Monitoring Programme for Port Macquarie Town Centre Masterplan – Construction Packages 1A, 1B and 2 – Horton, Clarence, Short and William Streets, Port Macquarie

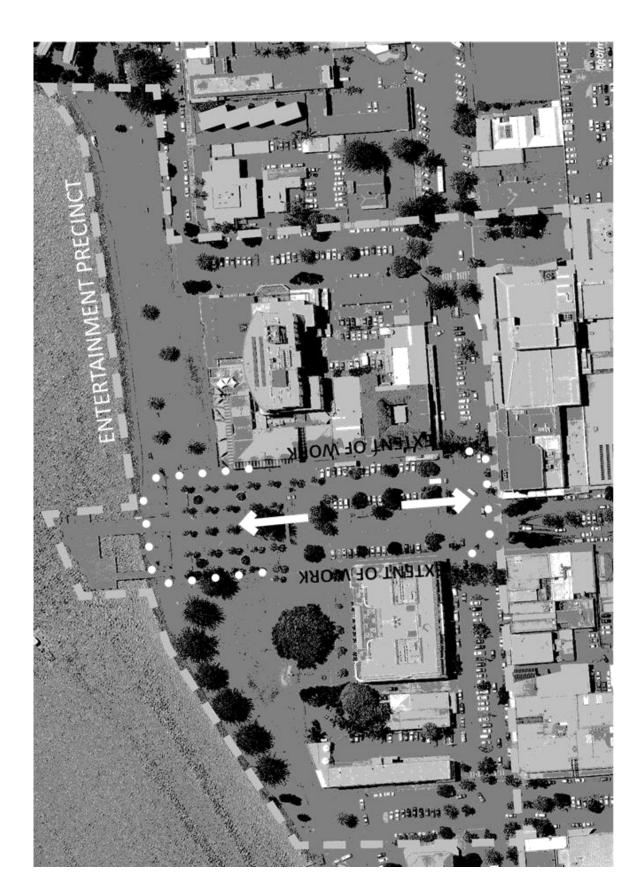
Heritage Office and Department of Urban Affairs & Planning, 1996 revised 2002 Statements of Heritage Impact

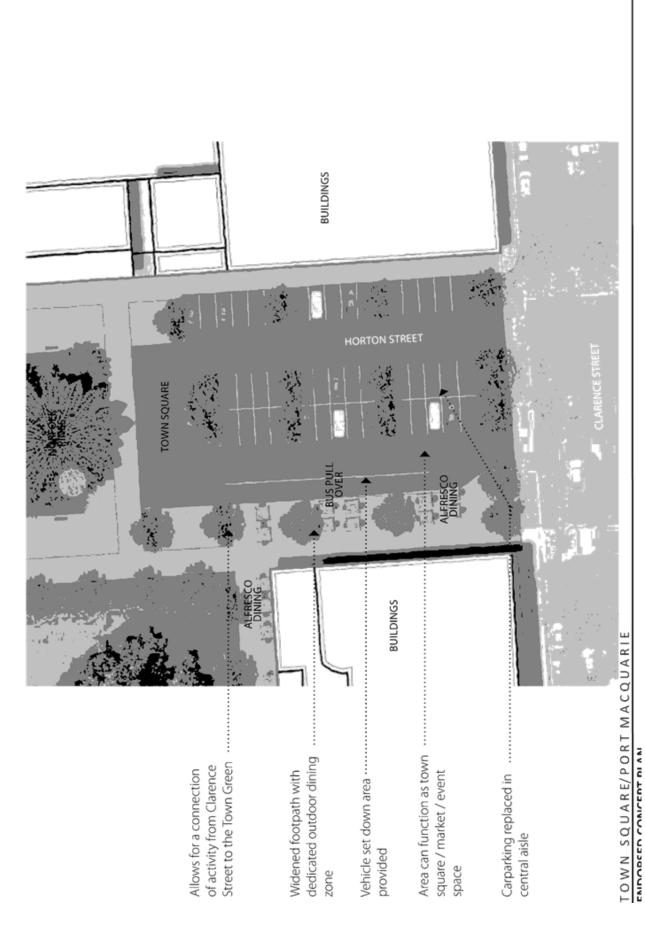
N.S.W. Office of Environment & Heritage State Heritage Inventory

Port Macquarie-Hastings Council
Port Macquarie-Hastings LEP 2011

The Port Macquarie News and The Port Macquarie News & Hastings River Advocate Various Articles 1919-1969







Item 06 Attachment 4

HASTINGS

# 3 KEY PRINCIPLES

# IDENTITY

# Make the car park feel like a Town Square

- -Making square flush from wall to wall
- Reducing linemarking
- Installation of town square pedestrian scale elements eg lighting and signage
- Installation of pavilions for shade and more welcoming human scale environment
- Installation of pavilions which become support for signage, lighting, banners, power supply therefore reducing clutter
- Widen footpath on both sides of the square
  - Use of quality paving
- Interpretation area. Possibilities include seating area and pavilion with incorporation of public art relating to aboriginal burial and history

# CONNECTIVITY

# Connect the Town Square with the Town Green and the Entertainment Precinct

Pavement consistency throughout

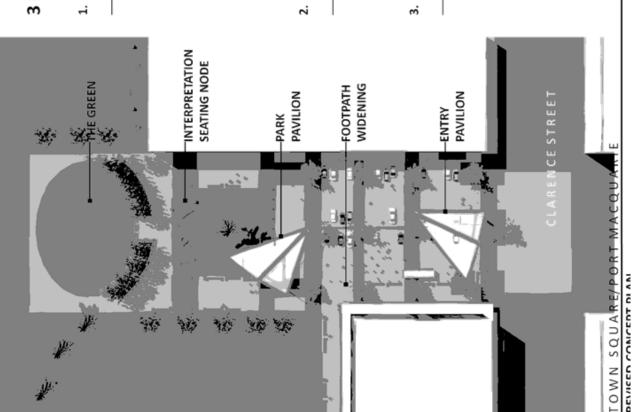
-Ensure design features have a common language across the precinct

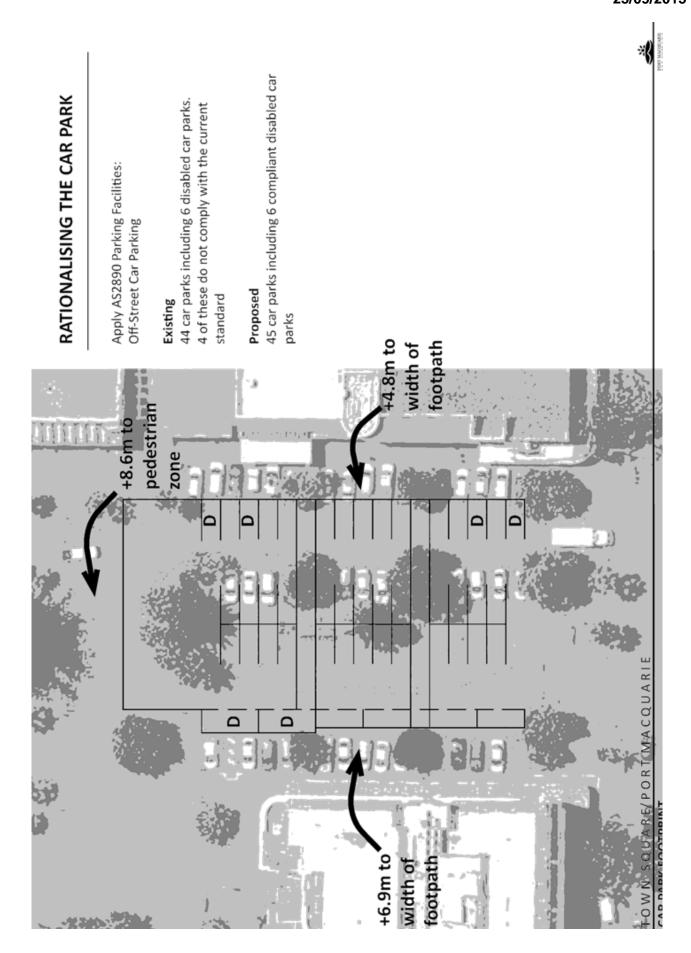
Plug and play facilities throughout

# FLEXIBILITY

# Ensure the space is flexible for a wide range of potential uses

- -Use the space efficiently by realigning car parking and widening footpaths
- Improve power supply and incorporate power into furniture and pavilions
- -Pavilions provide a focal space for event programming
  - -Declutter and don't add clutter
- Install removeable furniture
- Install bollards that are easily removeable to close off Square from cars

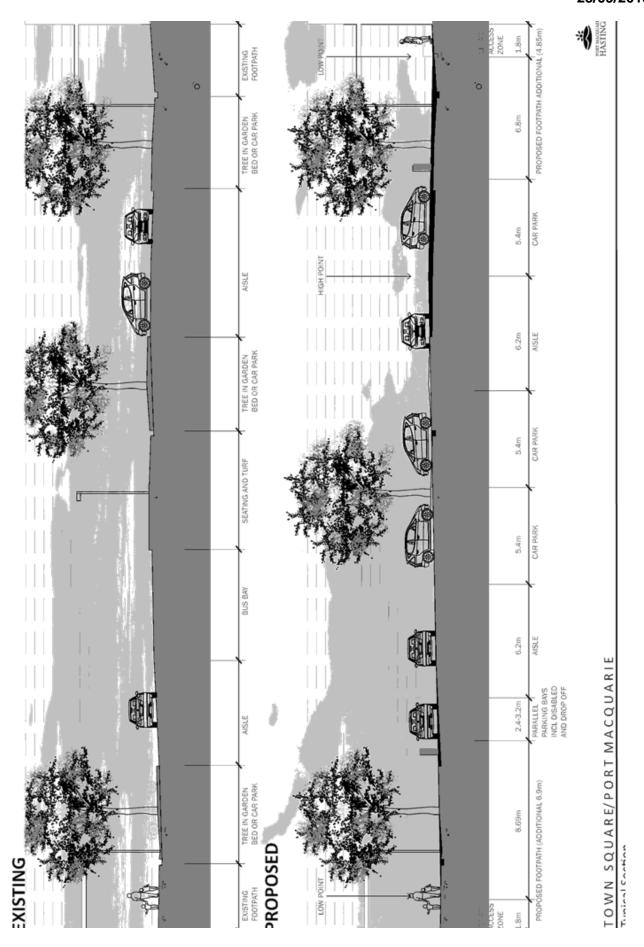




Item 06 Attachment 4



Item 06 Attachment 4



Item 06 Attachment 4



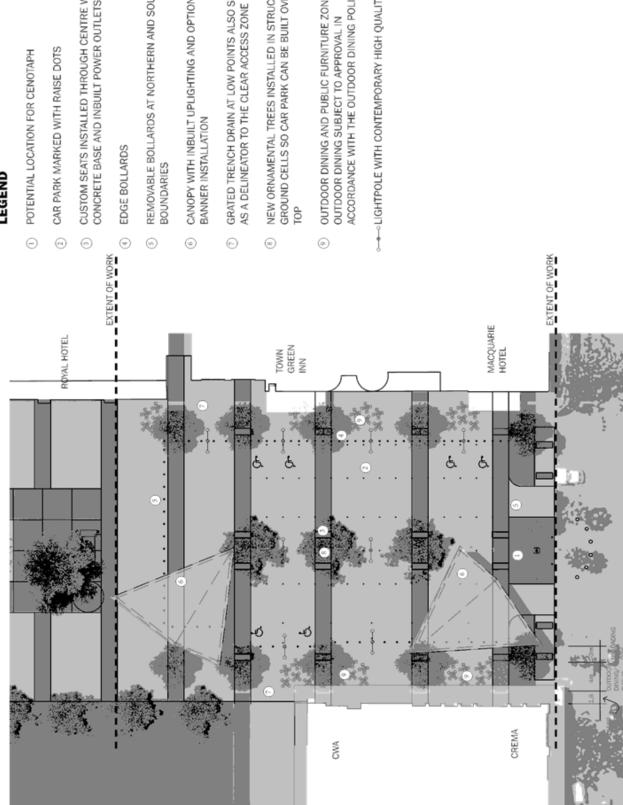
# LEGEND

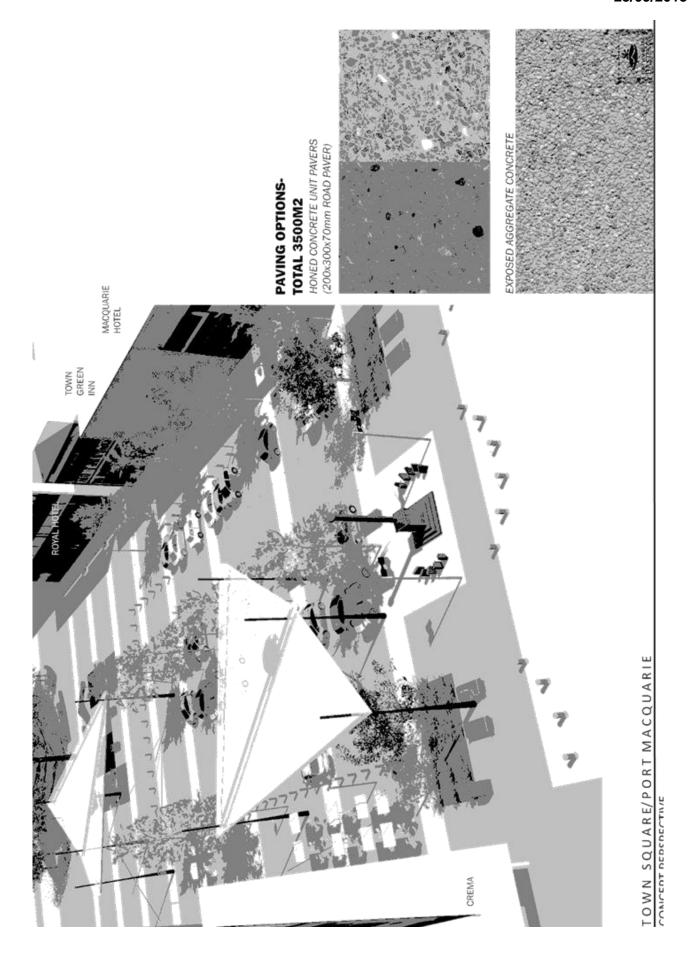
# POTENTIAL LOCATION FOR CENOTAPH

# CAR PARK MARKED WITH RAISE DOTS

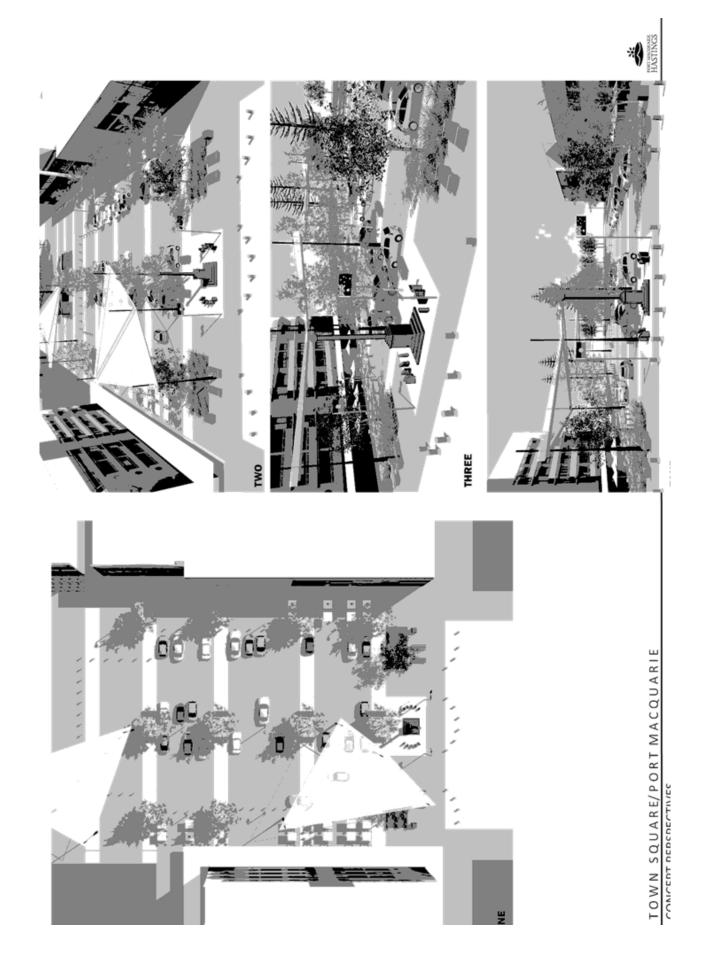
- CUSTOM SEATS INSTALLED THROUGH CENTRE WITH CONCRETE BASE AND INBUILT POWER OUTLETS
- EDGE BOLLARDS
- REMOVABLE BOLLARDS AT NORTHERN AND SOUTHERN BOUNDARIES
- GRATED TRENCH DRAIN AT LOW POINTS ALSO SERVES CANOPY WITH INBUILT UPLIGHTING AND OPTION FOR BANNER INSTALLATION
- GROUND CELLS SO CAR PARK CAN BE BUILT OVER THE NEW ORNAMENTAL TREES INSTALLED IN STRUCTURAL 00)
  - ACCORDANCE WITH THE OUTDOOR DINING POLICY OUTDOOR DINING AND PUBLIC FURNITURE ZONE. OUTDOOR DINING SUBJECT TO APPROVAL IN

O→ LIGHTPOLE WITH CONTEMPORARY HIGH QUALITY LED





Item 06 Attachment 4



Item 06 Attachment 4

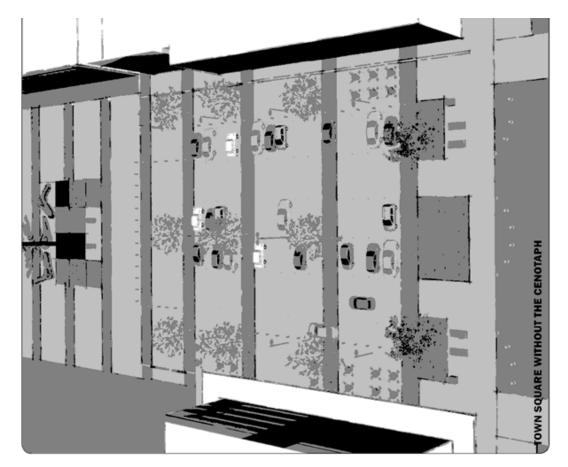


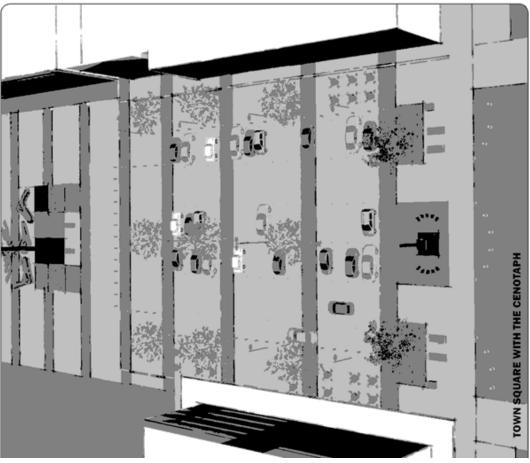




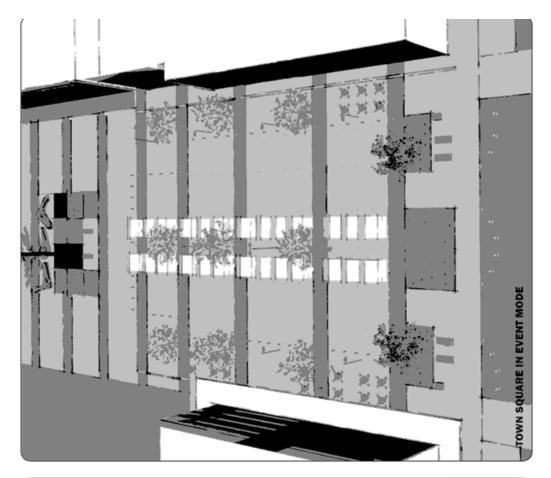
TOWN SQUARE/PORT MACQUARIE

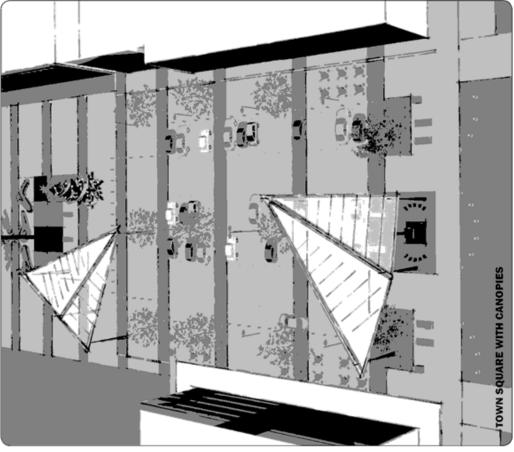
Item 06 Attachment 4





Item 06 Attachment 4





TOWN SQUAR

From: PMHC Listening [notifications@engagementhq.com]

Sent: Friday, 17 July 2015 5:07 PM

To: Christine Bannister; Theresa Foster; Council

Subject: Anonymous User completed War Memorial Relocation Proposal

Anonymous User just submitted a submission 'War Memorial Relocation Proposal' with the responses below.

Name

Mrs M Cook

Address

48 Jonas Absalom Port Macquarie

**Email address** 

#### Please write your submission here

No you should leave the War Memorial where it is ,town green is a better place to take crowds of people ,Port Macquarie is growing fast and to move it would be a waste of money.Spend the money on a garden around the Memorial.

Please upload any supporting documents or images here

From: PMHC Listening [notifications@engagementhq.com]

Sent: Friday, 17 July 2015 9:24 PM

To: Christine Bannister; Theresa Foster; Council

Subject: Anonymous User completed War Memorial Relocation Proposal

Anonymous User just submitted a submission 'War Memorial Relocation Proposal' with the responses

Name

TREVOR DOYLE

Address

5 YALUMA DRIVE PORT MACQUARIE

**Email address** 

#### Please write your submission here

I do not agree to the new location as it is hard enough for motorists to travel along Horton Street now and if the community was to lose more car parking places it would be stupidity. I think it would be better left where it is or take it away from the town centre all together. I do believe we should remember the fallen soldiers as my grandfather was in the first world war. Port Macquarie has a problem with parking as it is and I would prefer to see it in a more suitable place. Thank you.

Please upload any supporting documents or images here

From: PMHC Listening [notifications@engagementhq.com]

Sent: Saturday, 18 July 2015 8:08 AM

To: Christine Bannister; Theresa Foster; Council

Subject: Anonymous User completed War Memorial Relocation Proposal

Anonymous User just submitted a submission 'War Memorial Relocation Proposal' with the responses below.

Name

Jane Hackett

Address

PO Box 315 Port Macquarie

**Email address** 

#### Please write your submission here

The cenotaph is already in a perfect spot to allow for public access at all times and is located with a perfect backdrop for commemoration ceremonies. Don't waste money needlessly moving it. Put the money to better use fixing the roads in and around Port Macquarie.

Please upload any supporting documents or images here

PMHC Listening [notifications@engagementhq.com] Tuesday, 21 July 2015 3:58 PM From:

Sent:

Christine Bannister; Theresa Foster; Council To:

Anonymous User completed War Memorial Relocation Proposal Subject:

Anonymous User just submitted a submission 'War Memorial Relocation Proposal' with the responses below.

Name

Elisabeth Hall

Address

1/10 Burrawan st. Port Macquarie nsw

Email address

Please write your submission here

The proposal of putting it on the corner of Horton St and Clarence St, I think is a very good move.

Please upload any supporting documents or images here

PMHC Listening [notifications@engagementhq.com] Saturday, 18 July 2015 4:28 PM From:

Sent:

Christine Bannister; Theresa Foster; Council To:

Anonymous User completed War Memorial Relocation Proposal Subject:

Anonymous User just submitted a submission 'War Memorial Relocation Proposal' with the responses below.

#### Name

B. Leeson

#### Address

v20 Lincoln Gardens, Marian Drive, Port Macquarie

#### Email address

#### Please write your submission here

I think this is an ideal position for the Memorial. I came to Port in 1949 and that is where it was then so I know it will work.

#### Please upload any supporting documents or images here

Item: 07

Subject: DA2015 - 0351 - ANCILLARY BUILDING (SHED) - LOT 67 DP

1041677, NO 46 CASUARINA DRIVE, LAKEWOOD.

**Report Author: Anthony Crane** 

Property: Lot 67 DP 1041677, No 46 Casuarina Drive, Lakewood

Applicant: Mid Coast Steel Structures
Owner: M A Griffith & K A Barrett

Application Date: 26 May 2015

Estimated Cost: \$9,000 Location: Lakewood File no: DA2015 - 0351

Parcel no: 38813

#### **Alignment with Delivery Program**

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

#### RECOMMENDATION

That DA 2015 - 0351 for an ancillary building (shed) at Lot 67, DP 1041677, No. 46 Casuarina Drive, Lakewood, be determined by granting consent subject to the recommended conditions.

#### **Executive Summary**

This report considers a development application for a 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, one submissions has been received.

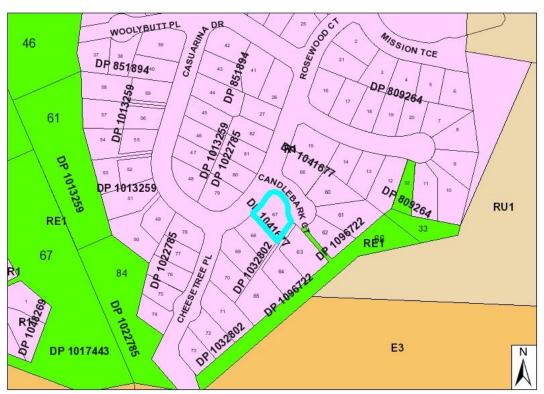
#### 1. BACKGROUND

#### **Existing sites features and Surrounding development**

The site has an area of 1057m2.

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:



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

- The proposal is for a colourbond storage shed adjacent to the existing dwelling.
- Subject property is a corner lot and proposed shed to be sited 5.5m from primary road frontage and 3.8m from secondary road boundary.
- Due to the slope of the land and an existing retaining wall, the proposed shed can not be sited in the rear yard. An existing swimming pool prevents the shed from being sited any further back on the property.
- Existing vegetation on the secondary road frontage is approx. 3m high and will screen the proposed shed on the side elevation.

Refer to attachments at the end of this report.

#### **Application Chronology**

- 26/05/2015 application lodged.
- 4/6/15 application notified.
- 15/6/15 submission lodged from adjoining neighbour.
- 19/6/15 applicant requested to provide site plan to scale.
- 28/7/16 supporting letter from owner lodged.
- 7/9/15 site plan to scale provided.

#### 3. STATUTORY ASSESSMENT

#### **Section 79C(1) Matters for Consideration**

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

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

#### State Environmental Planning Policy 44 - Koala Habitat Protection

There is no Koala Plan of Management on the site. Additionally, the site is less than 1ha in area therefore no further investigations are required.

#### 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 Queens Lake approximately 550m 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.

#### DEVELOPMENT ASSESSMENT PANEL 23/09/2015

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:

- any restricted access (or opportunities for access) to the coastal foreshore a)
- b) any identifiable adverse amenity impacts along the coastal foreshore and on the scenic qualities of the coast;
- any identifiable adverse impacts on any known flora and fauna (or their c) 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 located within an established residential area.

#### 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 shed is an ancillary structure to an existing dwelling and is therefore a permissible landuse with consent.

The objectives of the R1 zone are as follows:

- o 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 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 3.219 m which complies with the standard height limit of 8.5 m applying to the site.
- Clause 4.4, the floor space ratio of the proposal complies with the maximum 0.65:1 floor space ratio applying to the site.

#### 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

| DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development |   |               |   |  |
|---|---|---------------|---|--|
| Requirements Proposed Complies  |   |               |   |  |
| 3.2.2.1   | Ancillary development: • 4.8m max. height • Single storey | 3.219m<br>Yes | Y |  |





| DCP 2013: Dwellings, Dual of | cupancies, Dwelling houses, Multi dwelling |
|------------------------------|--|
| houses & Ancillary developm  | ent  |

|         | Requirements  | Proposed              | Complies |
|---------|---|-----------------------|----------|
|         | • 60m2 max. area • 100m2 for lots >900m2  | 36m2                  | Y        |
|         | • 24 degree max. roof pitch   | 10 degs               | Υ        |
|         | Not located in front setback  | Side yard (not front) | Y        |
| 3.2.2.2 | Articulation zone: • Min. 3m front setback  | N/A                   |          |
|         | <ul> <li>An entry feature or portico</li> <li>A balcony, deck, patio,<br/>pergola, terrace or<br/>verandah</li> </ul> |                       |          |
|         | <ul><li>A window box treatment</li><li>A bay window or similar feature</li></ul>                                      |                       |          |
|         | An awning or other feature over a window  |                       |          |
|         | A sun shading feature  Front setback (Residential not R5 zone):   |                       |          |
|         | <ul><li>Min. 4.5m local road</li><li>Min. 3.0m secondary road</li></ul>   | 5.5m<br>3.8m          | Y        |
| 3.2.2.3 | Garage 5.5m min. and 1m behind front façade.  | 5.5m & 1.15m behind   | Y        |
|         | Garage door recessed behind building line or eaves/overhangs provided   |                       |          |
|         | 6m max. width of garage door/s and 50% max. width of building   | N/A                   |          |
|         | Driveway crossover 1/3 max. of site frontage and max. 5.0m width  | N/A                   |          |
|         | Garage and driveway provided on each frontage for dual occupancy on corner lot  | N/A                   |          |
| 3.2.2.4 | 4m min. rear setback. Variation subject to site analysis and provision of private open space                          | Approx. 19m           | Y        |
| 3.2.2.6 | 35m2 min. private open space area including a useable 4x4m min. area which has 5% max. grade                          | >35m2                 | Y        |



|          | Requirements   | Proposed                               | Complies |
|----------|--|--|----------|
| 2.7.2.2  | Design addresses generic principles of Crime Prevention Through Environmental Design guideline         | Adequate casual surveillance available | Y        |
| 2.4.3    | Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater | Refer to main body of report.          |          |
| 2.5.3.11 | Section 94 contributions   | Refer to main body of report.          |          |
| 2.5.3.17 | Parking areas to be designed to avoid concentrations of water runoff on the surface.                   | N/A                                    |          |
|          | Vehicle washing facilities – grassed area etc available.   | Yes                                    | Υ        |

The proposal does not seek to vary any development provisions of the 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 <u>Coastal Protection Act 1979</u>), 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.



## DEVELOPMENT ASSESSMENT PANEL 23/09/2015

- 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 to be provided with CC application.

#### Water

Service available.

#### Sewer

Service available.

#### 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 identified as being bushfire prone.

The applicant has submitted a bushfire assessment.

The following comments are provided having regard to section 4.3.5 of Planning for Bushfire Protection 2006:

| Asset Protection<br>Zones  | APZ to be determined in accordance with AS3959          | Effective slope = upslope Forest vegetation APZ to be 20m – which can include 10m outer APZ Proposed > 100m APZ including managed land   |
|----------------------------|---|--|
| Siting and building design | Siting and design principles considered section 4.3.5   | Building sited >100m from hazard which is excess of standard calculated APZ Steel cladding No box gutters The site has as minor slope. Raised floors not proposed with concrete slab The building is single storey Gutter guards may be installed. |
| Construction standards     | Construction in accordance with AS3959.                 | FDI rating 80  Effective slope = upslope = >100m = BAL LOW  Condition recommended to require garage doors to be ember proofed in accordance with Figure 4.9.   |
| Access requirements        | 4.1.3 public road access 4.2.7 for internal road access | Constructed public road frontage Internal road grades less than 15 degrees and short   |



## DEVELOPMENT ASSESSMENT PANEL 23/09/2015

|                            |   | length of two wheel drive access driveway  |
|----------------------------|---|--|
| Water and utility services | 4.1.3 services - water and electricity. | Water supply services available.           |
|                            |   | Electrical transmission lines underground. |
| Landscaping                | Appendix 5 landscaping                  | Limited landscaping proposed.              |

The above assessment concludes that the bushfire risk is acceptable with no specific construction standards being required.

#### 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 is satisfactorily responds to the site attributes and will fit into the locality. No adverse impacts likely.

#### Construction

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

#### **Cumulative Impacts**

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

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

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

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

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

One written submission has been received following public exhibition of the application.



## DEVELOPMENT ASSESSMENT PANEL 23/09/2015

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

| Submission Issue/Summary   | Planning Comment/Response   |  |  |  |
|--|---|--|--|--|
| All metal structure will appear bulky and undesirable in streetscape and not in harmony with existing development.   | Colour of shed chosen to match roof of existing dwelling. Proposed shed 36m2 and not considered to have an adverse impact on streetscape. Shed is located behind building line on primary road frontage and adequately screened by vegetation on the secondary street frontage. |  |  |  |
| Original subdivision in 2004 had specific restrictions regarding materials and streetscape. Surmised that other development in subdivision were subject to similar conditions. | The proposal is considered capable of complying with the Building Code of Australia and satisfies local planning controls. Clause 1.9A PMHLEP overrides private covenants.  |  |  |  |
| At least 13 metal sheds existing in estate are not forward of dwellings and located in rear yard.  | Subject property has no building site behind existing dwelling available.  Location is considered acceptable - refer to comments throughout report.   |  |  |  |
| Only detached shed forward of rear of dwelling, located 3 properties to the south west, is of masonry construction.  | This particular structure is approx. 11m from front boundary. Existing dwelling only 4m from rear boundary thereby preventing siting of any detached structure in rear yard. Proposal not considered to have adverse impact on streetscape.                                     |  |  |  |

#### (e) The Public Interest:

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

#### 4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

None 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.



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

#### **Attachments**

1<u>View</u>. 2015 - 0351 DA Plans

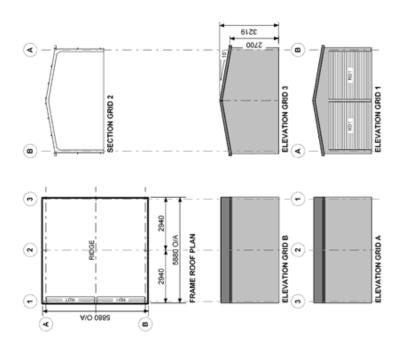
2View. DA2015 - 0351 Recommended Conditions

3View. DA2015 - 0351 Submission - Carter



SCALE DRAWING NUMBER
AN SHEET 1.125 PMACO1-0774.01

| Copyright 2015 Lyssaph Building Solutions Ply Ltd brading as RANBUILD | ADDING  E (min)   Finish   COLOR  60 0.5 Satir   Ch   NS  0.0 0.5 Satir   Ch   NS  Ch   Ch   Ch   Ch   Ch    Ch   Ch   Ch  | SCHEDULE & LEGEND SPRON WHO IS NEW WAY, 2256 high a 2656 wide energing.   | WIND DESIGN  EL REGION  TERRAIN  A 25 1.1 |               | 483   | AVE x 5880 LONG                      | EVATION          |  |
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SANTERIOR CONTROL NOS 1018

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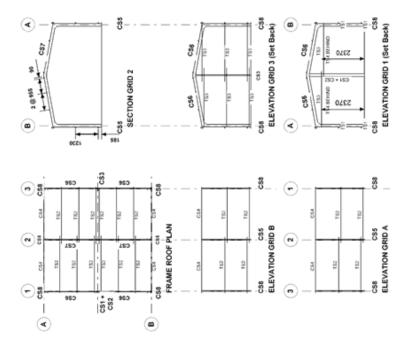
Mark Griffith

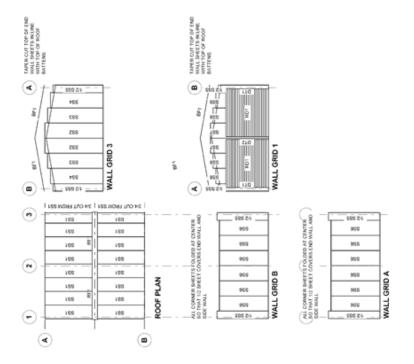
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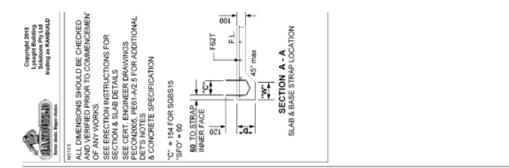
DRAWING NUMBER RSP-0774

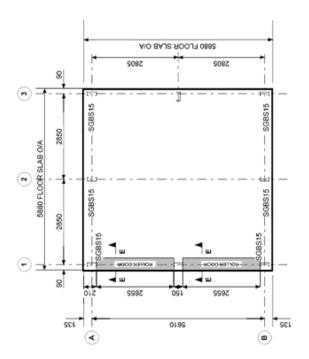
RC SLAB PLAN

PREMIUM GARAGE 5880 SPAN x 2700 EAVE x 5880 LONG

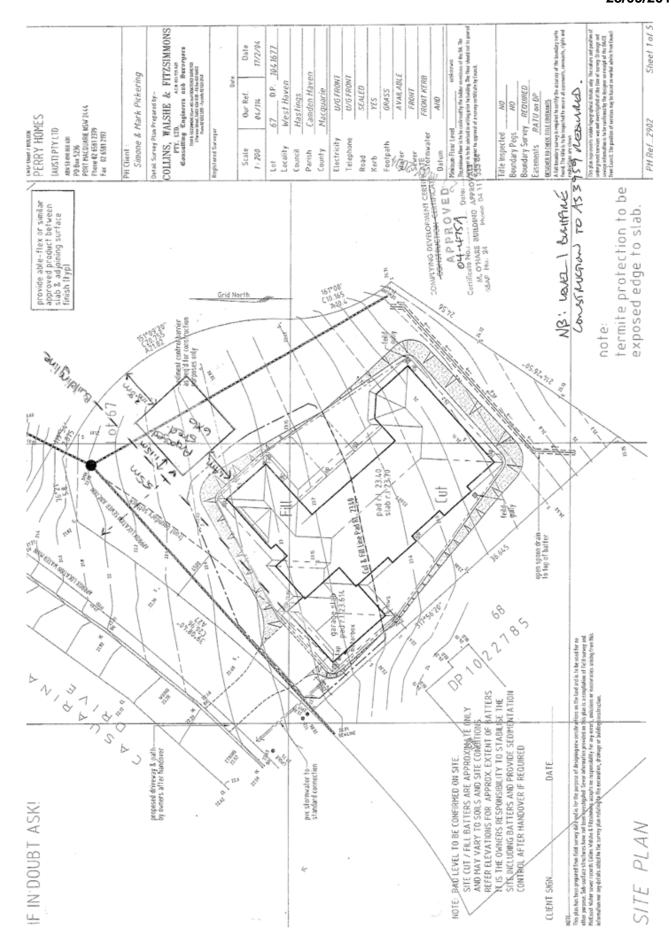
46 Casaurina Drive LAKEWOOD NSW 2443

Mark Griffith





BASE STRAP & HD BOLT SCHEDULE 6 RECYD BASE STRAP SGBS15



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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2015/351 DATE:

#### 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<br>Document | Reference      | Prepared by                   | Date       |
|-------------------------------|----------------|-------------------------------|------------|
| Site plan                     | No ref.        | Mid Coast Steel<br>Structures | Undated    |
| Floor plan, elevations        | PMAQ01-0774.01 | As above                      | 2015       |
| SOEE                          | No ref.        | As above                      | 02/06/2015 |
| Bushfire report               | No ref.        | As above                      | Undated    |

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

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

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

- (3) (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;
  - 2. Appropriate dust control measures;
  - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
  - Building waste is to be managed via an appropriate receptacle;
  - Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

- Building work being limited to the following hours, unless otherwise permitted by Council;
  - Monday to Saturday from 7.00am to 6.00pm
  - No work to be carried out on Sunday or public holidays

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

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

nil

#### 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.
- (D195) Roofwater is to be disposed of to the existing stormwater disposal system.

### E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

 (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.

### F - OCCUPATION OF THE SITE

nil

#### **ATTACHMENT**

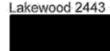
# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

Port Macquarie Hastings Council PO Box 84 Port Macquarie 2444

Your Ref: DA2015.351.1 Parcel Number: 38813

15 June 2015

JR & RL Carter (Lot 68) 44 Casuarina Dr Lakewood 2443



Attn: Mr Anthony Crane, Development and Environmental Services

## RE- NOTIFICATION OF DEVELOPMENT PROPOSAL

Ancillary Building - Shed LOT: 67 DP: 1041677

46 Casuarina Dr LAKEWOOD

Dear Anthony

Thank you for your recent notification letter.

Maybe the description "Ancillary Building – Shed" fits a Council category ----- but the submitted plan is for an All-Metal Double Garage (presumably to replace the enclosed original).

We do not oppose a carport, or a garage of acceptable materials. An all-metal structure in the proposed location will appear bulky and undesirable in the streetscape and is not in harmony with existing development.

PMHC Development Control Plan 2013 (Chapter 3.2 Low Density Residential Development) states:-Section 3.2.1, Purpose

 Have regard to the desired scale, bulk and height of existing residential development as well as streetscape and landscape in the locality

Section 3.2.2.3 Objective

- To minimise the impact of garages and driveways on the streetscape, on street parking and amenity
- To minimise the visual dominance in the streetscape

In addition, Lots 67 and 68 were built on at the same time by the same builder in 2004, and the land was developed by Haven Valley Developments Pty Limited DP1032802. Lots 68-73 subdivision DP1022785 (ie. my Lot) had specific terms and restrictions regarding materials and streetscape. I'm sure that Lot 67, and all others within the subdivisions of the development, were subject to similar terms and conditions regarding building materials and streetscape.

Within this Haven Valley Estate, there are at least 13 all-steel garage-size sheds. These are all in the rear yards. Not one is forward of the rear building alignment. Three houses from Lot 67 (No.3 Cheesetree), there is an additional double garage at the front building alignment, however this is full brick, consistent with the dwelling.

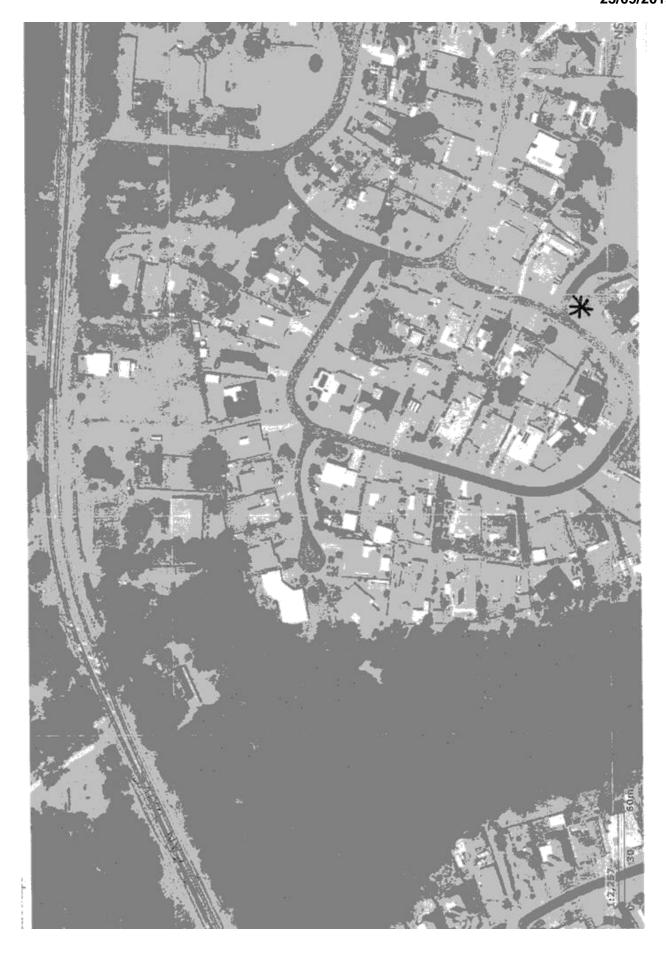
I've attached a street view and aerial image to show how visible the proposed metal shed will be on the streetscape.

Your careful consideration will be appreciated. Maybe a modified proposal can be suggested to the applicant.

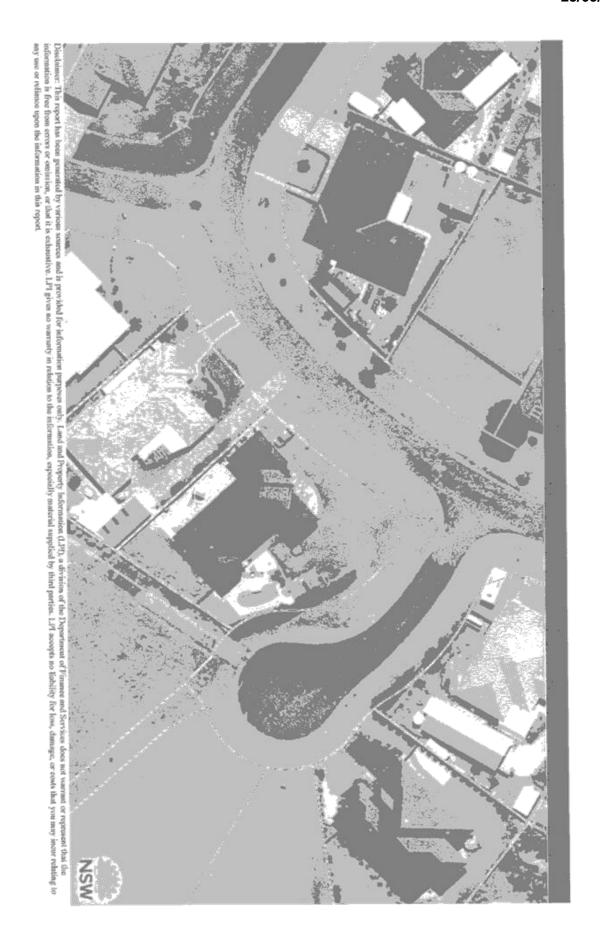
Yours Faithfully JR & RI Carter

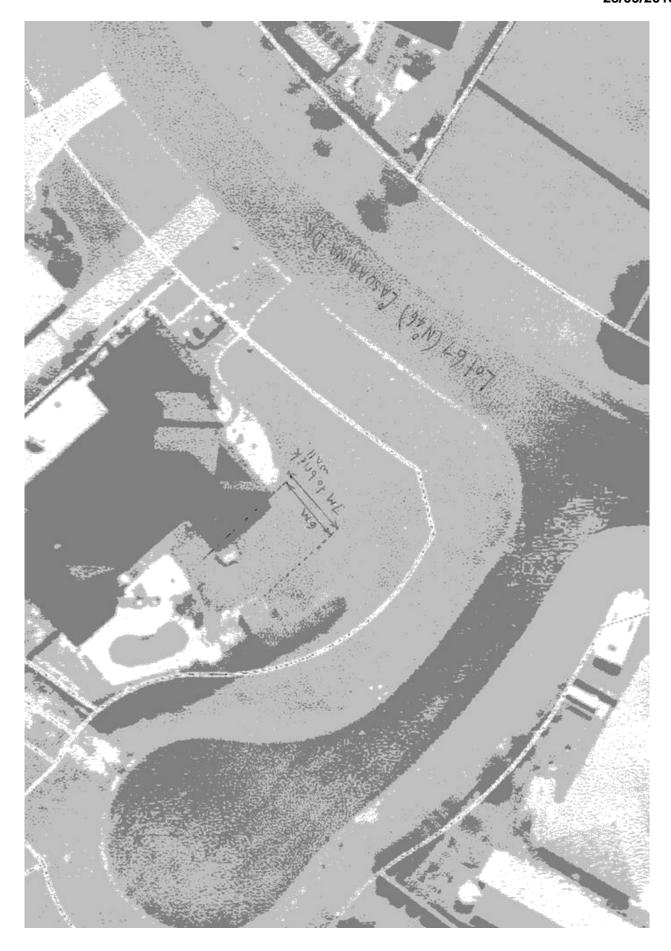






Item 07 Attachment 3





Item 07 Attachment 3

Item: 08

Subject: DA 2012 - 507 - PART DEMOLITION OF EXISTING MOTEL AND

CONSTRUCTION OF TOURIST AND VISITOR ACCOMMODATION AND GROUND FLOOR COMMERCIAL TENANCIES INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (BUILDING HEIGHTS STANDARD) UNDER PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 - LOT 1 DP 515434 AND LOT 2 DP

505781, 25-29 CLARENCE STREET, PORT MACQUARIE

**Report Author: Patrick Galbraith-Robertson** 

Property: Lot 1 DP 515434 & Lot 2 DP 505781, 25-29 Clarence Street,

**Port Macquarie** 

Applicant: Wayne Ellis Architects

Owner: Gemtaf Pty Ltd
Application Date: 2 October 2012
Estimated Cost: \$12,469,350
Location: Port Macquarie
File no: DA2012 - 507
Parcel no: 35512 & 4484

### **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 2012 - 507 for a Part Demolition of Existing Motel and Construction of Tourist and Visitor Accommodation and Ground Floor Commercial Tenancies including Clause 4.6 Variation to Clause 4.3 (Height of Buildings Standard) under Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 1 DP 515434, & Lot 2 DP 505781, No. 25-29 Clarence Street, Port Macquarie, be determined by granting of a deferred commencement consent subject to the following being satisfied within 2 years from the date of determination, and the attached conditions:

- 1. Adequate arrangements for sewer main realignments and servicing shall be provided including provision of any adjoining owner's consents to the satisfaction of Council.
- 2. Amended basement parking plans shall be submitted to improve parking areas circulation to the satisfaction of Council.
- 3. An amended ground floor plan shall be submitted which includes widening of the driveway to a two way access on the Sunset Parade frontage of Lot 1 DP 499501 (similar to Drawing No. D05/1 Level 3 floor plan prepared by Wayne Ellis Architects dated 5 April 2012), to the



#### satisfaction of Council.

### **Executive Summary**

This report considers a development application for a residential flat building for tourist accommodation and ground floor commercial tenancies at the subject site. The proposal has been amended during the assessment of the application on numerous occasions.

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

The DA has been active for a significant length of time primarily due to issues relating to unresolved infrastructure related matters, design layout and implementing an adjoining pathway on courthouse land. It was considered unreasonable to determine the application earlier by way of refusal.

Following neighbour notification of the application, no submissions have been received.

Due to the height variation in part being more than 10% of the standard the application is required to be reported to an Ordinary Meeting of Council for final determination.

### 1. BACKGROUND

## **Existing sites features and Surrounding development**

The site has a combined lot area of 1663m2.

The site is adjoined by other commercial development, residential units and a historical state significant courthouse to the west of the site.

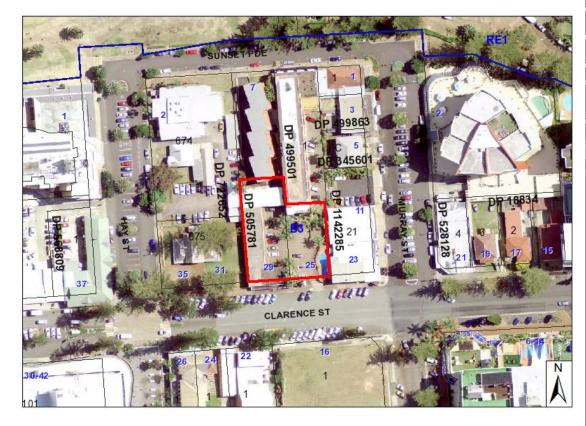
The site is also associated with adjoining Lot 1 DP 499501 which is the subject of a historical Building Approval 185/67 which has been recently modified.

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





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



## 2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:



- Demolition of part of the existing 56 unit El Paso Motor Inn.
- Construct a Resort Hotel referred to as 'The Anchorage' comprising a 6 storey building with ground floor commercial units and 65 tourist units above. The majority of the units are dual key apartments.
- Car parking provided will be underground in two levels of basement parking, providing a total of 92 additional parking spaces on site.
- The proposal is interrelated with an existing Building Approval BA185/67 (as modified) associated with the Sunset Parade frontage which is yet to be completed. This resort is known as the 'Waterfront Resort'.
- The buildings are connected by a common courtyard and pool area.

Refer to attachments at the end of this report.

## **Application Chronology**

- 2 October 2012 DA lodged.
- 19 October to 2 November 2012 Neighbour notification
- 17 October 2012 SEPP65 Design Review Panel meeting
- 23 October 2012 SEPP65 Design Review Panel report
- 23 October 2012 Discussion with Applicant regarding DRP comments
- 31 October 2012 Meeting with Applicant to discuss assessment issues
- 12 November 2012 Referral of DA to the NSW Heritage Council
- 12 November 2012 Additional information requested from Applicant
- 13 November 2012 Referral advice received from Council's nominated Heritage Advisor
- 22 November 2012 Meeting with Applicant to discuss assessment issues
- 29 November 2012 Further additional information requested to address process for acquisition of laneway on courthouse land
- 13 November 2012 Further additional information requested to address process for acquisition of laneway on courthouse land
- 3 January 2013 Advice received from NSW Heritage Council
- 27 March 2013 Preliminary land valuation of section of Courthouse land to provide public laneway
- 15 March 2013 Meeting with Applicant to discuss assessment issues
- 10 May 2013 Follow up status of additional information with applicant
- 20 May 2013 Follow up status of additional information with applicant
- 10 September 2013 Clarification of stormwater concerns provided
- 10 September to 23 October 2013 Additional stormwater information received
- 25 November 2013 Additional stormwater information received
- 11 February 2014 Followed up status of outstanding additional information with applicant
- 10 March 2014 Applicant gueries on additional information request
- 11 March 2014 Clarification response provided to additional information request
- 8 April 2014 Clarification response provided to additional information request
- 30 July 2014 Meeting with Applicant to discuss assessment issues
- 31 October 2014 Clarification response provided to additional information request to address stormwater concerns
- 7 November 2014 Additional information received
- 2 February 2015 Followed up status of outstanding additional information with applicant
- 15 April 2015 Additional information received including amended plans



### 3. STATUTORY ASSESSMENT

### **Section 79C(1) Matters for Consideration**

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

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

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

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

### State Environmental Planning Policy No. 62 – Sustainable Aquaculture

In accordance with clause 15C, given the nature of the proposed development, proposed stormwater controls and its' location, the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries within the nearby Hastings River approximately 100m from the site.

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

The application includes new building identification signage to be attached to the proposed building. In accordance with clause 7, this SEPP prevails over LEP 2011 in the event of any inconsistency. The following table assesses the specific requirements of this policy.

| Applicable clauses for consideration   | Comments   | Satisfactory |
|--|--|--------------|
| Clause 8(a) Consistent with objectives of the policy as set out in Clause 3(1)(a). | The proposed identification signage is consistent with the objectives of the policy. | Yes          |
| Schedule 1(1)<br>Character of the area.  | The signage is consistent with the character of the area.                            | Yes          |
| Schedule 1(2) Special areas.   | The signage will not detract from any identified special areas.                      | Yes          |
| Schedule 1(3) Views and vistas.  | The signage will not obscure any important views or vistas.                          | Yes          |
| Schedule 1(4) Streetscape, setting or landscape.                                   | The size and form of the signage is appropriate to the streetscape.                  | Yes          |
| Schedule 1(5) Site and building.   | The signage is compatible with scale and characteristics of the site and buildings.  | Yes          |
| Schedule 1(6) Associated devices   | No devices or logos proposed.  | Yes          |



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

| and logos with advertisements and advertising structures. |  |     |
|---|--|-----|
| Schedule 1(7) Illumination.                               | No illumination nominated however it reasonable to assume the entrance signage will be illuminated at night. No adverse impacts anticipated. | Yes |
| Schedule 1(7) Safety.                                     | The signage will not reduce safety to road users or pedestrians.   | Yes |

# State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

In accordance with clause 30, the proposal was referred to the Council's nominated Design Review Panel (DRP).

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

# DRP comment

The Panel notes that the documentation reviewed was unclear, incomplete and contradictory and is not considered adequate for development application assessment, lacking the necessary reliably for development certainty. The following items are not shown; arrival + reception area, external communal area, landscape, fire services power distribution, electrical substations, rubbish bin storage, letterboxes.

The following are unclear: driveway access, ramp structure, ramp height clearance, existing and proposed levels, the location of DCP required laneways, their expression or effect on the west elevation, openings and balconies on the west elevations, soil depth in notional landscape areas, use of the undeveloped lot on the eastern side (Murray St), BCA compliant egress exceeding 6m in length to a single fire stair (D07/1/). A survey plan was not included with the

### **Comments in response**

Satisfactory amended plans have been submitted to address all matters raised.

1. Relationship to the context of the proposal

The Panel supports the building alignment along the Clarence Street boundary, but requests that this be clarified on the drawings. Currently slight steps in alignment are indicated, which the Panel considers are unnecessary.

documents reviewed.

The steps are minor and occur on the upper levels where there is façade articulation and the construction is not to have differing finishes finishing flush. On ground level there is no stepping only some splayed corners to

The proposal does not incorporate the new lanes required in the DCP, even though the laneway parallel to Clarence Street could be enabled by the consolidated site ownership. This site ownership has potential to substantially improve the Clarence street frontage by freeing it from servicing and vehicle access requirements.

We recommend that vehicle access be required from the Murray Street frontage or a new laneway to protect the Clarence Street frontage in accordance with the DCP intent.

accentuate entry and expose the potential laneway in the future. Satisfactory amended plans have been submitted to address these matters.

The Applicant has provided the following response:

The DRP claims that the proposal doesn't include the new laneways. On the contrary, the rear laneway parallel to Clarence Street is a future possibility and it is the Proponent's intention to establish it once the Council Laneway system is a realistic option. Noted are the numerous conversations with Council re: such establishment. The Proponent does see the future benefit in a thru site Laneway system specifically for Commercial Tenancy potential.

The Courthouse Laneway has been the subject of discussion between Council and the Proponent for some time and it has reached the point for it to be progressed the Proponent has to expend considerable monies. It is the Proponent's position to accept a Condition in the DA approval making the acquisition/ establishment of the Laneway contingent prior to a Construction Certificate being released. Murray Street access as the DRP would like is not possible at this stage with the development of the required land being subject to recent DA approval for a Car park. The response provided from the Applicant satisfactorily responds to the key issues raised. The matter of the laneway can be resolved without need for a condition as the western side of the building has been set in. The laneway can be progressed during, prior to, or after completion of the development.

The width of vehicle access should be minimised from 6.5m. The Australian Standard minimum requirement should be adopted.

The car park entry width has been reduced as suggested by the DRP and is capable of complying with AS2890.

The Panel does not support the proposed frontage and relationship to the historic courthouse to the west of the site, it in no way responds to the urban potential. If the public laneways and pathways required by the DCP are not

The Applicant has provided the following response:

The prior approval had the building aligned with the boundary and no such Condition. In this instance the Proponent is happy for a Condition

# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

required as a condition of approval of this application, then we recommend that the positioning of the west wall of the building enable proper outlook toward the courthouse, simple BCA compliant openings and removal of the proposed fire escapes. To assist we suggest a 3m building wall setback with projecting balconies above would make a parkedge walkway suitable for the main residential access and perhaps alfresco café seating.

ensuring the Laneway is established prior to CC being issued. This proposal does have upper level units fronting the Court House and this DA proposal has 3 levels not the former 4 fronting the Courthouse with Units and Balconies overlooking. This proposal has a 2.1m set back proposed for the Courthouse boundary enabling pedestrian access to Commercial Tenancies and activating the frontage.

The response provided and amended plans have satisfactorily responded to the issues raised. The matter of the laneway can be resolved without need for a condition as the western side of the building has been set in. The laneway can be progressed during, prior to or after completion of the development.

## 2. The scale of the proposal

See comments above and below.

Noted.

### 3. The built form of the proposal

The Panel suggests that the building modelling more strongly unify and reinforce the Clarence Street frontage, and be developed as a more coherent 3 dimensional form. The stepped height needs further design refinement. The massing could be clarified if considered as paired three storey and six storey building elements, or alternatively as a podium + addition. Minor setbacks and off sets shown in section appear unnecessarily fussy relative to the overall scale of the proposal.

The Applicant has submitted amended plans and the following response: The changes to the West façade have resulted in the side wall west facing balconies reading on the Clarence street facade and, by virtue of the fact they are set back and not as high as the main block, they provide a better transition to the lower Western end of the building. The top 2 floors are significantly different in façade treatment to the floors below. deliberately lighter in the building elements, i.e. glass and small profile perimeter frames, so as to detach its appearance from the lower floors which extending the full length of block promote the Street aligned façade the DRP are after.

The response provided by the applicant and amended plans have satisfactorily responded to the issues raised.

Currently the second swimming pool is set up above the floor slab. If relocated or removed, an additional (4th) storey may be possible within the 13 m height control (west side, neighbouring the courthouse), comprising 3 x 3m + 1x 4m, to improve the urbanity of the Clarence Street frontage.

The Applicant has provided the following response:

The DRP suggest an option of removing the pool and replacing it with another level of units. This was not incorporated, the pool is necessary and ideally located. Adding bulk adjacent to the Court House doesn't seem to be a preferred outcome in retaining its level

# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

a need to comply with AS2890 at the

base of the ramp and there is a need to

of importance. The response provided has satisfactorily responded to the issues raised. In response the Applicant submitted Given the open, park-like character of the Court House, the western facades would amended plans with the façade being remodelled. Upper level units have be important and highly visible elements in the central Port Macquarie. Greater west facing balconies and the ground height, less continuous bulk and a floor has been opened up for revised more open ground floor should commercial use and set back 2.1m to all be investigated. The upper levels allow pedestrian access. should have modelled balconies and the like facing west, rather than a halfprojecting lift shaft. The Panel supports a useable roof terrace facing west above level 4 – it could have inset, light-weight balustrades and the like to minimise its presence. 4. The proposed density No comments. Noted. 5. Resource and energy use and water efficiency Ceiling fans in all habitable rooms should The Applicant has advised that the be provided and shown on the DA proposal will include ceiling fans as well drawings. Air conditioning should not be as air conditioning units. As far as is practical the units have maximised the needed or provided in this location. Wherever possible internal bathrooms areas of openable windows. should be naturally ventilated and lit. The response provided has Windows should be designed and satisfactorily responded to the issues specified to be secure when open to raised. permit cross ventilation and weather protection. The window design should optimise ventilation opportunities for all apartments and their method of operation should be clearly marked on the elevations. No stormwater storage tank is shown on Provision of a stormwater tank for water the drawings and could be added. reuse on-site will dependant on the final stormwater design. There is no requirement for a BASIX certificate therefore there is no mandatory provision for water storage and reuse. 6. The proposed landscape The Panel requires a more detailed Additional landscape details have been landscape plan, prepared by a qualified provided on the amended plans. landscape architect. This should include drawings of the proposed paving and levels, furniture, lighting, soil depth, soft landscape treatment, tree species and the like, illustrated in section and plan. The layout of the basement car park is The Applicant has advised that the unnecessarily inefficient. Aisle widths of aisle widths cannot be reduced, there is

10m. waste space and construction

materials and compromise the potential

# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

of the landscape design above. A more efficient car park layout would provide free deep soil landscape and allow significant tree plantings.

provide access to the stair and lift in the NW corner of the car park.

Refer to comments later in this report with suggestions for an improved car parking layout.

## 7. The amenity of the proposal for its users

More that 90% of the sole occupancy apartments are single orientation, more that 40% of the apartments face south, which is not acceptable under the RFDC.

The common circulation lacks natural lighting and ventilation, which is not acceptable under the RFDC. The dual common circulation corridors on levels 4 and 5, lack clarity and are spatially confused.

The common areas should be reconsidered and efficiently redesigned to substantially improve the amenity, legibility and environmental performance of the building. Investigate passive environmental design with BCA compliant options to enhance amenity and well being with access to natural light and fresh air. For example the stairs and lifts could remain in the centre, with open galleries on each side. Open both ends of the central circulation space on each level to light and air and reduce the buildings excessively high reliance on energy for lighting, cooling, heating and ventilation, which would be reflected in high operating costs.

Open the ends of the central circulation space to light and air, consider the design benefits of its expression as an open airy gallery. This would also significantly reduce the unrelieved bulk of the end elevations.

The excessive building depth and absence of operable top light windows, needs to be rectified.

The Applicant has provided the following response:

The DRP's comments relate specifically to long term residential units and don't apply to double loaded corridors that are typical in short term hotel style buildings and as are proposed in this development. The compromise to yield in a proposal compliant with the RFDC would render the project unviable. The corridor does open at one end providing ventilation and natural light. Because the East wall is effectively a party wall no openings can be achieved.

The response provided has satisfactorily responded to the issues raised.

See above comments.

### 8. The safety and security characteristics of the proposal

Independent BCA advice should be sought in relation to building access and fire, and the recommendations incorporated into the DA drawings.

The Applicant has advised that the building is BCA compliant under the Deemed to Satisfy and Performance provisions.

There is however a deemed to satisfy compliance issue with the western elevation that will need to be resolved with the application for Construction Certificate. The provision of laneway on the Courthouse land could resolve this

|  | matter.  |
|--|--|
| 9. Social issues   |  |
| While additional housing of the kind proposed is very suitable in this location, the proposal has a limited apartment mix.   | The Applicant has advised that the style of apartments proposed, i.e. Studio and dual key 1 bed units responds best to the Tourist demand in Port Macquarie.   |
| 10. The aesthetics of the proposal   |  |
| The proposal appears to be for a rendered and painted building, requiring significant maintenance in this corrosive maritime environment. The construction materials are not identified apart from powder coated aluminium. We suggest that an enduring material palette, suitable to the maritime environment, be adopted to reduce the maintenance costs over the buildings life and to promote a pleasing appearance over time.  As required by the RFDC, 1:50 wall and roof sections need to be provided describing the construction, detail and finishes such as roof lights, roof insulation, rainwater management, wall construction, sunshading, window type, balustrades, screens etc. Smaller scale sections should extend to the neighbouring properties to indicate fence heights, ground lines, window positions etc. | The Applicant has advised that they consider that the powder coated elements are suitable in the Port Macquarie environment. The texture coating proposed is similarly durable noting that a significant proportion of the exterior is glazed. |

On balance, it is considered that the information provided by the applicant including amendments to the proposal following the DRP meeting has satisfactorily addressed the issues raised. There are not considered to be any specific or cumulative impacts as a result of the amended design that would be of sufficient grounds to refuse the application.

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:

## SEPP 65 design principles

| Requirement  | Proposed  | Complies |
|--------------|---|----------|
| Principle 1: | Design of the proposal responded to the desired     | Yes      |
| Context      | future character of the area as.                    |          |
|              | The proposal is generally consistent with the built |          |
|              | form controls DCP2013 and will be of an             |          |
|              | appropriate scale, reflecting desirable future      |          |
|              | aspects within the existing locality undergoing     |          |
|              | transition.   |          |
|              | In particular Court House, a significant heritage   |          |
|              | item, is immediately adjacent and the proposal is   |          |
|              | scaled down to three storeys at the boundary with   |          |
|              | an awning and façade that address this important    |          |



|  | item.  |     |
|--|--|-----|
| Principle 2:<br>Scale  | Design of proposal is satisfactory in terms of future desired bulk and height and is suitable to the scale of the existing adjoining and adjacent buildings and streets.   | Yes |
|  | When viewed from Clarence Street, the proposal reduces the perceived scale by stepping back the top storeys and through building form create a defining horizontal 'top' at the fourth level. This combined with the strong horizontal awning line leaves the middle three storeys as the dominant mass to gauge scale from.   |     |
|  | The proposal incorporates a minor variation to the LEP controls for building height, which is considered acceptable - refer to clause 4.6 of LEP comments in report below.   |     |
| Principle 3:<br>Built form                                     | Design of proposal will achieve a satisfactory built form for the sites and buildings' purpose in terms of building alignments, proportions, building type and the manipulation of building elements.  | Yes |
|  | Design of proposal has responded to and will define the existing and intended future (future laneways) public domain. Significant contribution will be made to the existing desired future character of streetscapes and will provide a satisfactory amount of internal amenity and outlook.   |     |
| Principle 4:<br>Density  | Density of proposal will be appropriate to the site and its' context within a locality. The proposal has a compliant floor space ratio and stepped built form as desired by the LEP and DCP controls.  | Yes |
| Principle 5:<br>Resource,<br>energy and<br>water<br>efficiency | Design of proposal will be sufficiently energy efficient and will be required to comply with the Building Code of Australia. The development incorporates limited passive solar design principles, is capable of providing efficient appliances and mechanical services.   | Yes |
| Principle 6:<br>Landscape                                      | The proposed landscaping serves the following function:  To soften the interface between the two resorts at ground level.  To provide privacy to both the ground level units and to the pool users. The height of such planting will be limited to 1500mm.  The landscaped portion between the two resorts is not a recreation area, it is a mode of enhancement and privacy partially concealing guests that access the pathway or use the pool. The planting beds will be dense and lush and tiered up from the sides of the path. | Yes |
| Principle 7:<br>Amenity  | Design of proposal will provide a satisfactory amount of amenity with appropriate room   | Yes |



|  | dimensions and shapes, adequate access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and a satisfactory level of accessibility.                                      |     |
|--|---|-----|
| Principal 8:<br>Safety and<br>security | Design of proposal will provide satisfactory safety and security, both internally to the development and with respect to its relationship with the public domain.  The proposal adequately addresses the principles of Crime Prevention Through Environmental Design. | Yes |
| Principal 9:<br>Social<br>dimensions   | It is considered that the proposal has responded to<br>the existing social context and demand for tourist<br>accommodation and commercial tenancies which<br>are preferred in the CBD location.   | Yes |
| Principle 10:<br>Aesthetics            | Aesthetics of proposal has appropriate composition of building elements, textures, materials and indicative colours which reflect the use, internal design and structure of the development.  | Yes |

Overall, the proposal is considered to satisfy the design quality principles of SEPP 65

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

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

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

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

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

In particular, the site is in an established central business district context.

### Port Macquarie-Hastings Local Environmental Plan 2011

In accordance with clause 2.2, the subject site is zoned B3 commercial core.

In accordance with clause 2.3(1) and the B3 zone landuse table, the proposed development for a commercial premises and tourist and visitor accommodation is a permissible landuse with consent.

The objectives of the B3 zone are as follows:



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

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

- the proposal is a permissible landuse;
- the proposal will add additional appropriate commercial tenancies and tourist accommodation to the Port Macquarie Central Business District.

In accordance with Clause 2.6AA, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying) 2008.

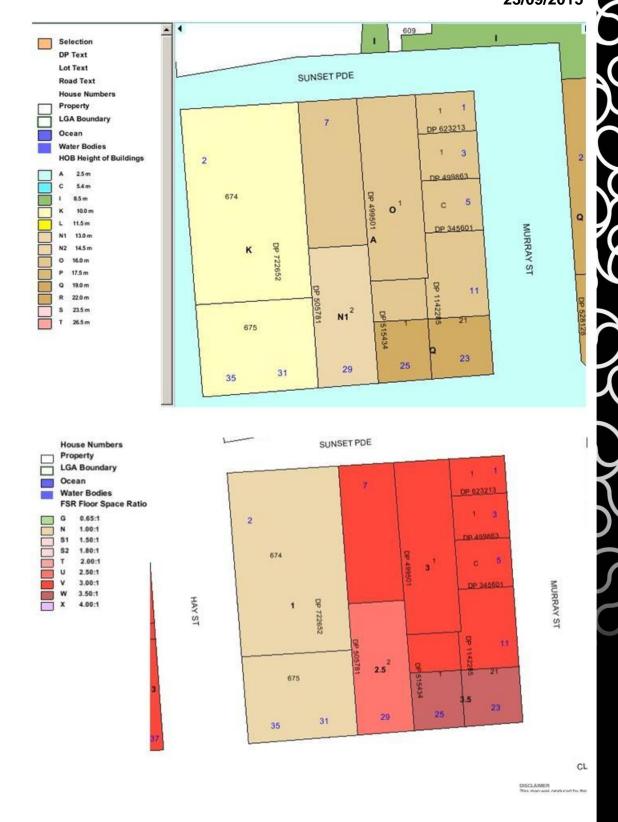
In accordance with clause 4.3 and 4.4, the following table provides an assessment of compliance with building height and floor space ratio standards.

## Port Macquarie-Hastings Local Environmental Plan 2011:

| Requirements          | Proposed                         | Complies |
|-----------------------|----------------------------------|----------|
| 4.3 Building height   |                                  |          |
| 13m west              | 13m                              | Yes      |
| 19m front east        | 19m                              | Yes      |
| 16m rear east         | Rear 5m portion of Level 8 = 19m | No*      |
| (See below)           |                                  |          |
| 4.4 Floor space ratio |                                  |          |
| 2.5:1 west            | Total FSR 2.1:1                  | Yes      |
| 3.5:1 front east      |                                  |          |
| 3:1 rear east         |                                  |          |
| See below             |                                  |          |



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Clause 4.6 – exceptions to development standards. As stated in the above table the height of a section of the rear of the building exceeds in part the maximum recommended building height. The Applicant has lodged a building height variation as follows:

Compliance is unreasonable and unnecessary in this case: Precedence exists in the area. The Waterfront approval which is 6 storeys and the same

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RL: 24.5 runs south to the north. This proposal encroaches 5.5m into the 'O' LEP height zone of 16.0m.



EXTENT OF ROOF THAT EXCEEDS THE HEIGHT LIMIT AND IS ADDRESSED IN THE DA REPORT, asking PMHC to permit the in crease in roof height under the provisions of Clause 4.6

The proposal does not adversely affect the neighbouring properties in respect of views or privacy nor does it contribute to any overshadowing. The proposal has 4 units in the contravening zone, level 6 being a duplication of the levels below, and deletion of these units will severely affect the economic viability of the development.

- (1) The objectives of this clause are as follows with comments supporting this application noted.
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

Comment: The Waterfront approval will see the height limit exceeded by 8.5 m for a length of 52m. The enforcement of the height restriction on a small part of the Anchorage Resort on the North side away from the public domain has no supporting logic

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment: The outcome financially is better for the proponent and the outcome for Tourist accommodation is better.

The variation is considered minor and is recommended to be supported. The variation will not result in any significant impact on neighbouring properties and will not result in an additional perceived bulk.

Clause 5.10 – The site is beside the Port Macquarie Court House being a State significant listed item of heritage significance, opposite other items of significance (Garrison Building and Hastings Historical Society Museum) and on a site which has identified archaeological heritage significance.



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With regard to the potential archaeology on the site the application has been referred to the NSW Heritage Council. The Heritage Council acknowledged that a previous DA2006 - 300 was approved by Council and the proposal has similar works proposed. The same heritage related conditions are recommended and are included in the draft conditions attached to this report.

With regard to impact on the context of the adjoining Courthouse, the Applicant has submitted a Statement of Heritage Impact prepared by Cracknell & Lonergan Architects and Heritage Consultants which was originally submitted with a previous DA2006 - 300 for the site in August 2005. The application has been referred to Council's nominated heritage advisor for comment. The heritage advisor raised concerns primarily with the western façade not being set back from the west boundary and not being activated. These concerns have been satisfactorily addressed with the amended proposal. These amendments have activated the western façade of the building an provide the ability for a future public lane to be created between the building and courthouse to further activate the area.

In accordance with clause 7.1, the site has part class 3 potential acid sulfate soils. The proposed development includes a basement car park which could disturb potential acid sulphate soils on-site. A condition is recommended to address potential disturbance and treatment of soil.

Clause 7.4 – Flood risk management – land between the flood planning area and the line that is shown as the probable maximum flood level on the Flood Planning Map and/or land surrounded by the flood planning area. The site is partly within a mapped area. There is sufficient emergency access from the site in the event of a major flood event above a 100 year ARI event.

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

(ii) Any draft instruments that apply to the site or are on exhibition: No draft instruments apply to the site.

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

Development Control Plan 2011 (as in force at time of lodgement of DA):

| Requirements                 | Proposed   | Complies   |
|------------------------------|--|------------|
| P3 Crime Prevention DP 1.1   | Generic principles of crime prevention addresses in accordance with Crime Prevention Through Environmental Design guidelines | Yes        |
| P3 Environmental             |  |            |
| Management                   |  |            |
| DP 1.1 & 2.1 Archaeological  | Heritage impacts have been   | Yes        |
|                              | addressed  |            |
| DP 5.1 Cut and fill max 1.0m | No exposed cut over 1m   | Yes        |
| P3 Stormwater DP 12.1        | Refer comments later in this report  |            |
| P3 Traffic, Access, Parking  |  |            |
| DP 2.3 Minimal driveway      | 1 driveway entry from Clarence   | Yes        |
| numbers and width            | approx. 4.5m width   |            |
| DP 3.1 Off-street parking    |  |            |
| 1 per 30m2 GLFA commercial   | 92 additional parking spaces   | No*        |
| 1.1/unit + 1/2 employees +   | provided on site – historical shortfall  | Refer to   |
| 1/on-site manager            | and credit available   | commentary |

|   |  | 23/03/2013  |
|---|--|---|
|   |  | at the end of the table.                              |
| DP 5.3 On-street parking AS 2890.5  | Street parking maximised retention in Clarence Street and improvement on existing situation. | Yes   |
| DP 7.1 Visitor and customer parking located to be easily accessible DP 7.4 & 8.1 Parking design                       | Access to additional basement acceptable   | Yes   |
| AS 2890.1&2 AS 1428 DP 14.1 Sealed parking areas DP 17.1 & 3 Parking designed   | Capable of compliance if disabled space amended  | Yes   |
| to not concentrate water runoff & not direct discharge  | Sealed carpark   | Yes   |
| to kerb and gutter  | Refer to stormwater comments later in this report  | Yes   |
| P4 Tourist and mixed use  |  |   |
| development DP 1.1/2.1/3.1 Site analysis plan   | Site analysis details provided   | Yes   |
| DP 5.1 Min. 2.7m floor to ceiling height habitable  | 2.7m floor to ceiling habitable levels   | Yes   |
| DP 6.1 FSR needs to be >1:1   | FSR >1:1   | Yes   |
| DP 8.3 Primary openings aligned to street or to rear of site  | Primary openings aligned to rear and Clarence Street frontage                                | Yes   |
| DP 10.1/11.1 Party wall development may be requires if site amalgamation is not                                       | Party wall proposed adjoining eastern property   | Yes   |
| possible DP 14.1/Hotel developments Max. 18m building zone depth  | Approx. 31.5m building zone depth (tourist building components)                              | No - tourist<br>building<br>acceptable                |
| DP 15.1 Buildings sited   | Building sited across Clarence   | Yes   |
| across the frontage of site<br>DP 16.1 Buildings orientated<br>main indoor and outdoor<br>living spaces towards north | Street frontage Main living spaces of tourist apartments orientated to north and south       | Yes/No -<br>Tourist use<br>acceptable                 |
| and east DP 16.2 Buildings to have thin cross section   | Approx. 31.5m building zone depth (tourist building components)                              | No - tourist<br>building<br>acceptable<br>No- tourist |
| DP 16.3 Single aspect apartments 8m depth max.  | 12.5m depth approx.  | building<br>acceptable<br>Yes                         |
| DP 16.4 Windows designed to catch prevailing winds  | Openable windows provided  | No - not  |
| DP 16.5 Operable top lights to sliding doors to allow for ventilation and security                                    | Not provided - not a reason for refusal  | considered<br>critical<br>matter                      |
| DP 16.6 Explore ventilation to internal rooms and   | Can be explored as part of<br>Construction Certificate process                               | Capable   |

| underground carparking         | and subject to Building Code of         |        |
|--------------------------------|---|--------|
|                                | Australia requirements                  |        |
| DP 16.7 Heating and cooling    | Tourist development only. Fans to       | Yes    |
| to target required areas only  | be incorporated. Building Code of       |        |
|                                | Australia compliance at construction    |        |
|                                | stage.                                  |        |
| DP 16.8 Lobbies, stairwells    | No natural ventilation or light - not a | No     |
| and corridors to utilise       | reason for refusal with tourist         |        |
| natural light and ventilation  | development                             |        |
|                                | •                                       | Yes    |
| DP 16.9 Major entrances into   | Main entrance isolated space from       | res    |
| lobby to be isolated from      | tourist apartments                      |        |
| living areas                   |   |        |
| DP 16.10 Front doors           | Front doors at street level             | N/A    |
| provided with security screen  | commercial standard                     |        |
| doors                          |   |        |
| DP 18.1 Internal clothes       | No formal internal drying area -        | Yes    |
| drying space provided          | tourist development                     |        |
| DP 18.2 Energy efficient       | Design of proposal will be              | Yes    |
| heating and cooling provided   | sufficiently energy efficient subject   |        |
|                                | to the Building Code of Australia.      |        |
| DP 18.3 Preference for ceiling | Ceiling fans to be provided             | Yes    |
| fans provided                  |   |        |
| DP 18.4 Solar hot water        | None proposed                           | N/A    |
| systems provided               |   |        |
| DP 18.5 Photovoltaic arrays    | None proposed                           | N/A    |
| installed where practical      | The trapecture                          | 1 47 1 |
| DP 19.1 Landscaping            | Internal landscaping central rear of    | Yes    |
| including 3m width             | site + roof top                         | 100    |
| DP 36.1 Busy noisy areas       | Tourist use - not residential           | Yes    |
| within apartment face street   | Tourist asc - not residential           | 103    |
| and quiet areas face rear      |   |        |
| DP 37.1/37.2 Noise             | Uses are couple internally              | Yes    |
| transmission between           | Oses are couple internally              | 163    |
| apartments minimised           |   |        |
| DP 41.1 AS1428 access          | Capable of compliance subject to        | Yes    |
|                                | , | res    |
| provided                       | detailed checking at Construction       |        |
| DD 44.4 Drovide                | Certificate Stage.                      |        |
| DP 44.1 Provide:               | One and floor blob as as "              | Va.    |
| - higher ceilings ground and   | Ground floor higher ceiling only        | Yes    |
| first floor                    | Common annial analytic and a            | Va-    |
| - separate entries for ground  | Commercial entries separate on          | Yes    |
| floor                          | ground floor                            |        |
| - align structural building    | Building components between floor       | Yes    |
| components between floor       | levels aligned                          |        |
| levels                         |   |        |
| - service ducts to             | Voids within building                   | Yes    |
| accommodate change in uses     |   |        |
| DP 48.1/48.7 Variations and    | Variations in roof form                 | Yes    |
| interest in roof form          |   |        |
| DP 48.4 Lift over runs         | Lift over run integrated                | Yes    |
| integrated into roof           |   |        |
| structures                     | Façade balance satisfactory with        | Yes    |
| DP 49.1/49.2 Façade            | top, middle and base defined            |        |
| composition balance            |   |        |
| horizontal and vertical and    |   |        |
|                                | 1                                       | 1      |

| define top middle base                           | Building elements and colours                                    | Yes     |
|--|--|---------|
| DP 50.1 Building colours and                     | modern and will compliment street                                |         |
| elements to compliment                           | Entrance clearly defined from                                    |         |
| street   | Clarence Street and entrance width                               |         |
| DP 51.1-51.6 Entrances from                      | generous   |         |
| street identifiable, safe and                    | 1.8m wide corridor - acceptable for                              | No      |
| functional                                       | tourist  |         |
| DP 51.7 -51.9 Circulation                        |  |         |
| spaces size appropriately                        |  |         |
| with min 2.5m width, 3m                          |  |         |
| height and long corridors                        | Tourist apartments - balconies                                   | N/A     |
| minimised with windows                           | provided   |         |
| DP 52.1-52.4                                     | F1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1                           |         |
| Balcony/apartment with min.                      |  |         |
| 2.0m width and 8.0m2 area                        |  |         |
| directly accessible from living                  | Balconies/balustrade balance views                               | Yes     |
| area   | Balcoffics/Balastrade Balaffee views                             | 103     |
| DP 52.5 Balconies/balustrade                     | Shutters provided  | Yes     |
| balance views                                    | Onattoro providod  | 100     |
| DP 53.1 Sunscreens/shutters                      | Balconies recessed   | Yes     |
| etc provided to balconies                        | Solid balustrade acceptable given                                | N/A     |
| DP 53.2 Balconies recessed                       | other architectural treatment                                    | IN/A    |
| DP 53.3 Solid balustrade                         | Unknown  | N/A     |
|  | Officiown  | IN/A    |
| discouraged                                      | Dublic versus private defined                                    | Yes     |
| DP 54.1 Air conditioning not visible from street | Public versus private defined                                    | res     |
|  |  |         |
| DP 58.1 Hierarchy of space                       | Carbago atarago arao in bacament                                 | Voo     |
| clearly defined from public to                   | Garbage storage area in basement                                 | Yes     |
| private DP 60.1/60.2 Communal                    | Litilities assentable  | Yes     |
|  | Utilities acceptable   | 162     |
| waste storage provided DP 61.1-61.4 Utilities    |  |         |
| P4 Business and                                  |  |         |
| Development                                      |  |         |
| DP 2.1 Zero m front setback                      | Zero m front setback   | Yes     |
| DP 6.1 Shopfront widths 15-                      | Down to 6.5m wide approx.  | No      |
| 20m with max. 30m                                | tenancy. Acceptable given no                                     | INO     |
| Zoni with max. John                              | , ,  |         |
|  | lengthy shop fronts and character of other narrow shop fronts in |         |
| DP 6.2 Max. length of similar                    | Clarence Street  | Yes     |
| façade treatment 22m                             | Façade treatment varied fronting                                 | 169     |
| DP 6.3 Side and rear façade                      | Clarence Street  | Yes     |
| treatment same as front                          | West, North same treatment. East                                 | 169     |
| façade   |  |         |
| DP 6.4 Complimentary                             | party wall   | Yes     |
| building materials and                           | Clazing provided to ground floor                                 | 169     |
| glazing  | Glazing provided to ground floor commercial                      | Yes     |
| DP 6.5 Articulation zone to                      |  | 169     |
|  | Articulation provided to building                                | Voc     |
| tourist levels 1.8-4 m                           | façade fronting Clarence Street                                  | Yes     |
| DP 7.1/7.2 Architectural                         | Architectural details creates visual                             |         |
| detailing provide visual                         | interest to Clarence Street and                                  |         |
| interest to streetscape and                      | facades reflect orientation                                      | \\\     |
| façades reflect orientation                      | Nie as audious Williams Co. 11                                   | Yes -   |
| DP 8.1 Security grills inside                    | No security grills detailed however                              | capable |
| building behind glazing                          | will likely be provided  | Yes     |

| DP 11.1/11.2 Min. 50% ground                       | >50% glazing shopfront and shop  |              |
|--|--|--------------|
| floor level glazed with active                     | fronts provided  |              |
| frontage   |  | Yes          |
| DP 11.3 Ground floor                               | Ground floor commercial at same  |              |
| commercial at same level as                        | level as street  |              |
| street   |  | Yes/No -     |
| DP 13.1-14.8 Awnings 3.2m                          | 3.6m height awning and 3.5m width  | Condition to |
| height with 2.5m width                             | awning   | have         |
|  |  | awning set   |
|  |  | in 600 from  |
|  |  | kerb         |
|  |  | Yes          |
| DP 17.1 Landscape plan                             | Landscape plan submitted   | Yes          |
| DP 26.1-28.3 Waste                                 | Waste communal area provided   |              |
| Management   |  | Yes          |
| DP 29.2-29.5 Number vehicle                        | Single vehicle crossover to  |              |
| crossovers kept to minimum                         | Clarence Street with approx. 4.5m  |              |
| and max. 6m width                                  | width  | Yes          |
| DP 29.7 Stairs and elevators                       |  |              |
| clearly visible within carpark                     | Stairs and elevators will be in visible  | Yes -        |
| DP 31.1 Internal finishes of                       | location within basement   | capable      |
| underground carparks                               | Internal wall finishes can be  |              |
| consistent with external                           | resolved at construction stage   |              |
| materials where visible from                       |  |              |
| Street   |  | Yes -        |
| DP 31.2 Natural ventilation to                     |  | capable of   |
| underground carpark                                | Unknown except for vehicle access  | compliance   |
|  |  | with BCA     |
|  |  | Yes -        |
| DP 31.3/31.4 Garage door to                        |  | capable      |
| compliment building                                | Garage door unknown.   |              |
| materials in remainder of                          |  | V            |
| building and 25%                                   |  | Yes -        |
| transparency                                       | Canable commission of with AC1400  | capable      |
| DP 32.1-34.2 Access AS1428                         | Capable compliance with AS1428   | NI/A         |
| and pedestrian movement                            |  | N/A          |
| separate to vehicle movement DP35.1 Street numbers | Unknown  | Yes          |
| DP 35.1 Street numbers DP 35.2 Illumination of     | Assumed will be provided   | Yes -        |
| parking areas                                      | Assumed will be provided   | capable      |
| DP 36.1 Bicycle parking                            | No specific bicycle parking area   | Japanie      |
| provided   | provided. Space available to   |              |
| p. o riada   | provide  |              |
| P4 Mixed use development                           | provido  |              |
| DP 40.1 Mixed use provide in                       | Location of site within CBD Port   | Yes          |
| key business location with                         | Macquarie  | . 55         |
| good public transport                              |  |              |
| accessibility                                      |  |              |
| DP 41.4 Security entries                           | Unknown but assumed to be  | Yes -        |
| provided   | proposed   | capable      |
| DP 42.1 Buildings simple                           | Building simple structural grid  | Yes          |
| structural grid                                    | l carry carry of actional grow   |              |
| DP 42.2 Number of internal,                        | Internal walls minimised   | Yes          |
| apartment structural walls                         | The state of the s | ,            |
| minimised  |  |              |
|  |  |              |

| DP 42.3 Ceiling heights min. 3.6 ground and first floors           | 3.4m approx - suitable for commercial use - first floor 2.9m approx.   | No - floor to<br>floor ceiling<br>heights<br>acceptable -<br>non<br>compliance<br>not a<br>reason for<br>refusal |
|--|--|--|
| Part 5 Town Centre Area  |  | 10.555   |
| based controls – Block 2   |  |  |
| - Materials pale coloured masonry with timber elements             | - Mixture of materials and colours  •  | Yes  |
| <ul><li>Amalgamations desirable</li><li>with min. 1200m2</li></ul> | - Amalgamation of 3 sites for 1 development >1200m2  | Yes  |
| - Max. 30m shopfront   | - <30m shopfront   | Yes  |
| - Break up roof design where possible                              | - Roof design acceptable   | Yes  |
| - Make roofs into top recreation areas for tourist accommodation   | - Roof top recreation area provided  | Yes  |
| - Block 2 laneway and pathway provided                             | Block 2 laneway not provided<br>however opportunity for. Building<br>now setback from western                                    | No/future opportunity  |
| - Ground floor max. build depth entire site minus Block 2 lane     | boundary - Ground floor building depth   | Yes  |
| - Max. 20m building depth first floor and above                    | satisfactory with opportunity for future laneway at rear - 31.5m building depth first floor and above - acceptable for           | No   |
| - Zero front setbacks except for top floor min. 3m                 | tourist use  | Yes  |
| - Rear setback to laneway zero except top floor min.               | Zero front setback including     Level 7     Rear setback to laneway zero m  | Yes  |
| 3m<br>- Side setback Block 2                                       | including level 7  | Yes  |
| pathway zero m - Façade enclosure min. 60% ground 50% min first    | <ul><li>Zero m west side setback to<br/>future pathway</li><li>Façade enclosure acceptable</li></ul>                             | Yes  |
| and 40% other - Façade articulation zone zero m ground, Min. 1.8m  | 7 oro m abon fronto Clarance   | Yes  |
| max. 4m first floor and above                                      | <ul> <li>Zero m shop fronts Clarence</li> <li>Street &amp; range to 2m above</li> <li>ground floor articulation zone.</li> </ul> |  |



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### \*DP 3.1 Off-street parking

Requirements:

1 per 30m2 GLFA commercial 1.1/tourist unit + 1/2 employees + 1/on-site manager

The following parking calculations are provided demonstrating compliance with the DCP parking requirements acknowledging the significant historical credit under the Waterfront BA185/1967 applying to the site:

- There is currently 46 existing parking spaces provided on-site for 56 hotel rooms;
- The current approval (which remains active but is yet to be completed) would result in a total of 91 hotel rooms, restaurant and commercial space. Under this approval no additional parking is required to be provided on-site;
- Under current guidelines, parking requirements would be (if BA 185/67 is completed) 114 spaces for 91 hotel rooms, restaurant and commercial tenancies. This represents an on-site shortfall in parking = 114 46 = 68 spaces, which is considered as a parking credit;
- 44 of the 91 hotel rooms (yet to be completed) will be relinquished to allow for new Anchorage Apartments;
- 47 units will then be proposed for the Waterfront Resort;
- Only 12 of the current 46 parking spaces on-site will be retained;
- 92 spaces are proposed in the basement parking area under the proposed Anchorage building + 12 spaces (to be retained) under the Waterfront Building (BA185/67). A total of 104 spaces are proposed to be provided onsite.
- The development proposes an additional 28 dual key serviced apartments + 9 single serviced apartments.
- There is no specific parking rate under Council's DCP for dual key apartments. Previous assessments undertaken by Council staff (e.g. DA2007-270) have applied a merit-based assessment and assumed a 75% occupancy rate for dual key apartments.
- Therefore 28 x 2 dual key = 56 (single) = 56 x 0.75% occupancy rate = 42 x 1.1 = 46.2 parking spaces required. 9 single units x 1.1 = 9.9 spaces required. Anchorage Units: 46.2 + 9.9 = 56.1 parking spaces + Commercial floor area 478/30m2 = 15.9 spaces required + 12.7 staff/2 = 6.4 spaces
- Total parking required for the Anchorage Resort on its own = 56.1 + 15.9 + 6.4 = 78.4 spaces;
- Total required for both resorts on the site is 130.1 spaces under today's guidelines. The proposal has provided for 104 spaces. This would normally represent a shortfall of 26.1 spaces. However, with the 68 space credit sufficient parking is provided with a surplus parking credit of 41.9 spaces.
- There is a total of 47 + 65 = 112 tourist units (up from 91 original units in 1967, however 56 of them are now dual key).



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 If all dual key units were counted as single tourist units (not 75% occupancy approach) there would still be a significant parking credit on the site, being 27.9 spaces.

The parking provision is therefore considered to comply with the DCP requirements.

A condition is recommended to require the sites to be consolidated so that the parking for both resorts can be shared.

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

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

iv) any matters prescribed by the Regulations:

### **NSW Coastal Policy 1997**

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

### Demolition of buildings AS 2601 - Clause 92

Demolition of the existing building 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 management plan applies to the site.

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

#### Context and setting

The site has a general south street frontage orientation to Clarence Street, Port Macquarie.

The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain and potential future public domain with a laneway on the Courthouse land.

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

The proposal does not have any identifiable adverse impacts on existing view sharing.

The proposal does not have any identifiable significant adverse lighting impacts.

There are no significant adverse privacy impacts.

There are no adverse overshadowing impacts to any neighbouring residences.

#### Roads

Clarence Street and Murray Streets are both 30m wide road reserves with 23m wide formations. Murray Street has parallel edge parking and centre parking, while Clarence Street currently has nose in angle parking both sides.



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Sunset Parade has a 10m wide formation with parallel parking both sides. All three streets in proximity are fully formed with kerb and gutter both sides. Works are currently be completed by Council in Clarence Street.

Any required works within Clarence Street are recommended to be conditioned to conform with Council's Town Centre Master Plan.

### **Traffic and Transport**

Access to the new Clarence St carparks will be from a driveway off Clarence Street. Access and egress will also be permitted from Sunset Parade because of the connecting ramp between the two developments.

Loading bays for delivery trucks are not required according to the DCP 2011 for commercial areas less than 500 sq metres. The commercial areas for shops have an area of 368 m<sup>2</sup> therefore the non-provision of loading bays is acceptable.

The existing road network has sufficient capacity to cater for the anticipate increase in traffic.

### **Site Frontage & Access**

Vehicle access to the development is proposed though a multiple access driveways to Clarence Street (entry only) and Sunset Parade (entry and exit). All accesses shall comply with Council AUSPEC and Australian Standards, and conditions have been imposed to reflect these requirements.

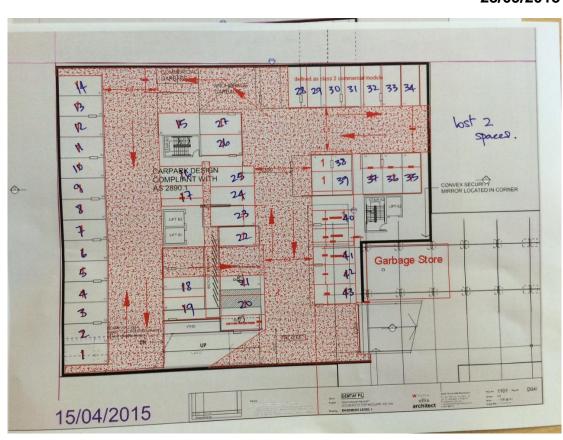
### **Parking and Manoeuvring**

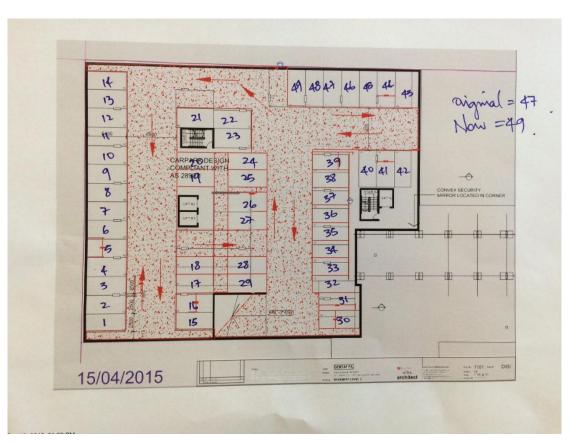
A total of 104 parking spaces (including 2 disabled spaces) have been provided onsite. Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890) and conditions have been imposed to reflect these requirements.

Detailed assessment of the plans concludes that additional design works are required for the parking layout to comply.

Due to the type of development, car park circulation is required to enable vehicles to enter and exit the site in a forward manner. The current plans do not indicate adequate circulation, however detailed assessment has concluded that a redesign is possible to achieve compliance with AS2890 to provide adequate parking modules and circulation throughout the carpark areas - refer to below diagrams. A deferred commencement condition is recommended to reflect these requirements. Refer to relevant conditions of consent.







The proposal will be unlikely to have any adverse impacts within the immediate locality in terms access, transport and traffic. The existing road network will

# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

satisfactorily cater for any increase in traffic generation as a result of the development.

### **Water Supply Connection**

Records indicate that the development site has 25mm and 50mm metered water services from the 150mm PVC water main on the same side of Clarence Street and the 250mm DICL water main on the same side of Sunset Parade.

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

### **Sewer Connection**

There are outstanding sewer issues that require attention.

Excavation for the underground car park to RL -2.5 AHD will demolish the existing live sewer main that traverses the lot to manhole PM 03P064. This manhole is currently buried under a paved area and therefore is inaccessible. It will also be under the proposed building, which is not acceptable under the adopted AUSPEC D12.

A Drainage Strategy Plan by Hopkins Consultants submitted with the DA documents shows the sewer mains across the site labelled "remove all existing sewer lines". This plan is the only mention of action on the sewer mains but does not offer an alternative.

Removal and relocation of this section of main will benefit the sewer system in the area by eliminating the inaccessible manhole, removing another existing manhole (PM03P003) currently located in the carpark under the "Waterfront Resort" building and relocating four (4) existing junctions, which serve adjacent properties, from under both resort buildings.

The junctions to four (4) adjacent lots will have to be reconnected to new mains replacing the main to be removed.

The applicant will be required to consult with Council sewer design section prior to submitting, with the application for a Construction Certificate, a sewer strategy plan which replaces the existing mains and provides for all existing connections. This work is to be included in phase 1 development (Anchorage resort building) to avoid problems if the second phase (Waterfront Resort) does not proceed.

A deferred commencement condition is recommended and additional conditions in the consent to address these requirements.

### Stormwater

The site is currently serviced via direct connections to an existing public stormwater pipeline which traverses the development site and that drains adjoining Clarence Street. This pipeline is proposed to be removed and redirected as part of the proposed development on the grounds that the development includes basement levels that clash with this existing Council stormwater asset.

The legal point of discharge for the development is defined as Council's existing piped drainage system downstream of the site. In this regard, the applicant has demonstrated that Council's existing piped drainage system in Hay Street can be extended to the frontage of the site to allow direct piped connection from the



# DEVELOPMENT ASSESSMENT PANEL 23/09/2015

development site into the public drainage system. The applicant has also demonstrated conceptually that this pipeline extension can also be sized to cater for the re-diversion of the existing public piped drainage system that currently traverses the site.

During the DA process, many options for the proposed pipeline diversion were explored with the developer's representatives, in conjunction with options to facilitate the physical construction works. The chosen option to extend the pipeline to Hay Street has been determined to be the most suitable option on the basis that the pipeline is located wholly in the road reserve (not private property as currently exists), and that it provides the landowner with more developable land (no easements required which would limit available space).

The exact alignment of this pipeline extension and the scope of restoration works has not been quantified at this time due to uncertainties regarding the timing of works and the likely impacts on existing vegetation and services. These matters require finalisation prior to the issue of a Construction Certificate.

Whilst concept plans and modelling has demonstrated the feasibility of this approach, Construction Certificate plans must include detailed modelling and calculations to demonstrate that the proposed pipeline extension and diversion does not compromise the capacity of the existing downstream drainage system. Specifically, the modelling shall demonstrate that the pipeline extension and downstream system both comply with the requirements of AUSPEC D5. Where deficiencies are found, the existing downstream system must be upgraded to ensure full compliance in this regard.

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

In addition to the above and in accordance with Council's AUSPEC requirements, the following must be incorporated into the stormwater drainage plan:

- On site stormwater detention facilities, and
- Water quality controls

Refer to relevant conditions of consent.

#### Other Utilities

Telecommunication and electricity services are available to the site.

#### Heritage

There are items of potential archaeological heritage and other items of state and local heritage significance in the immediate locality. Potential impacts on these items have been addressed earlier in this report under the LEP. No adverse impacts anticipated.

#### Other land resources

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

#### Water cycle

The proposed development will be unlikely to have any adverse impacts on water resources and the water cycle. It is noted that the basement construction has the potential to interfere with the existing water table. Appropriate precautionary



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conditions are recommended to address any potential ground water acquifer interference in this regard.

#### 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 and acid sulphate soil management plan to be in place prior to and during construction.

#### **Earthworks**

The applicant will be exporting excavated material from the site. Details of the haul route have not been provided with this Development application. A Section 138 application will be required as a condition to determine likely approved haul routes, dilapidation reports with before and after damage assessments of the haul route.

#### Air and microclimate

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

#### 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.

#### Waste

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. Waste is capable of being managed on the site.

#### **Energy**

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

#### Noise and vibration

No adverse impacts anticipated. The site is located within an existing commercial precinct with other existing commercial uses. Condition recommended to restrict construction to standard construction hours.

#### Safety, security and crime prevention

The Applicant has submitted a report detailing how the design of the building has addressed crime risk prevention. The report is acceptable.

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 ongoing operation phase will provide significant support to the local economy.

#### Site design and internal design



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

#### Construction

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

#### **Cumulative impacts**

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

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

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

Existing site constraints of access and likely infrastructure impacts have been adequately addressed subject to deferred commencement requirements and recommended conditions of consent.

(d) Any submissions made in accordance with this Act or the Regulations: No written submissions have been received following public exhibition of the application.

#### (e) The Public Interest:

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

#### 4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

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

#### 5. CONCLUSION

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

Issues raised during assessment 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 a deferred commencement and conditions provided in the attachment section of this report.

#### **Attachments**

1<u>View</u>. DA2012 - 0507 DA Plans



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2View. DA2012 - 0507 Additional Plan

3View. DA2012 - 0507 Recommended Conditions

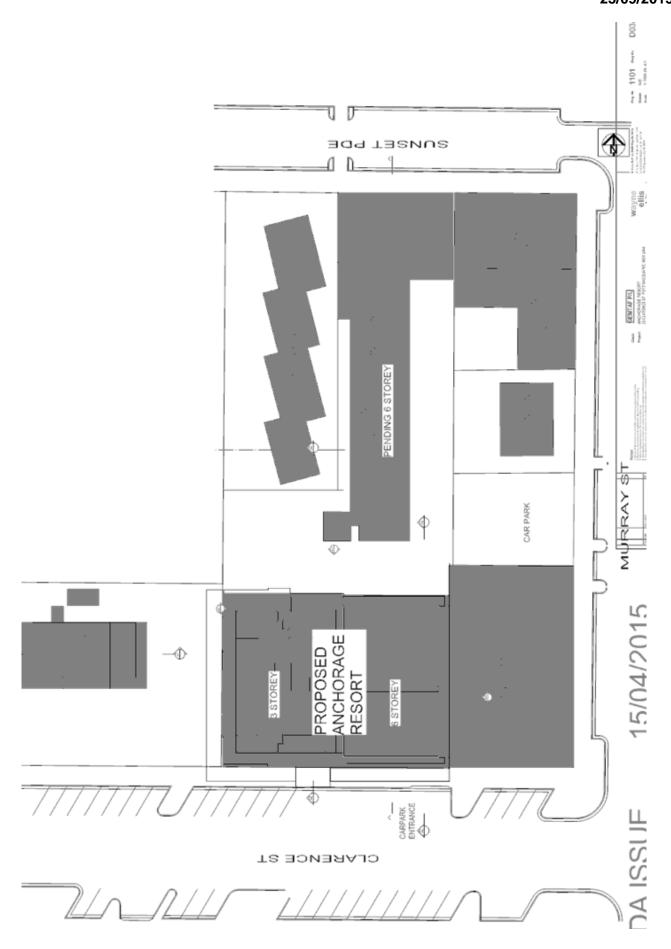
4View. DA2012 - 0507 NSW Heritage Council Conditions.pdf



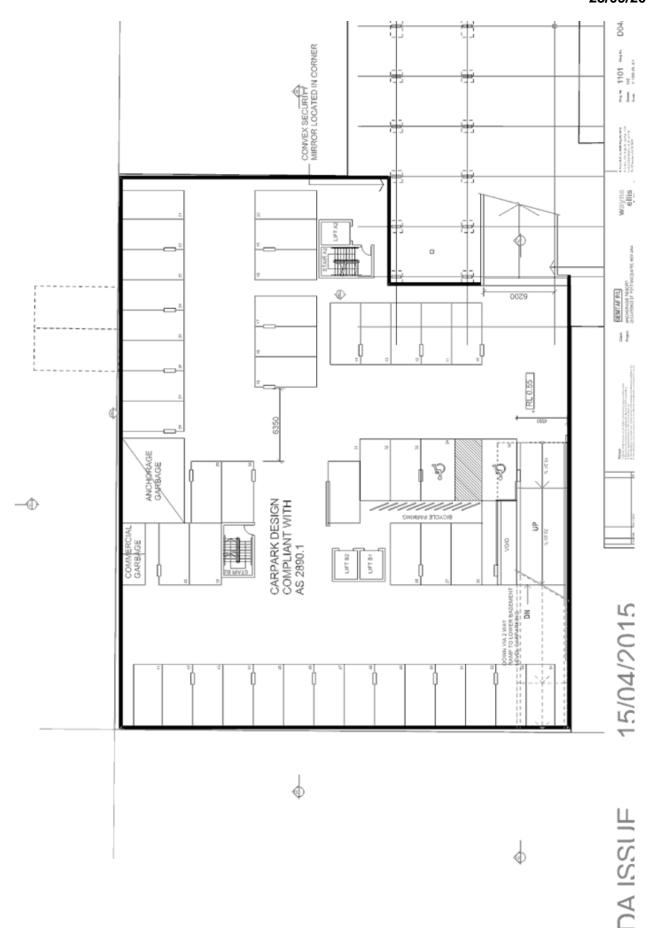
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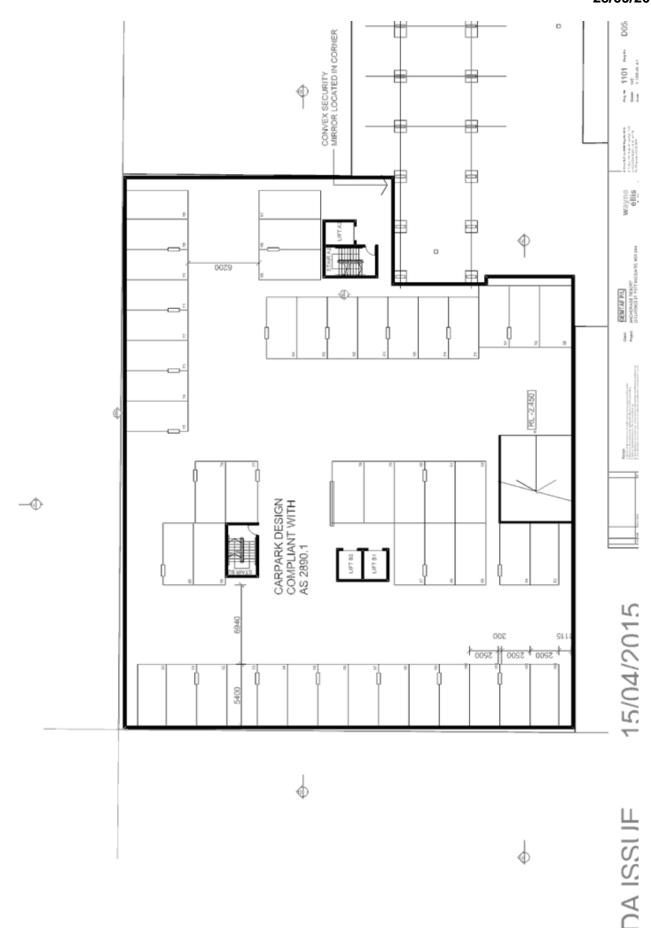
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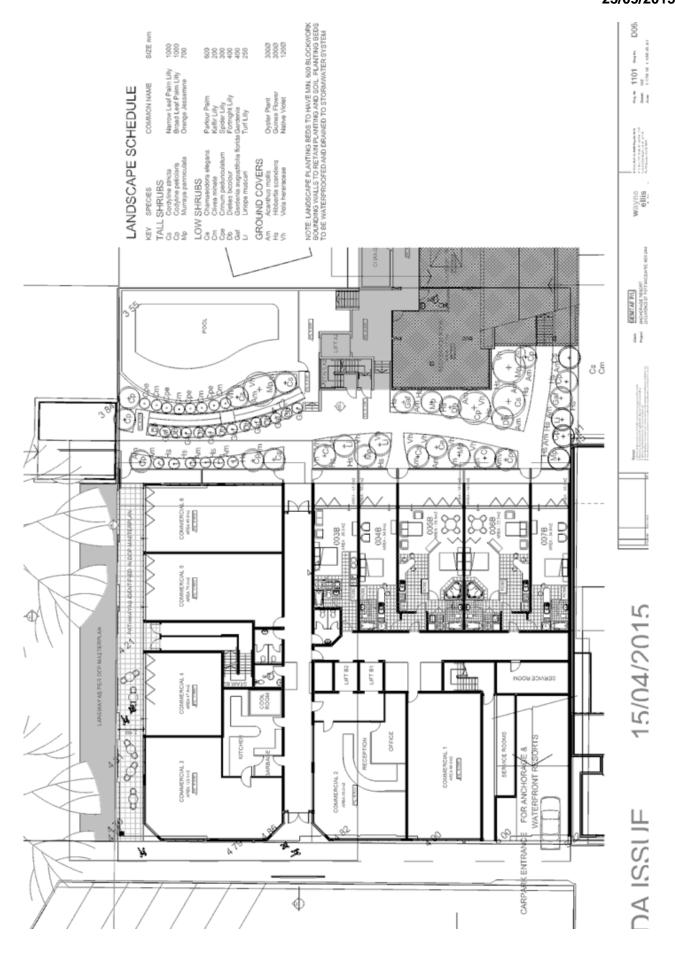




Item 08 Attachment 1





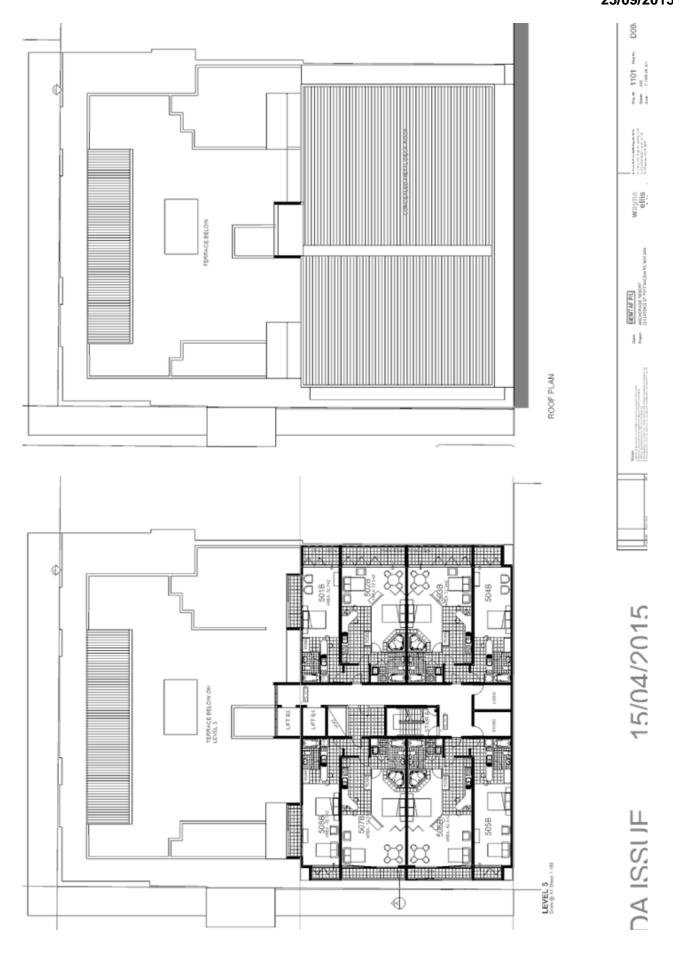


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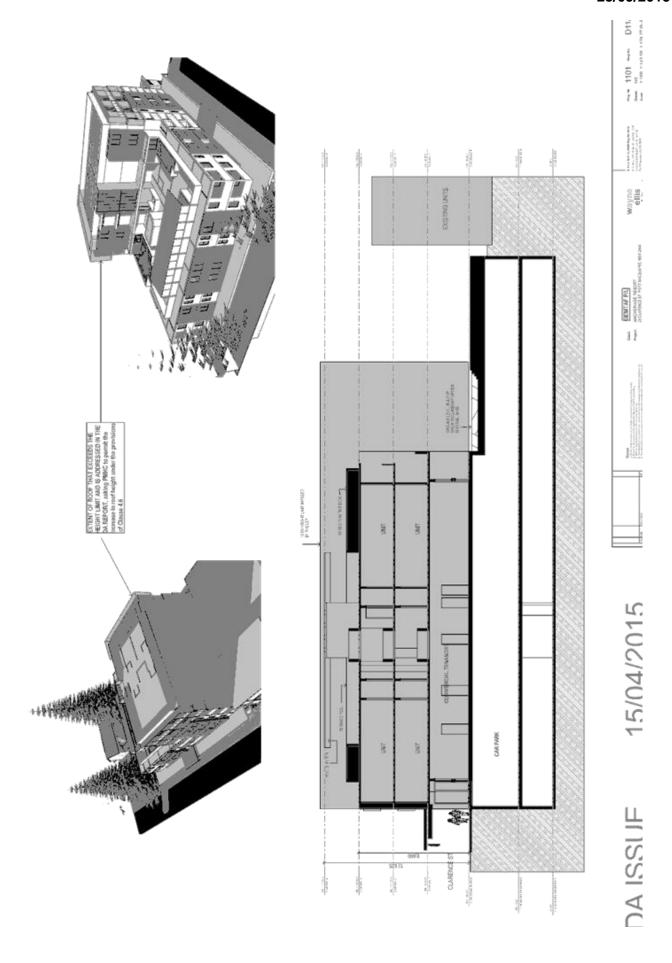
Item 08 Attachment 1



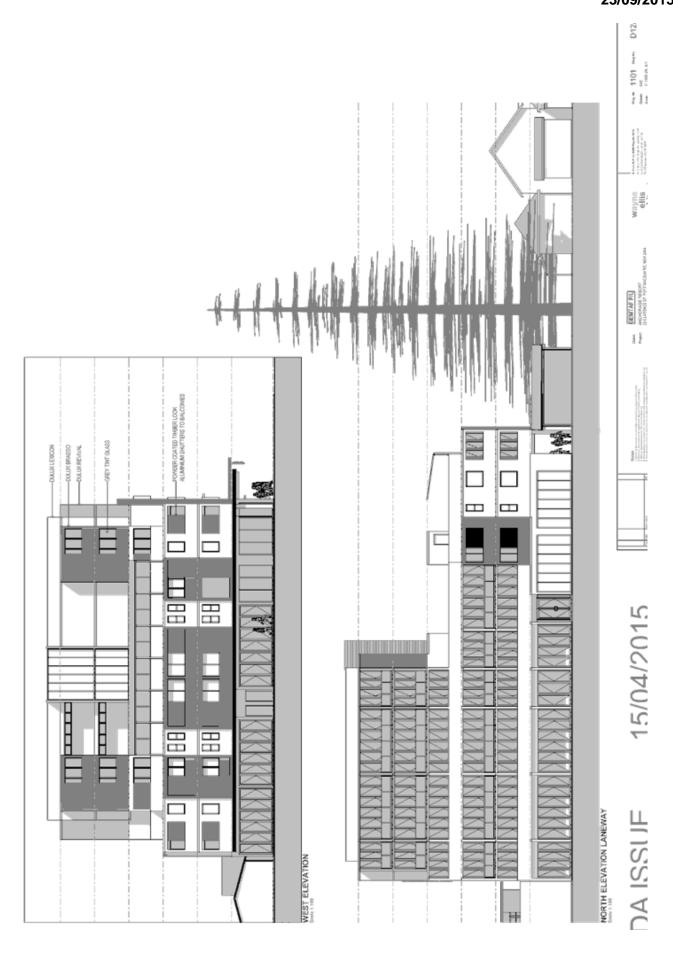
Item 08 Attachment 1



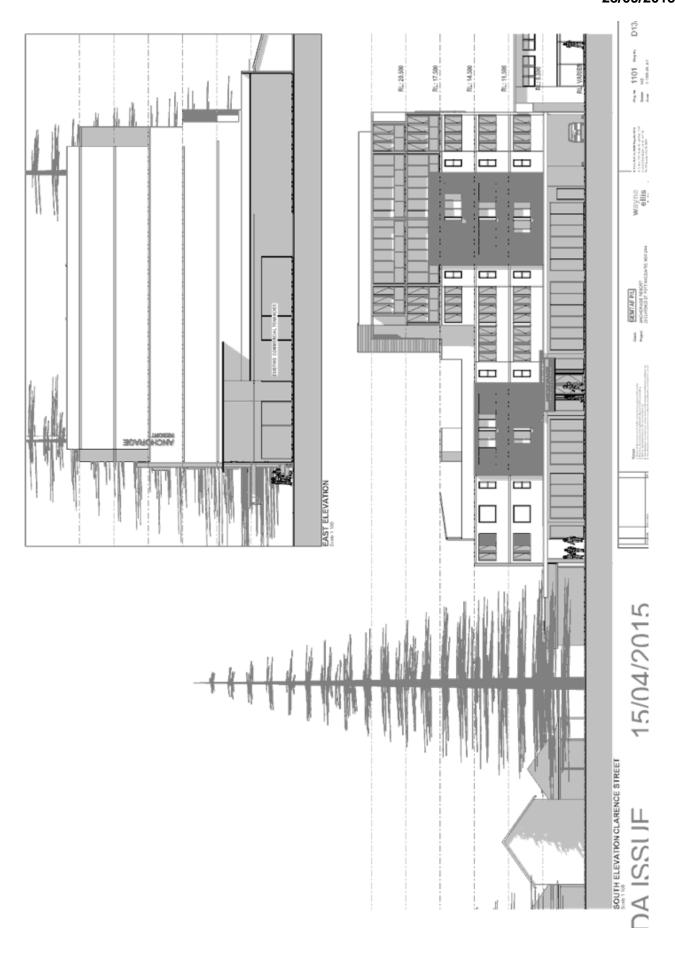
Item 08 Attachment 1



Item 08 Attachment 1



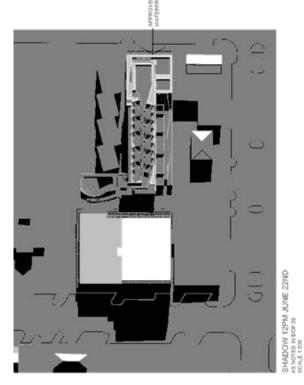
Item 08 Attachment 1

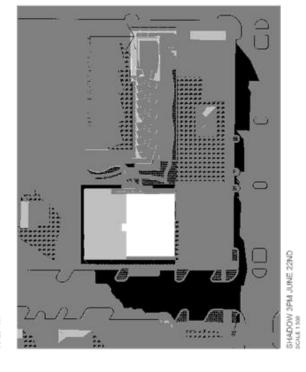


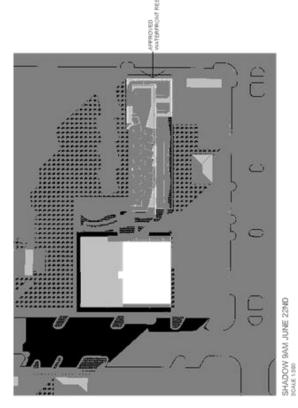
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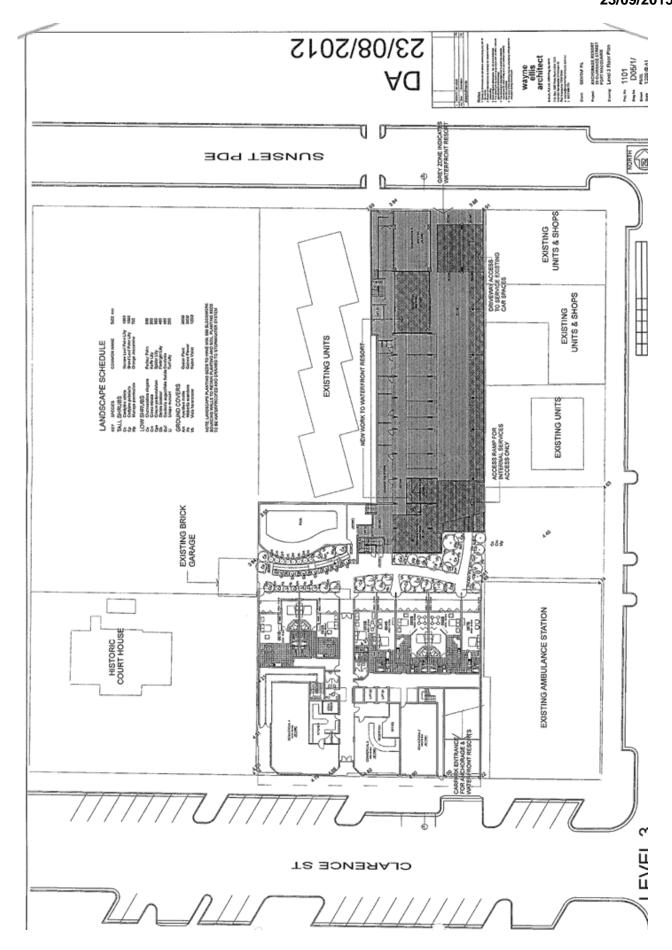
# DEVELOPMENT ASSESSMENT PANEL 23/09/2015











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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2012/507 DATE: 17 September 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<br>Document | Reference              | Prepared by              | Date          |
|-------------------------------|------------------------|--------------------------|---------------|
| Plans                         | Drawing No. 1 to<br>12 | Wayne Ellis<br>Architect | 14 April 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:
  - a. the appointment of a Principal Certifying Authority; and
  - b. the date on which work will commence.

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

- (3) (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;
  - 2. 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;
  - 4. Building waste is to be managed via an appropriate receptacle;
  - Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
  - Building work being limited to the following hours, unless otherwise permitted by Council;

- Monday to Saturday from 7.00am to 6.00pm
- No work to be carried out on Sunday or public holidays

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

- (5) (A012) This consent does not provide for staging of the development. Any staging will require a separate consent or an amendment to this consent.
- (6) (A013) The general terms of approval from the following authorities, as referred to in section 93 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.
  - NSW Heritage Council The General Terms of Approval, Reference A1213845 and dated 20 December 2012, are attached and form part of this consent.
- (7) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (8) (A030) The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's current AUSPEC Specifications and Standards. All works must be approved by Council pursuant to Section 138 of the Roads Act.
- (9) (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.
- (10) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
  - making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
  - 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,
  - 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.
- (11) (A037) Provision of an automatic stormwater sump and pump system designed by a Practising Hydraulic Engineer for the disposal of seepage and stormwater in the basement storey. The system shall incorporate a standby pump. The design plans for the required services must be approved by Council pursuant to Section 68 of the Local Government Act 1993.
- (12) (A042) In respect of applications for other than separate Class 1 buildings, applicants are required to furnish the following information from an approved Hydraulic Consulting Engineer with the application for the water service:
  - a. Hydraulic calculations that address flow, pressure and velocity requirements of AS 3500.1.
  - b. A plan to a scale of not less than 1:100 that clearly indicates the position of the water meter on the property, the type of materials and nominal size of all water service pipes, the position of all stop valves, stop taps, backflow prevention devices and other valves, any water storage to be provided including air gap requirements, overflow pipe arrangement and any booster pumps.
  - c. Complete details of any fire service, booster pump or irrigation system installation.
- (13) (A053) The required relocation and/or replacement of the sewer pipe that traverses the land is the responsibility of the proponent. Any relocation or replacement work shall be undertaken in accordance with Council's adopted AUSPEC Design and Construction Guidelines. Any costs associated with these works shall be the responsibility of the proponent.
  - Construction details are to be submitted to Port Macquarie-Hastings Council with the application for Construction Certificate.
- (14) (A057) The applicant is to ensure the proposed development will drain to the existing point of connection to Council's sewerage system.
- (15) (A195) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (16) (A196) If construction of the proposal requires any dewatering for excavation of the basement carparking with an estimated water take exceeding 3ML/year a license under Part 5 of the Water Act 1912 will be required to be obtained prior to commencing works.

#### **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 developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:

- Road works along the frontage of the development.
- Public parking areas including;
  - a. Driveways and access aisles;
  - b. Parking bays;
  - Delivery vehicle service bays & turning areas in accordance with .
- 3. Sewerage reticulation.
- 4. Stormwater systems.
- Erosion & Sedimentation controls.
- Landscaping.
- Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, and ASD, Port Macquarie-Hastings Council current version.
- 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.
- (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
- Footway and gutter crossing
- Functional vehicular access

Where works are proposed on an RMS classified facility, the Road Authority shall obtain RMS concurrence prior to any approval.

- (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

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) (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.
- (6) (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.
- (7) (B053) The design of the carpark and accesses is to be in accordance with Australian Standard 2890.1. Certification of the design by a suitably qualified consultant is to be provided to the Principal Certifying Authority prior to release of the Construction Certificate.
- (8) (B054) 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 Construction Certificate demonstrating how the access will comply with Council's adopted AUSPEC Design and Construction Guidelines.
- (9) (B071) Prior to the issue of any Construction Certificate, the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.
- (10) (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.
- (11) (B195) Final water service sizing will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development site as a whole, as well as fire service coverage and backflow protection requirements.
- (12) (B196) Road / footpath reconstruction including intersection reconstruction works are required with stormwater connection to the trunk main. All works shall comply with the Town Centre Master Plan specifications. Plans shall be provided to Council as part of the S138 application.
- (13) (B197) 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 AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:
  - The legal point of discharge for the proposed development is defined councils existing piped drainage system downstream of the site.
    - In this regard, Council's existing piped drainage system in Hay Street must be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit must be

installed, to allow direct piped connection from the development site into the public drainage system.

This pipeline extension shall be sized to incorporate both site stormwater discharge, AND the proposed re-diversion of the existing public piped drainage system that currently traverses the site.

The plans must be accompanied by calculations / modelling to demonstrate that the proposed pipeline extension and diversion does not compromise the capacity of the existing downstream drainage system. Specifically, the modelling shall demonstrate that the pipeline extension and downstream system both comply with the requirements of AUSPEC D5. Where deficiencies are found, the existing downstream system must be upgraded to ensure full compliance in this regard.

- b) Prior to the issue of a Construction Certificate, the proposed alignment of the proposed pipeline extension / diversion shall be agreed to in writing by Council's Group Manager Transport and Stormwater Network and shall have regard to:
  - a. Infrastructure disruptions,
  - b. Impacts on adjoining trees,
  - c. Traffic and Parking disturbances, and
  - d. Service clashes / conflicts.
- c) 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.
- d) The design shall include water quality controls designed to achieve the targets specified within AUSPEC D7.
- Stormwater drainage plans shall delineate the extent of infrastructure restoration works required to facilitate the proposed pipeline extension.
- f) The Stormwater Plan must include detail of how the proposed basement carpark will be drained. Where minor surface areas drain to the basement, such as from the access driveway, a pump out system is permitted with discharge directed to the OSD storage tanks(s).
  - Pump-out of the subsoil drainage associated with the basement carpark is not permitted unless it can be demonstrated that groundwater flows are minimal/ intermittent and subject to direct connection of the site discharge to Council's piped drainage system. This option will only be considered when supported by detailed geotechnical investigation.
- (14) (B199) An acid sulphate management plan shall be submitted to Council for approval prior to issue of a Construction Certificate.
- (15) (B200) The plans submitted with the application for construction certificate shall include awnings of the public footpath with a minimum 600mm setback to the kerb.

#### 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) (C013) Where a sewer manhole exists within a property, access to the manhole shall be made available at all times. Before during and after construction, the sewer manhole must not be buried, damaged or act as a stormwater collection pit. No structures, including retaining walls, shall be erected within 1.0 metre of the sewer manhole or located so as to prevent access to the manhole.

#### 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. before commencement of any filling works;
  - d. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
  - e. before pouring of kerb and gutter;
  - f. prior to the pouring of concrete for sewerage works and/or works on public property;
  - g. during construction of sewer infrastructure;
  - h. 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) (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.
- (4) (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.
- (5) (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.
- (6) (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.

#### E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (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) (E004) Consolidation of the allotments comprising the site of the proposed development prior to issue of the Occupation Certificate or proposed as part of the application for a Subdivision Certificate.
- (4) (E010) Driveways, access aisles and parking areas shall be provided with an approved surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended).
- (5) (E013) Restrictions and/or positive covenant must be provided over the overland flow path for on-site detention storage areas with appropriate public awareness signage.
- (6) (E020) The provision of a suitable sign containing the details required by the current Swimming Pools Act and Regulations.
- (7) (E021) Pool(s) to be fenced in accordance with the Swimming Pools Act, 1992.
- (8) (E022) Depth markers are to be installed on the swimming pool(s).
- (9) (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.
- (10) (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.
- (11) (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.
- (12) (E036) Certification by a suitably qualified consultant is to be submitted to Council that the construction of the car park and internal accesses is to be in accordance with Council's Development Control Plan 2013 and Australian Standard 2890.1 prior to occupation or issue of the Occupation Certificate.
- (13) (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
  - any other drainage structures are located in accordance with the Construction Certificate.
  - all stormwater has been directed to a Council approved drainage system
  - 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.
- (14) (E040) Each onsite detention system is to be marked by a plate in a prominent position which states:

"This is an onsite detention system. It is an offence to reduce the volume of the tank or basin or interfere with any part of the structure that controls the outflow".

- This plate is to be fixed into position prior to occupation or the issue of the Occupation or Subdivision Certificate.
- (15) (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.
- (16) (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.
- (17) (E054) No building is to be connected to Council's future sewer main until Council has accepted such main. A pre-requisite for acceptance will be to successfully comply with Council's AUSPEC Specifications for air testing, visual inspection, manhole lid seal and the level of the lid mm above the proposed finished surface level. The manhole must be protected during dwelling construction by erecting a barrier around the manhole. Any alterations to the finished surface level requiring the raising or lowering of the manhole will require Council's approval.
- (18) (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.
- (19) (E061) Landscaped areas being completed prior to occupation or issue of the Occupation Certificate. Public landscaping may be bonded as agreed to by Council.
- (20) (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:
  - 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
  - The matching of new infrastructure into existing or future design infrastructure
- (21) (A078) Arrangements with a private waste contractor must be in place for the collection of waste and recyclable materials likely to be generated as a result of the use of the building, prior to issue of Occupation Certificate.
- (22) (A197) First use development applications shall be lodged for all commercial tenancies prior to occupation.

#### 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 104 spaces are to be provided on-site.

- (2) (F005) The units are only approved for short term accommodation and shall not be used for residential 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) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997, shall not be generated as a result of the operation of the development.
- (5) (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.

- (6) (F028) The operations of the public pool/spa is to comply with the requirements of the:
  - a. Public Health Act 2010,
  - b. Public Health Regulation 2012, and
  - NSW Ministry of Heath Public Swimming Pool and Spa Pool Advisory Document 2013.

### DEVELOPMENT ASSESSMENT PANEL 23/09/2015

LATER -



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Contact:

Phone:

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Mr Patrick Galbraith-Robertson Development Assessment Planner Port Macquarie – Hastings Council DX 7415 PORT MACQUARIE

Dear Mr Galbraith-Robertson

Siobhan Lavelle

02 9873 8546

Subject: DA 2012/507 – Part Demolition of Existing Motel and Construction of Tourist and Visitor Accommodation in Residential Flat Building and Ground Floor Commercial Tenancies

LOT: 1 DP: 515434, LOT: 2 DP: 505781, 25-29 Clarence Street PORT MACQUARIE

Reference is made to your letter dated 12 November 2012 regarding the above application. It is understood by the Heritage Branch that the application has been referred under Clause 5.10 (7) of the Port Macquarie-Hastings Local Environmental Plan 2011 because the development is located on a potential archaeological site.

It is noted that comment on the same development scheme (DA 2006/300) was previously provided by letter dated 14 December 2006. DA 2006/300 was subsequently approved by Council and the new application seeks approval via a DA for the formerly approved Anchorage Resort.

The Heritage Council therefore recommends the following updated conditions to assist Council in its determination of the current Development Application:

- The Applicant, or another party taking up Consent No. ....., must satisfy any requirements of the NSW Heritage Act 1977 and must ensure that the development programme proposed for the site complies with any conditions and requirements of the Heritage Council of NSW. The Applicant must apply to the Heritage Council for all necessary approvals required under the Heritage Act, 1977. The Applicant shall obtain an excavation permit under Section 140 of the Heritage Act 1977.
- The Excavation Director nominated in the S140 Permit must meet the Heritage Council's Criteria for Excavation Directors and must be able to demonstrate completion of large scale excavation works and final reports on State significant archaeological sites.
- The Applicant, or another party acting upon the consent, shall comply with the conditions and requirements of any excavation permit or other approval issued by the Heritage Council, and must ensure that the development programme complies with those conditions and requirements.
- A Construction Certificate shall not be issued until such time as the conditions and requirements of any issued excavation permit or other approval have been

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- complied with to the satisfaction of the Heritage Council or its delegate. Written confirmation from the Heritage Council will be required.
- 5. Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately. The Excavation Director must inform the Office of Environment and Heritage in accordance with Section 89A of the National Parks and Wildlife Act, 1974 (as amended). Works affecting Aboriginal 'objects' on the site must not continue until the Office of Environment and Heritage has been informed. Aboriginal 'objects' must be managed in accordance with the National Parks and Wildlife Act, 1974.
- 6. The Applicant must ensure that at the completion of archaeological works, the results of the archaeological programme are interpreted within the completed redevelopment of the site. This interpretation should help the public understand the history and significance of the site. The Applicant must ensure that an outline of the on-site interpretation plan, including information on the display and housing of artefacts, is submitted to the Council for approval. The on-site interpretation is to be completed and implemented prior to the release of the occupation certificate for the site.
- A final report on any archaeological site excavations prepared by the archaeologist shall be submitted to Council and the Heritage Council within 1 year of the conclusion of the on-site archaeological works.

Thank you for referring the Development Application for comment. If you have any questions regarding the above matter please contact the Heritage Branch, Office of Environment & Heritage, using the contact details on this letter.

Yours sincerely

Dr Siobhan Lavelle OAM

Acting Manager Conservation Team Heritage Branch

f. Juvelie

Office of Environment & Heritage

AS DELEGATE OF THE NSW HERITAGE COUNCIL

20/12/2012