

Development Assessment Panel

Business Paper

date of meeting:	Wednesday 13 February 2019
location:	Function Room
	Port Macquarie-Hastings Council
	17 Burrawan Street
	Port Macquarie
time:	2:00pm

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

CHARTER

1.0 OBJECTIVES

To assist in managing Council's development assessment function by providing independent and expert determinations of development applications that fall outside of staff delegations.

2.0 KEY FUNCTIONS

- To review development application reports and conditions;
- To determine development applications outside of staff delegations;
- To refer development applications to Council for determination where necessary;
- To provide a forum for objectors and applicants to make submissions on applications before the Development Assessment Panel (DAP);
- To maintain transparency in the determination of development applications.

Delegated Authority of Panel

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.
- Vary, modify or release restrictions as to use and/or covenants created by Section 88B instruments under the Conveyancing Act 1919 in relation to development applications for subdivisions being considered by the panel.
- Determine Koala Plans of Management under State Environmental Planning Policy 44 - Koala Habitat Protection associated with development applications being considered by the Panel.

Noting the trigger to escalate decision making to Council as highlighted in section 5.2.

3.0 MEMBERSHIP

3.1 Voting Members

• Two independent external members. One of the independent external members to



be the Chairperson.

 Group Manager Development Assessment (alternate - Director Development & Environment or Development Assessment Planner)

The independent external members shall have expertise in one or more of the following areas: planning, architecture, heritage, the environment, urban design, economics, traffic and transport, law, engineering, government and public administration.

3.2 Non-Voting Members

Not applicable

3.3 Obligations of members

- Members must act faithfully and diligently and in accordance with this Charter.
- Members must comply with Council's Code of Conduct.
- Except as required to properly perform their duties, DAP members must not disclose any confidential information (as advised by Council) obtained in connection with the DAP functions.
- Members will have read and be familiar with the documents and information provided by Council prior to attending a DAP meeting.
- Members must act in accordance with Council's Workplace Health and Safety Policies and Procedures
- External members of the Panel are not authorised to speak to the media on behalf of Council. Council officers that are members of the Committee are bound by the existing operational delegations in relation to speaking to themedia.
- Staff members shall not vote on matters before the Panel if they have been the principle author of the development assessment report.

3.4 Member Tenure

• The independent external members will be appointed for the term of four (4) years maximum in which the end of the tenure of these members would occur in a cascading arrangement.

3.5 Appointment of members

- The independent external members (including the Chair) shall be appointed by the General Manager following an external Expression of Interest process.
- Staff members of the Panel are in accordance with this Charter.

4.0 TIMETABLE OF MEETINGS

- The Development Assessment Panel will generally meet on the 1st and 3rd Wednesday each month at 2.00pm at the Port Macquarie offices of Council.
- Special Meetings of the Panel may be convened by the Director Development & Environment Services with three (3) days notice.



5.0 MEETING PRACTICES

5.1 Meeting Format

- At all Meetings of the Panel the Chairperson shall occupy the Chair and preside. The Chair will be responsible for keeping of order at meetings.
- Meetings shall be open to the public.
- The Panel will hear from applicants and objectors or their r e p r e s e n t a t i v e s.
- Where considered necessary, the Panel will conduct site inspections which will be open to the public.

5.2 Decision Making

- Decisions are to be made by consensus. Where consensus is not possible on any item, that item is to be referred to Council for a decision.
- All development applications involving a proposed variation to a development standard greater than 10% under Clause 4.6 of the Local Environmental Plan will be considered by the Panel and recommendation made to the Council for a decision.

5.3 Quorum

• All members (2 independent external members and 1 staff member) must be present at a meeting to form a quorum.

5.4 Chairperson and Deputy Chairperson

• Independent Chair (alternate, second independent member)

5.5 Secretariat

- The Director Development &n Environment is to be responsible for ensuring that the Panel has adequate secretariat support. The secretariat will ensure that the business paper and supporting papers are circulated at least three (3) days prior to each meeting. Minutes shall be appropriately approved and circulated to each member within three (3) weeks of a meeting being held.
- The format of and the preparation and publishing of the Business Paper and Minutes shall be similar to the format for Ordinary Council Meetings.

5.6 Recording of decisions

 Minutes will record decisions and how each member votes for each item before the Panel.



6.0 CONVENING OF "OUTCOME SPECIFIC" WORKING GROUPS

Not applicable.

7.0 CONFIDENTIALITY AND CONFLICT OF INTEREST

- Members of the Panel must comply with the applicable provisions of Council's Code of Conduct. It is the personal responsibility of members to comply with the standards in the Code of Conduct and regularly review their personal circumstances with this in mind.
- Panel members must declare any conflict of interests at the start of each meeting or before discussion of a relevant item or topic. Details of any conflicts of interest should be appropriately minuted. Where members are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from deliberations on the issue where the conflict of interest may exist. A Panel meeting may be postponed where there is no quorum.

8.0 LOBBYING

 All members and applicants are to adhere to Council's Lobbying policy. Outside of scheduled Development Assessment Panel meetings, applicants, their representatives, Councillors, Council staff and the general public are not to lobby Panel members via meetings, telephone conversations, correspondence and the like. Adequate opportunity will be provided at Panel inspections or meetings for applicants, their representatives and the general public to make verbal submissions in relation to Business Paper items.



Development Assessment Panel

ATTENDANCE REGISTER

	14/11/18	28/11/18	05/12/18	19/12/18	23/01/19
Member					
Paul Drake	✓	✓	~	~	✓
Robert Hussey	~	~	~	Α	~
David Crofts				~	
(alternate member)					
Dan Croft	√	~	~	~	~
(Acting Director Development &					
Environment)					
Clinton Tink					
(Acting GM Development Assessment					
(alternates)					
- Director Development &	1				
Environment					
- Development Assessment Planner					

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



Development Assessment Panel Meeting Wednesday 13 February 2019

Items of Business

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05	DA 2018 - 1033.1 Alterations and Additions to Dwelling - Lot 11 DP 22923, No. 102 Settlement Point Road, Port Macquarie	<u>19</u>
06	DA2018 - 353.1 Commercial Premises and Tourist and Visitor Accommodation with Clause 4.6 variation to Clause 4.3 (Height of Buildings) and Clause 4.4 (Floor Space Ratio) of the Port Macquarie- Hastings Local Environmental Plan 2011 at Lot 123 DP 1219042, No. 17 Clarence Street, Port Macquarie	<u>41</u>
07	DA2018 - 519.1 Ancillary Building - Pergola Lot 33 DP 1069338, 76 The Anchorage Port Macquarie	<u>284</u>
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10	General Business	



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 23 January 2019 be confirmed.





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PRESENT

Members:

Paul Drake Robert Hussey Dan Croft

Other Attendees:

Ben Roberts Steve Ford Andrew Rock Beau Spry David Troemel

The meeting opened at 2:00pm.

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

Nil.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 19 December 2018 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.



05 DA2018 - 562.1 DEMOLITION OF EXISTING BUILDINGS, CONSOLIDATION AND BOUNDARY ADJUSTMENT, AND CONSTRUCTION OF SENIORS HOUSING AT LOTS 10 - 13 DP 861177, LOT 1 DP 782560, LOT 1 DP 393967, LOT 1 DP 390610, LOT 1 DP 1053812, LOT 1 DP 121189, LOT 1 DP 795534, LOT 1 DP 151300, LOT 3 AND 4 DP 347796, NO. 15 - 21 CAMERON STREET AND 3 YOUNG STREET, WAUCHOPE

Speakers: Bill Amy (applicant)

THE PANEL WAS UNABLE TO REACH CONSENSUS.

Robert Hussey moved the following motion:

That DA2018 – 562 for Demolition of Existing Buildings, Consolidation and Boundary Adjustment, and Construction of Seniors Housing at Lots 10 - 13 DP 861177, Lot 1 DP 782560, Lot 1 DP 393967, Lot 1 DP 390610, Lot 1 DP 1053812, Lot 1 DP 121189, Lot 1 DP 795534, Lot 1 DP 151300, Lot 3 and 4 DP 347796, No. 15 – 21 Cameron Street and No. 3 Young Street, Wauchope be refused on the grounds that insufficient on-site parking spaces have been provided in the development as required by Port Macquarie-Hastings Council Development Control Plan 2013. The public interest is not well serviced by the degree of the departure to the DCP and such a departure would lead to an unsatisfactory precedent. The case for the significant variation has not been satisfactorily justified.

> FOR: Robert Hussey AGAINST: Paul Drake and Dan Croft

Paul Drake proposed an alternate motion:

That DA2018 – 562 for Demolition of Existing Buildings, Consolidation and Boundary Adjustment, and Construction of Seniors Housing at Lots 10 - 13 DP 861177, Lot 1 DP 782560, Lot 1 DP 393967, Lot 1 DP 390610, Lot 1 DP 1053812, Lot 1 DP 121189, Lot 1 DP 795534, Lot 1 DP 151300, Lot 3 and 4 DP 347796, No. 15 – 21 Cameron Street and No. 3 Young Street, Wauchope be deferred to address the issues raised by Mr Hussey in his proposed motion and that the applicant be invited to submit additional information to provide for additional parking to serve the development and further information on the 1967 agreement between the Club and Council.

FOR: Robert Hussey and Paul Drake AGAINST: Dan Croft

The dissenting recommendation was:

That DA2018 – 562.1 for Demolition of Existing Buildings, Consolidation and Boundary Adjustment, and Construction of Seniors Housing at Lots 10 - 13 DP 861177, Lot 1 DP 782560, Lot 1 DP 393967, Lot 1 DP 390610, Lot 1 DP 1053812, Lot 1 DP 121189, Lot 1 DP 795534, Lot 1 DP 151300, Lot 3 and 4 DP 347796, No. 15 – 21 Cameron Street and No. 3 Young Street, Wauchope, be determined by granting consent subject to the recommended conditions.



06 DA2018 - 900.1 DUAL OCCUPANCY AND STRATA SUBDIVISION, LOT 342 DP 1237302, NO.23 GUNSYND CHASE, PORT MACQUARIE

CONSENSUS:

That DA2018 – 900.1 for a Dual Occupancy and Strata Subdivision at Lot 342, DP 1237302, No. 23 Gunsynd Chase, Port Macquarie, be determined by granting consent subject to the recommended conditions.

07 DA2017 - 410.2 MODIFICATION TO DWELLING, LOT 29 DP 1045446, NO 12 LOGANVALE PLACE, LOGANS CROSSING

Speakers: Joan Elms (o) Robert Smallwood (applicant)

CONSENSUS:

That modification to DA 2017 – 410 to amend the internal layout and the size and location of an external window for a dwelling at Lot 29, DP 1045443, No. 12 Loganvale Place, Logans Crossing, be determined by granting consent subject to the recommended conditions.

08 DA2017 - 667.1 DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF BOAT STORAGE FACILITY AND PUBLIC AMENITIES, TREE REMOVAL AND ROAD WORKS AT LOT 2 DP 535212, NO. 9 MCINHERNEY PARK, PORT MACQUARIE

Speakers: Peter Walsh (o) Ian Pople (o) Helga Collins (o) Wayne Evans (applicant)

CONSENSUS:

That it be recommended to Council that DA2017 – 667 for demolition of existing building and construction of boat storage facility and public amenities, tree removal and road works at Lot 2, DP 535212, McInherney Close, Port Macquarie, be determined by granting consent subject to the recommended conditions.



09 DA2018 - 824.1 ONE INTO THREE LOT TORRENS TITLE SUBDIVISION AND TWO(2) SEMI-DETACHED DWELLINGS - LOT A DP 33885816, NO. 16 WINDMILL STREET PORT MACQUARIE

Submission from Rebecca Raymond tabled at the meeting.

Speakers: James Collins (applicant)

CONSENSUS:

That DA 2018 - 824 for a 1 into 3 Lot Torrens Title Subdivision and Two Semi-Detached Dwellings at Lot A, DP 338858, No. 16 Windmill Street, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Amend condition B11(d) to read: 'The design requires the provision of interallotment drainage in accordance with AUSPEC D5, in this regard an easement to drain water will be required over Proposed lot 3 in favour of Proposed lots 1 & 2.'
- Amend condition B11(f) to read: 'The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system, this will require the creation of an easement for overland flow over proposed lot 3 in favour of proposed lot 2 & lot 25 DP 32244.'
- Amend condition E4 to read: 'Interallotment drainage shall be piped and centrally located within an inter-allotment drainage easement, installed in accordance with Council's current AUSPEC standards (minimum 225mm pipe diameter within a minimum 1.5m and variable easement). Details shall be provided:
 - As part of a Local Government Act (s68) application with evidence of registration of the easement with the Land Titles Office provided to Council prior to issue of the s68 Certificate of Completion; or
 - As part of a Construction Certificate application for subdivision works with dedication of the easement as part of any Subdivision Certificate associated with interallotment drainage.'

10 DA2018 - 854.1 TWO-SEMI DETACHED DWELLINGS AND STRATA TITLE SUBDIVISION - LOT 168 DP 1229414, NO. 23 ALLPORT AVENUE THRUMSTER

CONSENSUS:

That DA 2018 – 824.1 for Two-Semi Detached Dwellings and Strata Subdivision at Lot 168, DP 1229414, No. 23 Allport Avenue, Thrumster, be determined by granting consent subject to the recommended conditions.



11 DA2018 - 292.1 DUAL OCCUPANCY WITH STRATA SUBDIVISION, LOT 11 SEC D DP 25923,NO 104 CHEPANA STREET, LAKE CATHIE

Speakers: Donna Cabban (o) Graeme Cabban (o) Karen Burke (applicant)

CONSENSUS:

That DA 2018 – 292.1 for a dual occupancy and strata subdivision at Lot 11, DP 25923, No. 104 Chepana Street, Lake Cathie, be determined by granting consent subject to the recommended conditions.

12 DA2018 - 761.1 ADDITIONS TO EXISTING CLUB AT LOT 1 DP 854932, NO. 1 WOODFORD ROAD, NORTH HAVEN

Speakers: Bruce Stanley (o) Peter Nevis (applicant) Cara Dale (applicant)

CONSENSUS:

That DA 2018 - 761 for additions to existing club at Lot 1, DP 854932, No. 1 Woodford Road, North Haven, be determined by granting consent subject to the recommended conditions and as amended below:

• Additional condition in section B of the consent to read:' Prior to release of the construction certificate details are to be submitted to Council for approval providing for a non-reflective roof colour.'

13 GENERAL BUSINESS

Nil.

The meeting closed at 4:00pm.



DEVELOPMENT ASSESSMENT PANEL 13/02/2019

Item: 04

Subject: DISCLOSURES OF INTEREST

RECOMMENDATION

That Disclosures of Interest be presented

DISCLOSURE OF INTEREST DECLARATION

Name o	f Meeting:			
Meeting	ing Date:			
Item Nu	mber:			
Subject	:			
I,		declare the following interest:		
	Pecuniary: Take no part meeting.	in the consideration and voting and be out of sight of the		
	Non-Pecuniary - Significant Interest: Take no part in the consideration and voting and be out of sight of the meeting.			
	Non-Pecuniary - Less than Significant Interest: May participate in consideration and voting.			
For the reason that:				
Name:				
Signed: Date:				
(Further	explanation l	s provided on the next page)		





Further Explanation

(Local Government Act and Code of Conduct)

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

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

Pecuniary Interest

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

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

The Council official must not take part in the consideration or voting on the matter and leave and be out of sight of the meeting. The Council official must not be present at, or in sight of, the meeting of the Council at any time during which the matter is being considered or discussed, or at any time during which the council is voting on any question in relation to the matter. (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.
- Have no involvement in the matter, by taking no part in the consideration or voting on the matter and leave and be out of sight of the meeting, as if the provisions in section 451(2) apply.

Non Pecuniary - Less than Significant Interest

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





SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

[]		
Ву		
[insert full name of councillor]		
In the matter of		
[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	an	
associated person, company or body		
proprietary interest (the identified lar		
	-7	
Relationship of identified land to coun	cillor	Councillor has interest in the land (e.g. is
[Tick or cross one box.]		owner or has other interest arising out of a
		mortgage, lease trust, option or contract, or
		otherwise).
		The second state of the se
		Associated person of councillor has interact in the land
		interest in the land.
		Associated company or body of councillor
		has interest in the land.
MATTER GIVING RISE TO PECL	JNIARY II	NTEREST
Nature of land that is subject to a cha	nge	□ The identified land.
in zone/planning control by proposed		- Land that adjains ar is adjacent to ar is in
LEP (the subject land ⁱⁱⁱ		Land that adjoins or is adjacent to or is in proximity to the identified land.
[<i>Tick or cross one box</i>] Current zone/planning control		
[Insert name of current planning instru	iment	
and identify relevant zone/planning instru		
applying to the subject land]		
Proposed change of zone/planning co	ontrol	
[Insert name of proposed LEP and ide		
proposed change of zone/planning co		
applying to the subject land]		
Effect of proposed change of zone/pla	anning	
control on councillor	-	Appreciable financial gain.
[Tick or cross one box]		
		Appreciable financial loss.



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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.

iv. **Relative** is defined by the Local Government Act 1993 as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.



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

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

iii. A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in section **443** (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest.

Item: 05

Subject: DA 2018 - 1033.1 ALTERATIONS AND ADDITIONS TO DWELLING -LOT 11 DP 22923, NO. 102 SETTLEMENT POINT ROAD, PORT MACQUARIE

Report Author: Michael Roberts

Applicant:	Draftworx Designs – Craig Maltman
Owner:	T Sales and J Burgess
Estimated Cost:	\$220,000
Parcel no:	22033

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2018 - 1033 for Dwelling Alterations and Additions at Lot 11, DP 22923, No. 102 Settlement Point Road, Port Macquarie be determined by granting consent subject to the recommended conditions.

Executive Summary

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

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

1. BACKGROUND

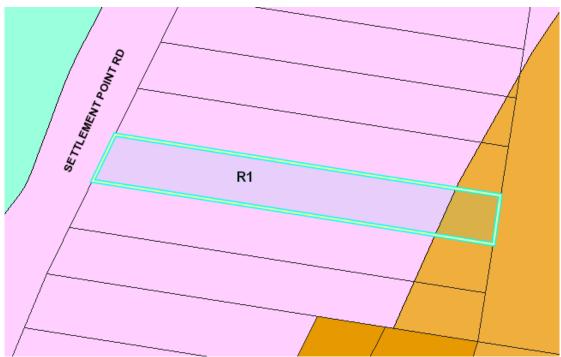
Existing site features and surrounding development

The site has an area of 1836m².

The site is zoned part General Residential R1 and part Environmental Conservation E2 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 existing first floor sunroom and minor internal alterations to existing dwelling. Internal alterations involve the removal of some internal walls and conversion of existing kitchen to a new bedroom on the first floor only.
- Proposed two storey additions to existing dwelling projecting west towards Settlement Point Road.



DEVELOPMENT ASSESSMENT PANEL 13/02/2019

Plans of the proposed works are included in the attachments at the end of this report.

Application Chronology

- 30/11/18 Application lodged.
- 6/12/18 Notification period until 19/12/18.
- 10/12/18 Amended plans provided limiting extent of fill to driveway only.
- 19/12/18 Submission received (letter dated 18/12/18).
- 9/1/19 email sent to applicant requesting response to objection.
- 11/1/19 response to submission received and sent to objector for review.
- 14/1/19 email from objector advising they do not wish to withdraw objection.

3. STATUTORY ASSESSMENT

Section 4.15(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. 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 No. 55 – Remediation of Land

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

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

Given the nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries.

State Environmental Planning Policy (Coastal Management) 2018 and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011

The site is located within the proximity area for Coastal Wetlands.

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 13 and 14 of the SEPP and clause 5.5 of the Port Macquarie-Hastings LEP 2011 the proposed development is not considered likely to result in any of the following:

a) any adverse impact on integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;



SIIN

- b) any adverse impacts coastal environmental values and natural coastal processes;
- c) any adverse impacts on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- d) any adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- e) any adverse impact on Aboriginal cultural heritage, practices and places;
- f) any adverse impacts on the cultural and built environment heritage;
- g) any adverse impacts the use of the surf zone;
- h) any adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands;
- i) overshadowing, wind funneling and the loss of views from public places to foreshores;

The bulk, scale and size of the proposed development is compatible with the surrounding coastal and built environment. 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 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 and E2 Environmental Conservation.
- 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:

- 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(1) and the E2 zone landuse table, the dwelling (or ancillary structure to a dwelling) is a permissible landuse with consent.

The objectives of the E2 zone are as follows:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect coastal wetlands and littoral rainforests.
- To protect land affected by coastal processes and environmentally sensitive land.
- To prevent development that adversely affects, or would be adversely affected by, coastal processes.



• To enable development of public works and environmental facilities where such development would not have an overall detrimental impact on ecological, scientific, cultural or aesthetic values.

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

- Clause 2.7, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying Development Codes) 2008.
- Clause 4.3, the maximum overall height of the building above ground level (existing) is 7.419m which complies with the standard height limit of 8.5m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is 0.12:1.0 which complies with the maximum 0.65:1 floor space ratio applying to the site.
- Clause 5.5 Development within the coastal zone relevant objectives of this clause are addressed by SEPP (Coastal Management) 2018 section (see above).
- Clause 5.10 Heritage. The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.1, the site is mapped as potentially containing class 3 acid sulfate soils. The proposed development includes minor excavation for footings however no excavation extending 1m below the natural surface level is proposed, therefore no adverse impacts are expected to occur to the acid sulphate soils found on site.
- Clause 7.3, the site is land within a mapped "flood planning area" (Land subject to flood discharge of 1:100 annual recurrence interval flood event (plus the applicable climate change allowance and relevant freeboard) In this regard the following comments are provided which incorporate consideration of the objectives of Clause 7.3, Council's Flood Policy 2015, the NSW Government's *Flood Prone Lands Policy* and the NSW Government's *Floodplain Development Manual* (2005):
 - The proposal is compatible with the flood hazard of the land taking into account projected changes as a result of climate change;
 - The proposal will not result in a significant adverse affect on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties;
 - The proposal incorporates measures to minimise & manage the flood risk to life and property associated with the use of land;
 - The proposal is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses;
 - The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding;
- Clause 7.5 Koala Habitat applies to the site. Refer to comments under SEPP 44 heading.
- Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.





(a)(ii) Any proposed instrument that is or has been placed on exhibition

No draft instruments apply to the site.

(a)(iii) Any DCP in force

Port Macquarie-Hastings Development Control Plan 2013:

	Requirements	Proposed	Complies
3.2.2.2	 Articulation zone: Min. 3m front setback An entry feature or portico A balcony, deck, patio, pergola, terrace or verandah A window box treatment A bay window or similar feature An awning or other feature over a window A sun shading feature 	No elements within the articulation zone.	N/A
	Front setback (Residential not R5 zone): • Min. 6.0m classified road • Min. 4.5m local road • Min. 3.0m secondary road • Min. 2.0m Laneway	Front building line setback is compliant with the minimum 4.5m front setback requirements. Proposed 13.2m.	Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	Garage door setback is compliant with the minimum front setback requirements. Garage door recessed.	Yes
	6m max. width of garage door/s and 50% max. width of building	Width of garage door/s are compliant with the maximum width requirements	Yes
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	Driveway crossing/s width are compliant with the maximum width requirements	Yes
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	The rear setback requirements are complied with.	Yes
3.2.2.5	 Side setbacks: Ground floor = min. 0.9m First floors & above = min. 3m setback or where it can be demonstrated that 	The minimum side setback requirements are complied with. North setback @ 1.8m for a small 3m length of the	Yes – justification provided

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	Requirements	Proposed	Complies
	overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m	 wall. Remaining 15m of wall setback @ 2.4m. No adverse overshadowing impacts as a result of this encroachment within 3m setback. South setback proposed @ 3.35m. The building wall articulation is compliant and/or satisfactory to address the objective intent of the development provision. 	
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	The dwelling contains 35m ² open space in one area including a useable 4m x 4m space.	Yes
3.2.2.10	 Privacy: Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m 	The development will not compromise privacy in the area for the reasons outlined in the justification below.	No – justificatio provided

DCP 2013: General Provisions			
	Requirements	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design	No concealment or entrapment areas proposed. Adequate	Yes

PORT MACQUARIE HASTINGS c o u n c i l

	Requirements	Proposed	Complies
	guideline	casual surveillance available.	
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Cut and fill <1.0m change 1m outside the perimeter of the external building walls	Yes
2.3.3.2	1m max. height retaining walls along road frontage	None proposed	N/A
	Any retaining wall >1.0 in height to be certified by structure engineer	None proposed	N/A
	Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway	No retaining wall front fence combination proposed.	N/A
2.3.3.8	Removal of hollow bearing trees	No trees proposed to be removed	N/A
2.6.3.1	Tree removal (3m or higher with 100m diameter trunk at 1m above ground level and 3m from external wall of existing dwelling)	No trees proposed to be removed	N/A
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
2.5.3.2	New accesses not permitted from arterial or distributor roads	No new access proposed to arterial or distribution road.	N/A
	Driveway crossing/s minimal in number and width including maximising street parking	Driveway crossing minimal in width including maximising street parking	Yes
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	1 or capacity for more than 1 parking space behind the building line has been provided for.	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	Single dwelling only with 1 domestic driveway. No specific landscaping requirements recommended.	N/A
2.5.3.14	Sealed driveway surfaces unless justified	Sealed driveway proposed 138 submitted	Yes

DCP 2013: General Provisions			
	Requirements	Proposed	Complies
and 2.5.3.16	'parking area' shall be 5% grade with transitions of 2m length	of satisfying Council standard driveway crossover requirements. Condition recommended for section 138 Roads Act permit	
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Single dwelling only with 1 domestic driveway. Stormwater drainage is capable of being managed as part of plumbing construction.	Yes

The proposal seeks to vary Development Provision relating to Clauses 3.2.2.10.

The relevant objectives are:

3.2.2.10

To protect the visual privacy of onsite and nearby residents.

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

Clause 3.2.2.10

The development will not compromise privacy in the area due to:

Southern Elevation

- >3m side setback proposed.
- No internal living areas positioned along the southern elevation.
- Private open space are on front deck area screened along entire side with one high set window at 1.5m.
- The proposed front setback maintains views from the living and private open space areas of the property to the South.

Northern Elevation

- The proposal has a 2.4m side setback to the northern property which is in excess of the minimum setback permissible.
- Living area windows are proposed high set >1.5m to address privacy and overlooking concerns.

•

The front deck is <3m and >1m above GL with no privacy screen in order to maintain prominent views to the North over the river. To address this the owners have proposed a substantial front setback of 13.2m. This will position the front deck approximately 2m behind the front of dwelling at 104 Settlement Point Road. This will not create direct views into Living or private open space areas of the neighbouring property to the North.

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DEVELOPMENT ASSESSMENT PANEL 13/02/2019

• The DA was advertised and no issues were raised relating to privacy or overlooking.

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.

(a)(iii)(a) Any planning agreement or draft planning agreement

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

(a)(iv) 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.

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

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 compatible with other residential development in the locality and adequately addresses planning controls for the area.

The proposal does not have a significant adverse impact on existing view sharing.

The proposal does not have significant adverse lighting impacts.

There are no significant 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, Traffic and Transport

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.

Water Supply Connection

Service available – details required with S.68 application.

Sewer Connection

Service available – details required with S.68 application.



Stormwater

Service available – details required with S.68 application.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

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

Other land resources

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. Standard precautionary site management condition recommended.

Flora and fauna

Construction of the proposed development will not require any removal/clearing of any native vegetation and therefore does not trigger the biodiversity offsets scheme. Part 7 of the Biodiversity Conservation Act 2016 is considered to be satisfied.

Waste

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. No adverse impacts anticipated. Standard precautionary site management condition recommended.

Energy

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

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 report prepared by a Certified Consultant.

An assessment of bushfire risk having regard to section 4.3.5 of Planning for Bushfire Protection 2006 including vegetation classification and slope concludes that a Bushfire Attack Level Low shall be required.



DEVELOPMENT ASSESSMENT PANEL 13/02/2019

Management of bushfire risk is acceptable subject to BAL construction levels being implemented and APZ being maintained. An appropriate condition is recommended.

Safety, security and crime prevention

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

Social impacts in the locality

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

Economic impact in the locality

No adverse impacts. A likely positive impact is that the development will maintain employment in the construction industry, which will lead to flow impacts such as expenditure in the area.

Site design and internal design

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

Construction

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

Cumulative impacts

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

(c) The suitability of the site for the development

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

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

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

Following exhibition of the application in accordance with DCP 2013, one submission was received.

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



Submission Issue/Summary	Planning Comment/Response
Flooding concerns	Following comment from Council's Flood Engineer
associated with the raising	the plans were revised to remove proposed fill
of proposed garage to	around the driveway access ramp leading to the
required flood height. The	garage. Revised plans were received on 10
proposal will funnel	December 2018 reflecting these changes.
floodwaters towards	
neighbouring dwelling.	The consent has been conditioned so that no filling is permitted outside the dwelling footprint (including driveway ramp). See condition F(5).
	The plans are in compliance with PMHC Flood Policy.

(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

Not applicable.

5. CONCLUSION AND STATEMENT OF REASON

The application has been assessed in accordance with Section 4.15 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 considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.

Attachments

1<u>View</u>. DA2018 - 1033.1 Recommended Conditions 2<u>View</u>. DA2018 - 1033.1 Plans



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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2018/1033 DATE: 31/01/2019

PRESCRIBED CONDITIONS

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

A - GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Architectural Plans	1041SAL	Draftworx Designs	Rev. 6 16/1/2019
BASIX Certificate	A333218	Craig Maltman	6.11.2018
BAL Certificate	-	Krisann Johnson	8.11.2018
SOEE	-	Craig Maltman	11.11.2018

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:
 - 1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - 2. Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;
 - 4. Building waste is to be managed via an appropriate receptacle;

- 5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- 6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidays

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

- (4) (A091) All parts of the structure below the applicable Flood Planning Level (1 in 100 flood level including climate change plus the relevant freeboard) shall be constructed from flood compatible materials compliant with the ABCB Standard for Construction of Buildings in Flood Hazard Areas. Consideration should also be given to the relevant provisions contained with the Hawkesbury-Nepean Floodplain Management Steering Committee document *Reducing Vulnerability* of *Buildings to Flood Damage (2007)*.
- (5) No filling or land reshaping outside the footprint of the garage/foyer and driveway ramp is permitted.

B - PRIOR TO ISSUE OF 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
- (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:

- i. Footway and gutter crossing
- ii. Functional vehicular access
- (3) (B067) The floor level of all new/additional habitable areas is to be a minimum of 500mm above the 1 in 100 year flood level including the applicable climate change allowance. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.17m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (4) (B068) The floor level of all non-habitable areas is to be at or above the 1 in 20 year flood level. For the purpose of this requirement, the 1 in 20 year flood level may be assumed to be RL2.34m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (5) (B071) Prior to release of the Construction Certificate a practising chartered professional structural engineer is to provide certification to the PCA that the building is designed so that all structural members are capable of withstanding flood forces and the impact of any debris (carried by floodwaters) likely to occur

Item 05 Attachment 1 Page 33 for a range of floods up to and including the 1 in 100 year flood including climate change and the relevant freeboard level of 500mm. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.17m AHD. Velocities to be adopted for the calculation of forces created by flood waters and debris loading shall be at least three (3) times the velocities for a 1 in 100 year flood including climate change plus freeboard. For the purpose of this requirement, the velocity for the 1 in 100 flood including climate change may be assumed to be 1.20m/s

(6) (B198) The rainwater tank(s) are to be securely fastened so that they do not become floating debris in a flood event up to and including the 1 in 100 year flood including the applicable climate change allowance. Fastening details are to be provided by a suitably qualified engineer and shall be submitted with the application for the Construction Certificate.

C - PRIOR TO ANY WORK COMMENCING ON SITE

Nil

D - DURING CONSTRUCTION

- (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) (D003) The Port Macquarie-Hastings area is 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) (D029) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601-1991: The Demolition of Structures. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

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

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

Safely disposing of asbestos waste from your home

Fibro & Asbestos - A Renovator and Homeowner's Guide

Asbestos Awareness

E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (eg the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.

Item 05 Attachment 1

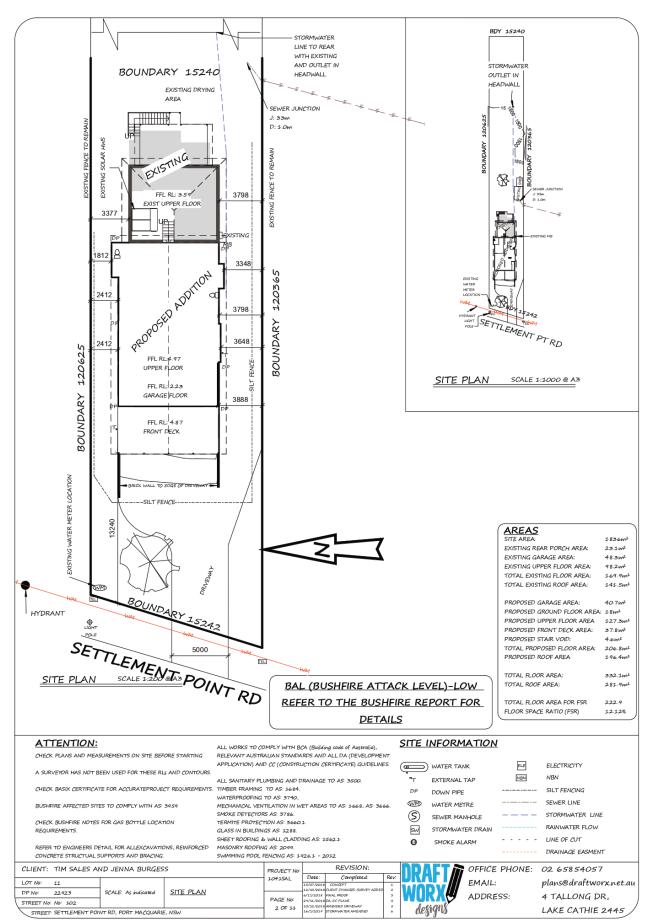
- (3) (E034) Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (4) (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.
- (5) (E044) The applicant will be required to submit prior to occupation or the issue of the Occupation Certificate, certification by a Registered Surveyor that the development has met the necessary flood planning levels specified in this consent.

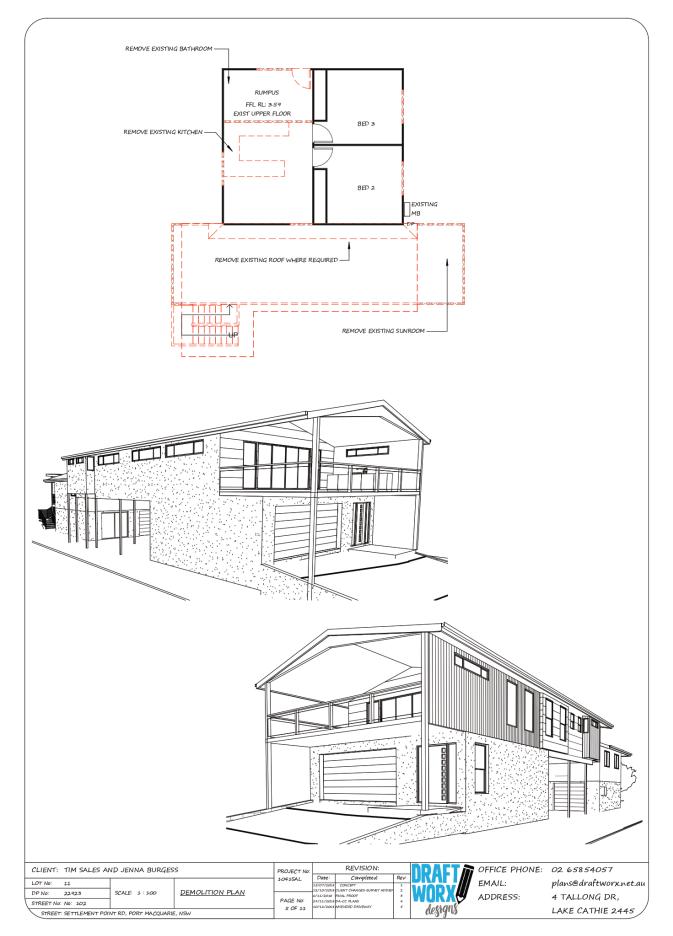
F - OCCUPATION OF THE SITE

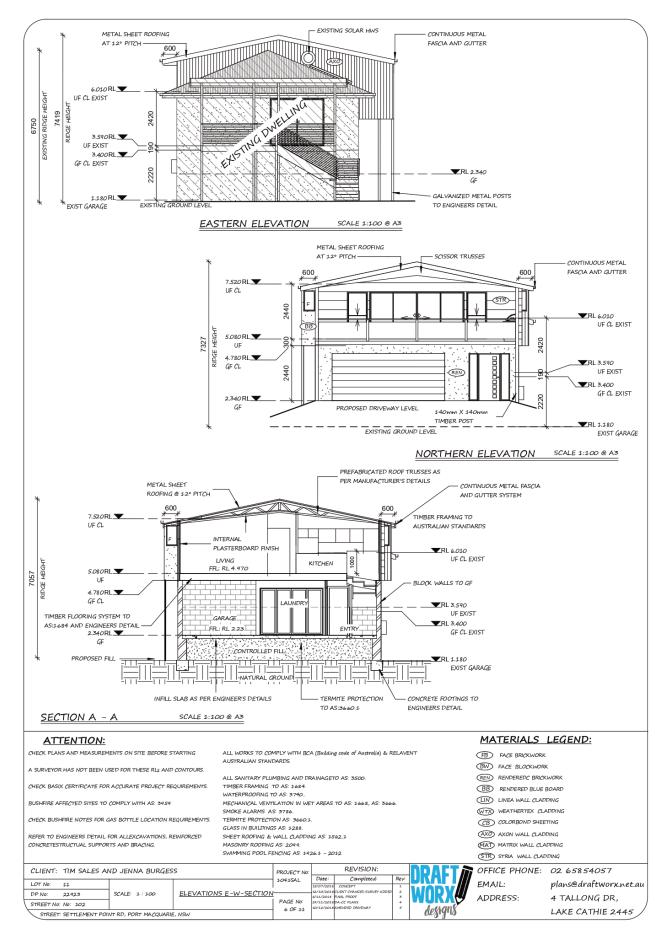
- (F035) The consent only permits the use of the building as a single dwelling and does not permit the adaption or use of the building so as to create a second occupancy.
- (2) The unenclosed subfloor shall allow flood waters up to the 1 in 100 including climate change allowance event to pass beneath or through the building. The building may be enclosed for security purposes with slats or lattice material provided the porosity of each wall/side is no less than 50%.
- (3) The existing ground floor area is not permitted to be used as a habitable room.

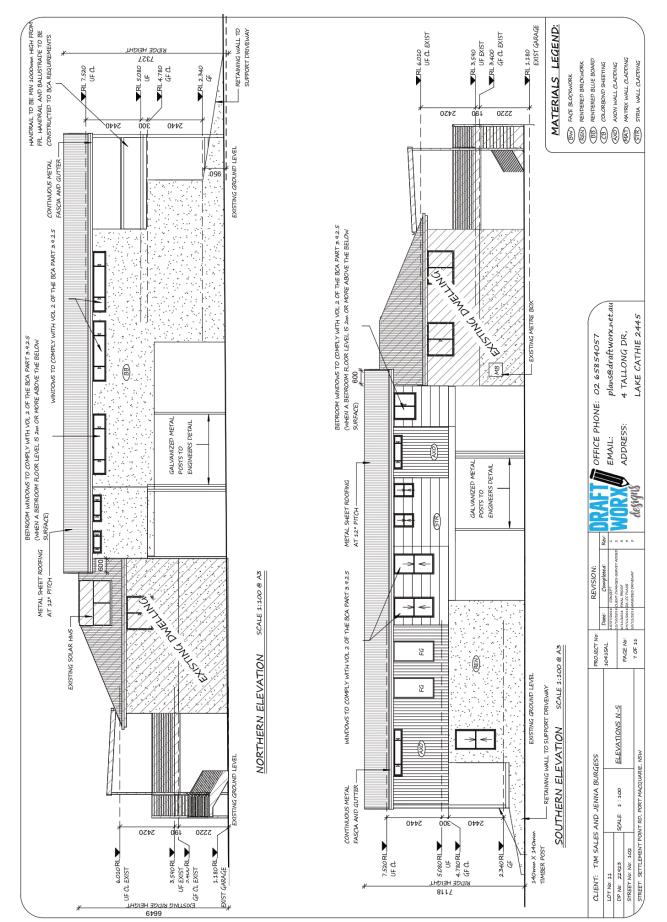


Item 05 Attachment 2









Item: 06

Subject: DA2018 - 353.1 COMMERCIAL PREMISES AND TOURIST AND VISITOR ACCOMMODATION WITH CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) AND CLAUSE 4.4 (FLOOR SPACE RATIO) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AT LOT 123 DP 1219042, NO. 17 CLARENCE STREET, PORT MACQUARIE

Report Author: Benjamin Roberts

Applicant:	David Pensini
Owner:	Yogi Bear Holdings Pty Ltd
Estimated Cost:	\$14,000,000
Parcel no:	65374

Alignment with Delivery Program

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

RECOMMENDATION

That it be recommended to Council that DA2018 - 353 for a commercial premises and tourist and visitor accommodation with clause 4.6 variation to clause 4.3 (Height of Buildings) and clause 4.4 (Floor Space Ratio) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 123, DP 1219042, No. 17 Clarence Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for a commercial premises and tourist and visitor accommodation with clause 4.6 variation to clause 4.3 (Height of Buildings) and clause 4.4 (Floor Space Ratio) of the Port Macquarie-Hastings Local Environmental Plan 2011 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, eight (8) submissions have been received.

1. BACKGROUND

Existing sites features and Surrounding development

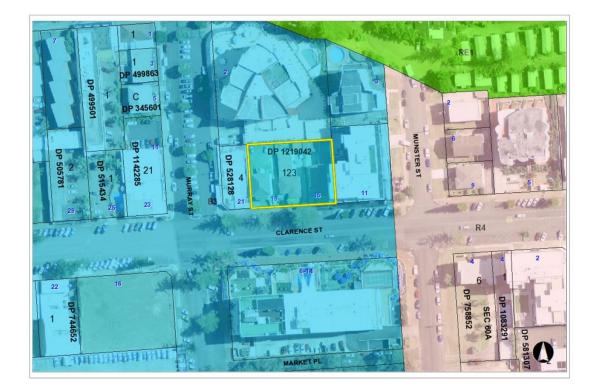
The site has an area of 1518m².



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DEVELOPMENT ASSESSMENT PANEL 13/02/2019

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



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



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2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Construction of a seven (7) storey building comprising basement level parking.
- The building will comprise ground floor commercial and tourist accommodation over levels 1 to 6. Levels 1 to 6 will contain 47 apartments comprising 4 x 3 bed units (with dual key arrangement), 28 x 2 bed units (with dual key arrangement), 12 x 2 bed units and 3 x 1 bed units. With the combination of dual key arrangements the proposal may provide for up to 79 leasable units.

Refer to attachments at the end of this report.

Application Chronology

- 16 May 2018 Application lodged.
- 22 May 2018 Application placed on hold following applicant advice that revised plans are to be lodged.
- 25 June 2018 Revised plans lodged.
- 5 July to 3 August 2018 Public exhibition via neighbour notification and advertising.
- 3 July 2018 Additional information request to applicant. Building height and offstreet parking.
- 6 August 2018 Additional information request to applicant. Traffic impact assessment required.
- 25 September 2018 Additional information response from applicant addressing building height, parking and traffic requests.

3. STATUTORY ASSESSMENT

Section 4.15(1) Matters for Consideration

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

(a) The provisions (where applicable) of:

(i) any Environmental Planning Instrument:

State Environmental Planning Policy 55 – Remediation of Land

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

State Environmental Planning Policy 62 - Sustainable Aquaculture

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



State Environmental Planning Policy 64 - Advertising and Signage

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

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

In accordance with clause 4 the policy does not apply to serviced apartments.

State Environmental Planning Policy (Coastal Management) 2018

The site is located within the mapped coastal environment area.

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 13 and 14 of the SEPP and clause 5.5 of the Port Macquarie-Hastings LEP 2011 the proposed development is not considered likely to result in any of the following:

- a) any adverse impact on integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;
- b) any adverse impacts coastal environmental values and natural coastal processes;
- c) any adverse impacts on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- d) any adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- e) any adverse impact on Aboriginal cultural heritage, practices and places;
- f) any adverse impacts on the cultural and built environment heritage;
- g) any adverse impacts the use of the surf zone;
- h) any adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands;
- i) overshadowing, wind funnelling and the loss of views from public places to foreshores;

The bulk, scale and size of the proposed development is compatible with the surrounding coastal and built environment. The site is cleared and located within an area zoned for commercial purposes.

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

In accordance with clause 7, the proposal is not a BASIX affected building. Specifically the definition of a BASIX affected building is as follows:

BASIX affected building means any building that contains one or more dwellings, but does not include a hotel or motel.

State Environmental Planning Policy (Infrastructure) 2007

The proposal is not traffic generating development for the purpose of schedule 3 of this policy. No referral to Roads and Maritime Services was undertaken.



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State Environmental Planning Policy (State and Regional Development) 2011

The proposal is not identified as regionally or state significant development. The capital investment value is \$14 million. The trigger for regionally significant development is \$30 million.

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 commercial premises and tourist and visitor accommodation are permissible landuses with consent.

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

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

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

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

- The proposal is a permissible land use;
- The development would provide additional ground floor retail and business use;
- The development will provide suitable tourist and visitor accommodation;
- The proposal is accessible and will provide employments opportunities.

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

In accordance with clause 4.3, the maximum overall height of the proposal above ground level (existing) is 23.65m. The maximum building height standard applicable to the site is 19m. As a result, the applicant has submitted a Clause 4.6 variation to the standard. The variation represents a 24.5% departure from the standard.

In gaining an appreciation of the extent of building height variation sought it is important to note the site has been excavated under a prior development consent. The ground level on site is now below that which previously existed. Specifically in the western central portion of the site ground levels are at least 700mm lower than historic natural ground levels. Also of due consideration is that in marrying in with Town Centre Master plan works along the Clarence Street frontage the finished ground level adjacent to the southern elevation of the building will be approximately 800mm above the existing ground level along this frontage.

To this extent the roof of the proposed building comparative to the existing footpath level along Clarence Street level will vary between 17.8m in the south-eastern corner and 19.5m in the south-western corner. Whereas within the site, at the excavated



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ground level, the building height would be 20.55m in the south-eastern corner and up to 22.65m in the south-western corner. Along the northern elevation of the proposed building, at the excavated ground level, the building height varies from between 22.65m and 23.65m. The height plane plans provided as an attachment to this report illustrate the extent of the height variation proposed. The height plane plans also illustrate the height of the previously approved buildings on the site.

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

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

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

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

- The proposal is consistent with the objectives of the LEP and is unlikely to have any implications on State related issues or the broader public interest.
- When viewed from the street it will present as a six storey building. The 6th floor is adequately setback from the perimeter of the main building, add minimal bulk and will articulate the built form.

As per Planning Circulars PS 18-003, Council can assume the Director-General's concurrence for variations to height limits. The height variation is more than a 10% deviation from the standard and therefore the application needs to be determine by full council rather than under staff delegation.

In accordance with clause 4.4, the floor space ratio of the proposal is 3.52:1. The maximum floor space ratio standard applicable to the site is 3.5:1. As a result, the applicant has submitted a Clause 4.6 variation to the standard. The variation represents a 0.57% variation from the standard. This equates to an additional floor area of $34.03m^2$ above the standard.

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

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

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• The extent of the floor space variation is minor.

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

Having consideration to the above the applicant has demonstrated the proposal is consistent with the performance objectives of the floor space ratio clause. In addition, it is also considered that the proposal is unlikely to have any implications on State related issues or the broader public interest.

As per Planning Circulars PS 18-003, Council can assume the Director-General's Concurrence for variations to floor space ratios. The floor space ratio variation is less than a 10% deviation from the standard and could be determined by staff under delegation. However noting the building height variation proposed the application will be determined by full council in any event.

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

In accordance with clause 5.10 the site is a listed archaeological site (A111). The applicant provided a preliminary archaeological assessment for a previous application being for the excavation of basement parking which was referred to the NSW Heritage Council. The prior consent contained conditions addressing heritage including a further requirement for a final archaeological report on findings during excavation. A final archaeological report prepared by I Vetta and J Baloh dated August 2018 supported this application. The application and final report were referred to the NSW Heritage Council. The heritage Council have reviewed the application and final report and concluded that no further investigation or approval under the *Heritage Act 1977* is needed. The NSW Heritage Council has recommended the following consent condition be applied to any consent granted. The condition forms part of the recommended consent conditions attached to this report:

"Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW is to be informed in accordance with Section 146 of the Heritage Act 1977".

In accordance with clause 7.3 the land is above the flood planning area and no flood related building controls apply to the site.

In accordance with clause 7.4 the north-western portion of the site is partly mapped within the flood plain risk management area. The development provides for adequate emergency evacuation onto Clarence Street and no specific flood related measures are required.

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

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

(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

Applicable general provisions

Requirements	Proposed	Complies
 Advertising & Signage 	None proposed.	N/A
 Community Participation & Social Impact Assessment 	Public exhibition undertaken in accordance with the requirements of this plan. Social Impact Assessment not considered necessary for the proposal.	Yes
Crime Prevention	Adequate casual surveillance available and principles of crime prevention through environmental design achieved.	Yes
Environmental Management	 Site is mapped as potential archaeological site. Refer to comments earlier within report. No tree removal proposed. Stormwater management details to be provided. 	Yes N/A Stormwater capable of being managed. Details to be provided with section 68 application.
 Off-street parking in accordance with Table 2.5.1: Motel accommodation requires 1.1 per unit + 1 per 2 employees (onsite at any one time) + 1 for on-site manager. Commercial premises requires 1 per 30m² of Gross Leasable Floor Area (GLFA). Function room requires 1 per 30m² serviced floor area in commercial zones. 	Motel accommodation with dual key arrangement: - 79 units = 86.9 - No onsite manager = 0 - 6 employees = 3 Total for motel = 89.9 spaces. Commercial premises: - 195.3m ² = 6.51 spaces. Function Room - 80.22m ² = 2.674 spaces Total required parking for dual key arrangement = 99.084 spaces. Total parking proposed = 61 spaces.	No*

The proposal seeks a variation to clause 2.5.3 which requires onsite parking to be provided in accordance with Table 2.5.1. In accordance with the table above 99.084 (100) spaces are required to serve the development with 100% occupancy of all units inclusive of 32 dual key units. The proposal includes 61 spaces. Thus resulting in a parking shortfall of 38.084 spaces.



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The DCP provides that Council may consider a reduced level of parking where it is supported by a parking demand study that assesses the peak parking demands for the overall development and completed by a suitably qualified and experienced person.

The relevant objectives of the plan are:

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

The application was supported by a traffic impact assessment that included a parking demand analysis. The assessment was prepared by TTM Consulting dated 9 August 2018. The assessment included a dual occupancy (i.e. dual key) parking sensitivity assessment. The assessment assumed an 80% occupancy rate and that 20% of guests would arrive via taxi, ride sharing or public transport. Based on these assumptions it was estimated that the parking demand for 79 units alone would be approximately 50-51 spaces. With the addition of the ground floor commercial parking demand of 6.51 spaces, employee parking demand of 3 spaces and function centre parking demand of 2.674 spaces the total peak parking demand equates to between 62.184 - 63.184 spaces. Under this scenario a parking shortfall of 2.184 spaces would apply.

It is considered reasonable to assume a reduced occupancy rate for motel style accommodation. Data obtained from the Destination NSW website (source being Australian Bureau of Statistics (ABS), survey of Tourist Accommodation) suggests for the years ending 2014 and 2015 occupancy rates were 62% and 68% respectively for tourist style accommodation in Port Macquarie for establishments with 15 or more rooms. The adopted 80% occupancy rate is considered appropriate and probably on the conservative side having regard to these statistics.

However assuming 20% of guests will not arrive via private vehicle is not substantiated within the parking study. No data, survey work or research has been provided that validates this assumption. In the absence of such evidence it is considered inappropriate to adopt this assumption. The traffic study also acknowledges that during periods of high occupancy (peak holiday periods) that the car parking demand may be higher and recommend that a parking booking system be implemented to manage the available parking. However, this is considered inappropriate as there will likely be an increased reliance on on-street parking during these times. It is argued that the adopted parking demand rate within the DCP for motel style accommodation already accounts for a portion of guests arriving by alternate means. It could also be argued that the assumption of an 80% occupancy ratio also further accounts for a portion of persons arriving by alternate means.

Council staff calculations of parking demand based on the agreed 80% occupancy rate is provided as follows:

- 79 lettable units at 80% occupancy equates to 63.2 units (i.e. 79 x 0.8 = 63.2).
 63.2 units x 1.1 spaces per unit = 69.52 spaces.
- Employees: 6 at 1 per 2 employees (6/2) = 3 spaces.
- Commercial premises: $195.3m^2$ (1 per $30m^2$) = 6.51 spaces.
- Function Room: $80.22m^2$ (1 per $30m^2$) = 2.674 spaces.
- Total parking demand required = 81.704 spaces.

Parking proposed is 61 spaces. Therefore a parking shortfall of 20.704 spaces is a result (i.e. 81.704 spaces required – 61 space proposed).

Having regard to the overall findings of the traffic impact assessment prepared by a suitably qualified professional Council staff are comfortable that proposal will not result in any significant adverse impacts to traffic, parking or road function. Nevertheless the site is located within the Port Macquarie-Hastings Contributions Plan 1993 – Part C – Car Parking and it is considered appropriate that a development contribution be made under this plan for the identified parking shortfall of 20.704 spaces. A condition has been recommended surrounding the payment of the parking shortfall contribution.

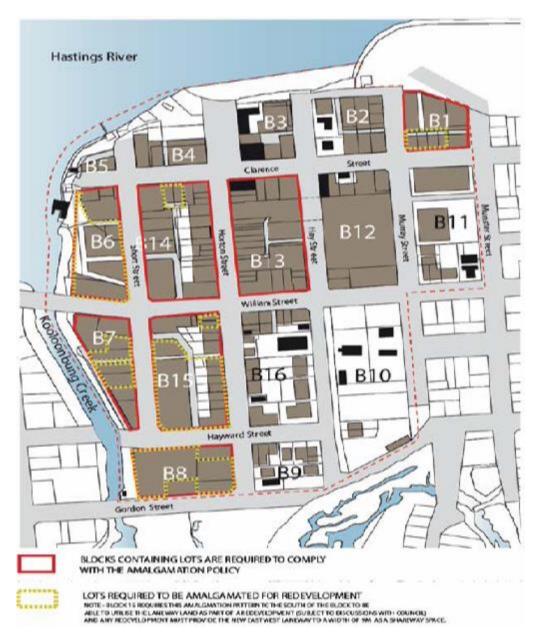
Requirements/Objectives	Proposed	Complies
Clarence Street precinct	7 storey apartment style	Consistent
The future heritage and leisure	building with ground floor	with
focus of the town for visitors and	commercial.	objectives.
residents, Clarence Street will be a		
distinctive tree lined pedestrian	Ground floor commercial will	
dominated area with hotels and	provide active street frontage.	
holiday apartments above an		
active street frontage lined with	Building design considered to	
restaurants, heritage buildings and	be not out of character with	
sidewalk cafés.	existing flat buildings within the	
The new buildings should respond	precinct.	
to the heritage buildings without		
mimicking them. Site amalgamation	Proposal inconsistent with	Three lots
- Amalgamations are desired on	desired amalgamation plan.	(minus the
land identified in Figure 26.	Refer to figure below table.	corner lot)
- If applicants propose a different	There is ingure below table.	have been
amalgamation pattern then they		amalgamated.
must demonstrate that orderly		Considered to
development, high levels of		be a good
connectivity and vehicle access will		outcome.
occur and that mid-block		
connections are provided		
appropriately.		
Active Frontages and Shop		
Widths		Ň
- Maximum shop widths comply	The ground floor shop front	Yes.
with Figure 27: Maximum shop	width is less than 30m.	
widths. Façade Enclosure		
Façade enclosure complies with	Façade enclosure considered	Yes.
the block controls.	acceptable.	165.
Block 1:		
- Ground 60%		
- First 50%		
- Second/Third 40%		
- Top floor 40%		
Roof Design		
Break up roofs where possible with	Roof broken up with lift	Yes

Part 5 - Area based provisions - Port Macquarie Town Centre



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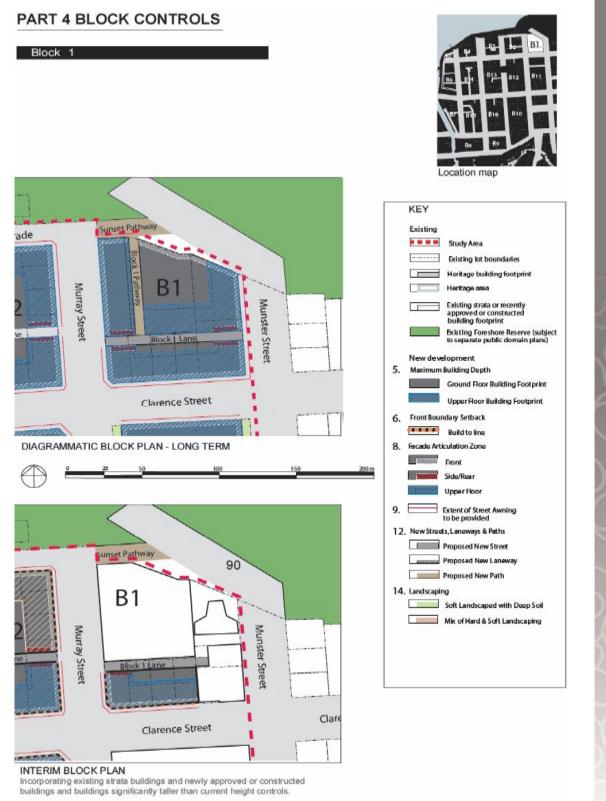
hips, gables and changes in	overrun and root top terrace	
materials.	structures.	





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Summary - Block 1 controls

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

Building depth of approximately 22m considered appropriate.



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

Front lobby on front boundary 0m consistent.<1m first/second/third/fourth/fifth with elements within articulation zone. Noting top floor setback 3m.

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

Proposed 8.7m to rear boundary. Further setback on top floor. Note future laneway not possible having regard to Macquarie Waters building.

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

Proposed 0m side boundary setback from ground to 5th level. The top floor setbacks range between 0m, (approximately 7.6m length of eastern aspect of building – stair shaft and portion of Unit 604), up to 13.695m (north-western aspect of building). The side setback variation to the 3m top floor in relation to portions of the top floor is considered acceptable due to the:

- reasonably short wall lengths of the proposed building compared to the overall length of the site.
- the relationship of the non-compliant length of external wall of the proposed building with the existing western external wall of the adjoining building to east.
- the relationship of the proposed building to the bulk and scale of development to the east.
- the significant open area of the proposed development.
- the overall merits of the proposed development and the practical difficulties associated with compliance and achieving a viable project.
- the lack of detrimental overshadowing of the adjoining properties due to the existing lots orientation to north and south.
- the minimization of privacy impacts to the adjoining properties due to a lack of
- regular windows in the proposed side
- elevations,
- the size and scale of existing adjoining development to the east, west and north.
- the flow through ventilation for the proposed units which do not need to rely on side windows to provide ventilation.
- the use of varying finishes on the side elevations to create additional interest and relief and to decrease the vertical emphasis on the building as a whole.
- the non-compliance will result in no loss of primary views for residents of other buildings.

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

Façade enclosure considered acceptable.

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

Articulation provided to the street considered appropriate.





Rear/Side Articulation 0m.

Wall finish treatment is proposed to the western elevation which will provide an appropriate interim measure until the corner block is developed.

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

Access directly from Clarence Street.

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

Proposed level basement car parking. No provision for laneway. Full width footpath across frontage required.

Arcades. N/A.

Car Parking Underground, on street, some on grade.

Proposed basement car parking and commercial spaces at grade.

Landscaping. N/A.

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

Objectives/Provisions	Proposed	Complies
 Site Design & Analysis Attributes and constraints adequately considered in design. Consideration to adjacent and adjoining sites in design. 	Site analysis provided.	Yes.
Site Layout	Detailed site plan	Yes.
 Functional & integrated with neighbourhood. Energy efficient design. 	provided with application demonstrating integration with potential integration with adjoining sites.	
Height Limits & FSR		
 Complies with LEP Min floor to ceiling 2.7m. FSR at least 1:1. 	Variation to height proposed. Ceiling heights comply. FSR 3.52:1.	No. Refer to LEP clause 4.6 comments. Yes. Yes.
Streetscape & Front		
Setback		
 Front setback with 20% of average setback of adjoining buildings. 	Proposed 0m front setback.	Considered acceptable.
 Tourist accommodation 9m max setback for pool. 	Swimming pool proposed on roof top.	N/A
- Balconies may encroach	Balconies within	Yes.

		1
up to 600mm into	setbacks.	
setbacks.		Yes.
- Building aligned to street	Building aligns with street.	
boundary.	Openings face street.	
 Openings align with 		Yes.
street or rear of site.		
Side & Rear Setbacks		
- Side setback min 1.5 for	0m side setbacks	Considered acceptable.
max 75% of building		
depth.		
 Windows in side walls 	No windows in side walls.	N/A.
setback 3m from side.		
 Adjoins existing strata 	Adjoins strata title flat	Considered acceptable.
building side set back	building to the east.	
min 3m.		
- Rear setback min 6m to	8.7m rear setback to	Yes.
building & sub	building.	
basement.		
 Party wall development 	Site amalgamation as per	Noted but considered
if site amalgamation not	DCP not achievable.	best achievable
possible and higher		outcome.
density envisaged.	Not a corner site.	N/A
- Corner sites		
consolidated with		N1/0
adjacent sites.		N/A
Building Depth	Building depth of	Building depth
- Max 18m	approximately 22m.	considered acceptable.
		The depth is reflective of
		existing similar sized
		buildings adjoining.
Energy Conservation &	North facing balconies.	Yes. Ventilation and
Solar Access	No adverse shadow	solar access considered
 Adequate light and 	impacts given lot	appropriate having
ventilation.	orientation.	regard to the short term
- Overshadowing.		use proposed.
- Energy efficiency.		
Landscaping	Landscaping proposed	Yes
_	along Clarence Street	
	frontage.	
Deep Soil	No deep soil zone	The site is zoned B3
- Buildings should be sited	proposed.	Commercial and
across frontage		consistent with the area
- Deep soil zones should		based provisions above
extend width of the site and		no deep soil zone
be minimum depth of 6m.		requirement has been
- Deep soil zone should		envisaged for this site.
accommodate advanced		
plantings.		
- Integration with stormwater		
management system		
Private Open Space	No ground floor units	Yes. Each unit also
- Ground floor dwelling	proposed. The rooftop	contains access to
min 35m2 with 4mx4m	terrace area inclusive of	external balconies of
area.	BBQ, gym, pool and	sufficient width and



-	Areas <2m in width be	toilets facilities provides	depth.
	excluded from area.	sufficient communal open	
_	Balconies on or above	space.	
	first floor min 8m2 with		
	min 2m width with direct		
	living area access.		
Fer	ices and Walls		
	- None proposed	None proposed	N/A
Acc	oustic Privacy		
-	Living areas to face	Noted that some	Noise impacts
	street	bedrooms at front of	considered to be minimal
		building face street.	having regard to the
_	Parking and driveways	N/A no ground floor units.	short term nature of use.
	separation >3m from		Additional glazing to
	bed windows		bedroom windows
-	Openings of adjacent	No side wall openings.	possible.
	dwellings >3m		•
	separation.		N/A
-	Building wall design	Designed to comply with	
	minimise noise transition	noise transmission	
	comply with AS.	requirements.	Yes
Vis	ual Privacy		
-	Direct views between	No side wall openings.	Yes
	adjacent living areas		
	screened if with		
	distances.		
-	Screening or fence		
	requirements.		
-	Window privacy screen	Privacy walls and	Yes
	requirements	screening proposed	
-	Balcony privacy screen	where necessary.	
	requirements		
Aco	cessibility		
-	In accordance with	Capable of compliance	Yes.
	AS1428	with AS1428. Details to	
-	Barrier free min 20% of	be provided with	
	dwellings	Construction Certificate.	
-	Layout for variety of	Ground flood at grade	
	groups	access with lift proposed.	
-	Building design capable		
	of adaptation to whole of		
	partial changes of use		
So	cial Dimensions &		
	ordability		
-	Located close to open	Close to Town Green	Yes.
	space/recreation areas.	open space and foreshore	
-	FSR not less than 1:1	areas.	
-	Variety of apartment	FSR greater than 1:1.	Yes.
	types, 1, 2, 3+ beds.	1, 2 and 3 bedroom units.	Yes.
-	Consider Affordable		
	Housing Strategy		
Ro	of Form		
-	Variations in form &	Roof top structures	Yes.
L			1

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materials to be provided	provided varied roof form.	
 Lift overruns & plant 	Overrun and plant	
integrated within roof	incorporated into roof top	
structure	structures.	
Façade Composition &		
Articulation		
- Well balanced	Consistent with existing	Yes
- Consistent &	flat buildings within the	
complimentary to	locality.	
elements & materials of		
existing buildings		
Entries & Corridors		
- Clear line of transition	Building entry well	Yes
- Sheltered & lit	defined, sheltered and	
- Adequate circulation	adequate circulation	
space	space.	
- Corridor width min 2.5m		
wide & 3m high		
Balconies		
- Min one balcony per	Balcony per unit.	Yes
apartment.		
- Main balcony min 2m	Complies.	Yes
width a 8m2.		
- Directly accessible from	Off living area.	Yes
living area.	Ū Ū	
- Balconies recessed,	Recessed and balustrade	Yes
balustrade.	details provided.	
Emergency Services	Capable of access from	Yes
- Accessible	street hydrant.	
Laundries & Clothes	Rooftop communal	Yes
Drying Facilities	laundry proposed.	
Mailboxes	Not required.	N/A
Safety & Security	Design meets principles	Yes
	of crime prevention	
	through environmental	
	design.	
Site Storage	Adequate storage	Yes
	proposed.	
Waste Management		
- Communal bulk waste	Garbage storage on	Yes
facilities to be provided.	ground floor behind	
- Designated area at	commercial tenancies.	
ground or basement		
Utilities	Services available.	Yes
Strata Title Subdivision	No subdivision proposed.	N/A

Business and Commercial Development Provisions

Requirements/Objectives	Proposed	Complies
Building Heights:	Proposed 23.65m.	No. Refer to
		LEP clause



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	T
19m LEP max height limit	4.6
applies.	comments.
0m front setback.	Yes
Variation with roof terrace proposed. Lift overrun and plant incorporated.	Yes.
Proposed colours appear acceptable and consistent with existing flat buildings within the street.	Yes
Shopfront widths acceptable.	Yes
Architectural detailing provided within the articulation zone. Incorporates overhangs and recesses.	Yes
Ground floor incorporates shop/retail.	Yes
Approx 50% of street frontage clear glazed.	Yes
No arcade proposed.	N/A
Awning structure provides coverage for the extent of the active street frontage.	Yes
None proposed.	N/A
Capable of compliance.	Yes.
Awnings designed to encourage outdoor dining opportunities.	Yes.
Landscape plan provided.	Yes
	applies. Om front setback. Variation with roof terrace proposed. Lift overrun and plant incorporated. Proposed colours appear acceptable and consistent with existing flat buildings within the street. Shopfront widths acceptable. Architectural detailing provided within the articulation zone. Incorporates overhangs and recesses. Ground floor incorporates shop/retail. Approx 50% of street frontage clear glazed. No arcade proposed. Awning structure provides coverage for the extent of the active street frontage. None proposed. None proposed. Awnings designed to encourage outdoor dining opportunities.



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

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:

No planning agreement has been offered or entered into.

iv) any matters prescribed by the Regulations:

New South Wales Coastal Policy:

The proposed development is consistent with the objectives and strategic actions of this policy. See SEPP (Coastal Management) 2018 comments for further detail.



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 v) any coastal zone management plan (within the meaning of the <u>Coastal</u> <u>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 site was historically three single Torrens title lots with each containing old unit buildings. The old units have been demolished and the lots consolidated under a previous development consent. Site has also been subject to excavation under a previous development consent and slopes away from south to north approximately 2m. The site has a frontage of 45.25m to Clarence Street and an average depth of 33.53m.

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

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

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

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

Roads

The site has road frontage to Clarence Street. Adjacent to the site, Clarence Street is a sealed public road under the care and control of Council. Clarence Street is local commercial road with a 22 metre carriageway within a 30 metre road reserve. The existing road includes SA kerb and gutter, footpath paving, and combination of parallel parking and angled parking.

Access, Transport & Traffic

The application was supported by a Traffic Impact Assessment prepared by TTM Consulting, dated 9 August 2018. The conclusions of the assessment are provided below:

<u>8 Summary and Conclusions</u> <u>8.1 Development Summary</u>



The access is proposed to be via a 6.0m wide Category 2 access crossover. The development access will provide an effective queue provision of 4 vehicles between the property boundary and the security access door.

8.2 Car Parking Arrangements

The car parking provision generally exceeds Council's Development Control Plan's minimum parking requirements.

The ground level and basement car park layouts, as a minimum, comply with the Australian Standard requirements. Overall, TTM considers the proposed car parking arrangements for this development are adequate.

8.3 Impact on Surrounding Road Network

Assessment of the proposed development indicates that the development will not have a significant impact on the future road network. As such, no further mitigating road works are required.

8.4 Service Vehicle Arrangements

Servicing for this development will be facilitated in the designated loading area on the ground level, accessed from Clarence Street. The largest design vehicle, a VAN, can enter, manoeuvre, service and exit the site in a forward gear. Overall, the proposed service vehicle arrangements are considered adequate to meet the needs of the proposed development.

8.5 Active Transport Facilities

The current public transport infrastructure and proposed site provisions for pedestrian/bicycle facilities is considered adequate for the development. 8.6 Conclusion

Based on the assessment contained within this report, TTM see no traffic engineering reason why the relevant approvals should not be granted.

Key issues or recommendations to be addressed by conditions.

To protect existing road facilities, existing road conditions shall be evaluated and bond securities held prior to any earthworks Details shall be provided as part of a Roads Act (Section 138) application.

Site Frontage & Access

Vehicle access to the site is proposed though one access driveway to Clarence Street. All accesses shall comply with Council AUSPEC and Australian Standards, and conditions have been imposed to reflect these requirements.

Due to the type and size of development, additional works are required to include:

- Reconstruction of kerb and gutter to the east of improvement works (new kern and pavement) to marry in with works already carried out by Council as part of the Town Centre Master Plan.
- Concrete footpath paving (full width) along the full frontage
- A condition is recommended requiring that prior to the preparation of any engineering plans or submission of any applications for construction to Council, the applicant is to contact Councils Engineering Development to ensure any design accords with Town Centre Master Plan works already carried out on Clarence Street across subject property. The applicant is advised that works include altering verge, carriageway and kerb levels to improve surface drainage conditions for the full frontage of the development.

Parking and Manoeuvring

Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890) and conditions have been imposed to reflect these requirements.





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Due to the type of development, car park circulation is required to enable vehicles to enter and exit the site in a forward manner. Site plans show adequate area is available and conditions have been imposed to reflect these requirements.

Refer to relevant conditions of consent.

Pedestrians

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

Public Domain

No adverse impacts on public spaces or access thereto.

Utilities

Telecommunication and electricity services are available to the site.

Stormwater

The proposed preliminary stormwater design prepared by David Johnson Consulting Engineer, dated May 2014 is acceptable in principle.

The site naturally grades towards the rear and is benefitted by an easement 1 metre wide to drain water over SP65485, the development proposes to extinguish the easement and instead drain to the Council's pipe network in Clarence Street.

The legal point of discharge for the proposed development is defined as a direct connection to Council's stormwater pit/pipeline in Clarence Street, which is consistent with the development proposal.

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 building Construction Certificate.

In accordance with Councils AUSPEC requirements, onsite detention facilities must be incorporated into the stormwater drainage plan. Preliminary plans incorporate onsite detention facilities.

• The statement of environmental effects (SOEE) outlines measures to be implemented during construction to manage stormwater. Details from the SOEE are provided below:

- Appropriate controls will be installed to prevent soil erosion and sediment transport from the site during rainfall during the construction phase of the project. A variety of erosion and sediment controls will be used on the site. Strategies to be used on site will include:
 - Hay bale retardation and sediment retention basin. The removal of stormwater from the excavated area will be via a temporary hay bale structure which will be provided on site. The size of the structure to be determined via the volume of water to be treated. In this regard the operation of the structure is to be inspected on a daily basis and the quality of discharge water monitored.
 - Where necessary the size of the structure will be increased so as to ensure that acceptable discharge standards are met.



- All stormwater is to be collected and conveyed to the structure using suitable sized pumps. The foot valve of the pump is to be fitted with a silt sock. The hay bale structure will act as a two-stage sedimentation basin. Pumped water will be discharged into the larger section of the structure where it will be allowed to settle and seep through the straw bales into the final section where it will be allowed to settle before draining through the overflow to discharge into the stormwater drain servicing the site.
- The pond shall be regularly inspected, and excess sediment removed on a daily or more frequent basis as required.
- Sediment filter fencing, or gravel groynes/sausages will be used downstream of the discharge from the hay bale structure to provide additional treatment.
- Gravel groynes/sausages for sediment retention will be utilized around stormwater drains, inlets and pits once constructed.
- Tracking of sediment from the site by tucks entering and leaving will be controlled by the provision of a 'shaker grid' at the site entry together with the placing of a gravel driveway at the entry site.
- Discharges from dewatering operations shall be treated to remove excess suspended matter prior to discharge from the site. Discharges shall be free of pollutants, shall be within a pH range of 6.5-8.5 and shall have a maximum non-filterable residue (NFR) concentration of 50 mg/L to allow for discharge to the stormwater system within Environment Protection Authority requirements.

• Removal of suspended matter from dewatering discharges shall be achieved by treatment of discharges through the hay bale filtration/sedimentation pond detailed in 6.1 above.

Detailed plans for the management of stormwater will be required to be submitted for assessment with the infrastructure construction certificate and S.68 applications.

Water

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

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

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

Detailed plans will be required to be submitted for assessment with the infrastructure construction certificate and S.68 applications.

Sewer

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



Item 06 Page 63 As the development will exceed 2ET discharge, sewer connection is to be made from a manhole. The hydraulic designer is to confer with Council sewer section prior to submitting sewer design plans.

Detailed plans will be required to be submitted for assessment with the infrastructure construction certificate application and S.68 applications.

Soils

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

Air & Micro-climate

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

Flora & Fauna

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

Waste

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

Energy

The proposal is not BASIX affected building. The proposal will include measures to address energy efficiency in order to comply with the requirements of section J of the Building Code of Australia (BCA). No adverse impacts anticipated.

Noise & Vibration

Having regard to the location of the site and nature of the development, there will be anticipated short term noise impacts during construction activities. Consent condition has been recommended to restrict construction to standard construction hours and a condition requiring a construction management plan which includes a schedule of works and approximate timing, contact number of site supervisor and mechanism for providing notice to adjoining owners for schedule noisy works.

In terms of vibration impacts and proximity of adjoining sites which are built to boundary a condition has been recommended to require dilapidation reports prior to work and upon completion of works to adjoining properties.

In terms of the visitor accommodation use, it is noted that no onsite manager is proposed. A condition of consent has been recommended to require a complaints register to be established by management and this be made available upon request to Council. The condition also requires that a telephone number be provided on the front of the building for any complaints.

Having regard to the short term nature of stays proposed and use of the communal roof top terrace facilities which includes a BBQ area, swimming pool and outdoor terrace the potential exists for noise during high activity times. It is noted that these roof top areas have been located in the north western part of the top floor which will provide adequate separation between adjoining flat buildings to the north and east of



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the site. It still considered that some type of management regarding the use of this rooftop area is required. A condition has been recommended requiring a rooftop management plan be development and approved by Council prior to issue of any occupation certificate. A further condition has been applied requiring the approved plan to be displayed in a prominent position on the rooftop area so guests are duly informed.

Natural Hazards

The site is not mapped as bushfire prone land. Refer to comments under clause 7.4 of LEP comments for flood considerations.

Safety, Security & Crime Prevention

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

Social Impact in the Locality

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

Economic Impact in the Locality

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

Site Design and Internal Design

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

Construction

Having regard to the location of the site and nature of the development, there will be anticipated short term inconveniences during construction activities. No significant adverse construction impacts are identified to neighbouring properties that would warrant refusal of this application.

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:

Eight (8) written submissions have been received following public exhibition of the application.

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



Submission Issue/Summary	Planning Comment/Response
The proposal provides no detail on	Having regard to the sites north south
overshadowing impacts. Private open	orientation it is evident that the adjoining
space on the adjoining Macquarie	properties will not be adversely
Waters building is orientated north-	overshadowed by the development for
west. Shadow diagrams should be	more than 3 hours between 9am -3pm on
provided to determine the extent of	21 June.
shadow impacts.	
Based on the information lodged it is	The applicant provided revised plans and
difficult to ascertain whether the	clause 4.6 variation confirming building
building height proposed is being	height proposed form existing ground level
taken off pre-excavated site levels or	as excavated onsite.
existing level as excavated.	
The proposal bases its car parking	Refer to DCP assessment table within this
demand on 47 units and 6 staff. The	report.
proposal however contains 79	
separately lettable units. The DCP	
currently provides no mechanism for	
reduced parking for a dual key	
system. A shortfall of 36 parking	
spaces is not appropriate for the	
locality having regard to existing	
parking demand experienced.	Drovision 2.2.2.6 refers to side and rear
The proposal does not propose a 6m	Provision 3.3.2.6 refers to side and rear
wide deep soil zone as per DCP 2013, specifically provisions 3.3.2.6,	setbacks. The rear setback complies. Provision 3.3.2.11 refers to deep soil zone
3.3.2.11 and 3.3.2.16.	width and depth. The lack of deep soil is
0.0.2.11 and 0.0.2.10.	consistent with the area based provisions
	and commercial zoning of this site.
	Provision 3.3.2.16 refers to landscaping
	requirements. Having regard to the
	commercial zoning the minimal
	landscaping proposed along the street
	frontage is considered acceptable.
The current condition of the site is not	Noted Council staff are aware of the
acceptable. Currently stormwater	existing stormwater issue and will continue
collects and pools in the north-	to monitor and managed accordingly.
western corner and leaches into the	Stormwater for the proposed development
basement of the north point building.	can be adequately managed.
It is requested that Council instruct	
the landowner to fix this stormwater	
problem immediately.	Defende kerklike i i i i i
The building is excessive in size and	Refer to building height comments under
height. There is no good reason for	LEP 2011 of the report. The proposed
the height variation.	building is considered to be consistent with
	other buildings in the locality. The majority of the built form is contained within the
	height controls. The elements on the roof add further articulation to this form and are
	consistent with similar roof top elements on
	flat buildings in the locality.
There is insufficient parking proposed	Refer to parking assessment comments
to accommodate the proposed	under the table to DCP 2013 of the report.
development.	

Submission Issue/Summary	Planning Comment/Response		
The northern setback is insufficient to	Refer to DCP 2013 assessment table		
the north point building.	within this report. Rear setback complies.		
No details of expected building	Standard building construction times will		
construction start and finish times.	apply as per recommended consent		
Potential noise impact to adjoining	conditions. No significant adverse building		
residents. Temporary noise blocking	construction noise impacts are anticipated		
panels should be installed to existing	that would warrant refusal of this		
adjoining units.	application.		
No details of cranes has been	The placement and management of cranes		
provided. Safety hazard to existing	and any machinery during construction will		
adjoining units and traffic blocks	be undertaken by site managers and		
likely. During construction items may	subject to workplace safety measures.		
fall onto my residence at 2 Murray			
Street.			
Service disruptions would occur	Anticipated service disruptions during		
during construction. How will I be	construction will be managed by the		
informed? Is there sufficient services	relevant service provider. Upgrading of services will be required as deemed		
to meet the demand of the proposed development?	appropriate by the relevant service		
development?	provider.		
Ongoing noise impacts from	A rooftop management has been provided		
occupants utilising the open style	for this space and will form part of the		
communal roof top space with	consent conditions. No significant adverse		
swimming pool.	noise impacts are anticipated that would		
	warrant refusal of this application.		
Ongoing noise impacts from air-	Standard noise control regulations apply to		
conditioning plant.	management of noise from such sources.		
	No significant adverse noise impacts are		
	anticipated that would warrant refusal of		
Onen car parking is proposed at	this application.		
Open car parking is proposed at ground level with driveways at same	Adequate building separation is proposed between the ground level parking and		
level as North Point level 2	North Point building. The north point		
apartments. This will result in	building is setback approximately 13m form		
adverse noise and security impact.	the site boundary. No significant adverse		
	noise impacts are anticipated that would		
	warrant refusal of this application.		
The proposed units will be only 20m	The orientation of the block, building and		
from my bedroom and living space in	subsequent balconies seek to maximise		
North Point apartments. This will	light and ventilation with the northern		
result in a significant loss of privacy.	orientation. The building has been		
	positioned in the southern portion of the		
	block with the rear balconies setback		
	approximately 8.7m from the rear		
	boundary. This provides for approximately		
	20m separation to the units in the north		
	point building. It is considered that		
	sufficient spatial separation exists between		
The northern side of the building	the units.		
The northern side of the building	Adequate building separation is proposed.		
contains a large amount of glazing which will direct light and heat into	No adverse reflection or heat impact will result from the glazing proposed.		
the units of north point.	result nom the glazing proposed.		

Culturing in Incurs/Culture	Dianning Commont/Deensurg		
Submission Issue/Summary	Planning Comment/Response		
There is no discussion about	The proposal is for a ground floor		
potential liquid trade wastes that may			
be generated from the ground floor	proposed is unknown and likely require		
shop.	further development consent under which		
	waste management will be considered.		
No details of solar panels or	The proposal is not a BASIX affected		
rainwater use provided. Council	building therefore such measures are		
should require this as part of all new	optional.		
developments.			
Having regard to previous failures will	Planning legislation provides that should		
Council require the building to start	development consent be granted a		
within a certain timeframe?	proponent has 5 years to physically		
	commence work. Once commenced there		
	is no legal obligation to complete the		
	development within a set time frame.		
The units in north point will be greatly	Impact upon property values is not a		
devalued if approved.	relevant planning consideration.		
How will dust and debris be managed	Standard site management conditions will		
during construction noting location of	apply including dust control.		
clothes drying facilities adjoining in			
the north point building?			
The owner is extremely difficult to	Noted.		
deal with and has ignored previous			
consent conditions and instruction by			
Council for stormwater management.			
(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, car parking, open space, community cultural services, emergency services and administration buildings.

5. CONCLUSION AND STATEMENT OF REASON

The application has been assessed in accordance with Section 4.15 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 considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result 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. DA2018 - 353.1 Recommended Conditions 2View. DA2018 - 353.1 SOEE 3View. DA2018 - 353.1 Clause 4.6 Report (Height) 4View. DA2018 - 353.1 Clause 4.6 Report (FSR) 5View. DA2018 - 353.1 Archaeological Report 6View. DA2018 - 353.1 Traffic Impact Assessment Report. 7View. DA2018 - 353.1 Groundwater Assessment 8View. DA2018 - 353.1 Stormwater Concept Plan 9View. DA2018 - 353.1 3D Height Plan 10<u>View</u>. DA2018 - 353.1 Height Context Plan 11<u>View</u>. DA2018 - 353.1 Site Survey 12View. DA2018 - 353.1 Heritage Office response letter DA2018 - 353.1 Additional Information Letter - September 2018 13View. 14View. DA2018 - 353.1 Plans



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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2018/353 DATE: 5/02/2019

PRESCRIBED CONDITIONS

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

A - GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Statement of Environmental Effects	17 Clarence Street	David Pensini	June 2018
Development plans as stamped	1806	Wayne Ellis Architect	19 June 2018

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:
 - 1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - 2. Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;

- 4. Building waste is to be managed via an appropriate receptacle;
- 5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- 6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidays

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

- (5) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (6) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (7) (A017) A separate development application for any proposed advertising signs (other than signs which are exempt development or approved under this consent) must be submitted to and approved by council prior to the erection or display of any such signs.
- (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:
 - 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.

- (11) (A049) The existing footpath/verge area in Clarence Street is to be raised to contain stormwater in the street. Design plans must be approved by Port Macquarie-Hastings Council pursuant to Section 138 of the Roads Act 1993.
- (12) (A195) Prior to the preparation of any engineering plans or submission of any applications for construction to Council, the applicant is to contact Councils Engineering Development to ensure any design accords with Town Centre Master Plan works already carried out on Clarence Street across the subject property frontage. Works to be carried out as part of this development include raising verge, carriageway and kerb levels to improve surface drainage conditions for the full frontage of the development.
- (13) B196) Each apartment and commercial unit will require individual water metering with the meters either located on the road frontage or at the unit with remote reading facility located adjacent to the road frontage or in an easily accessible area such as a foyer. Details to be provided as part of the section 68 application.
- (14) Development consent shall be sought for the first use of the ground floor commercial tenancy 1.

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:
 - 1. Road works along the frontage of the development.
 - 2. Public parking areas including;
 - a. Driveways and access aisles;
 - b. Parking bays;
 - c. Delivery vehicle service bays & turning areas in accordance with AS2890.
 - Sewerage reticulation. Council records indicate that the development site is connected to sewer via an end of line connection in the north western corner of the lot. A sewer reticulation supply strategy shall be submitted as part of the infrastructure construction certificate.
 - 4. Water supply plans shall include hydraulic plans for internal water supply services and associated works in accordance with AS 3500, Plumbing

Code of Australia and Port Macquarie-Hastings Council Policies. Final water service sizing will need to be assessed by a hydraulic consultant to suit the commercial, domestic and fire service components of the proposed development, as well as backflow protection requirements.

- 5. Retaining walls
- 6. Stormwater systems.
- 7. Erosion and Sediment controls.
- 8. Location of all existing and proposed utility services including:
 - Conduits for electricity supply and communication services (including fibre optic cable).
 - b. Water supply
 - c. Sewerage
 - d. Stormwater
- 9. Traffic Management Control Plan.
- 10. Erection of hoardings and buildings in and/over the public road verge.
- 11. Landscaping.
- 12. Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, and ASD 202 and ASD 207, Port Macquarie-Hastings Council current version.
- 13. All roadworks along the full frontage including full width paving, lighting and any necessary kerb construction or reconstruction in accordance with the current Town Centre Master Plan.
- 14. Provision of a full width concrete footpath across the full road frontage of the property.
- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

- Civil works
- Traffic management
- Work zone areas
- Hoardings
- Concrete foot paving
- Footway and gutter crossing
- Functional vehicular access
- (4) (B009) The applicant shall surrender the consents relating to DA No.2016/149 for Shop Top Housing, DA No. 2015/332 for car park associated with shop top housing and DA No.2014/410 for shop top housing at Lot 123 DP 1219042 by submitting an application for "Surrender of a Consent" to Council in accordance with the Environmental Planning and Assessment Regulation 2000, prior to release of the Construction Certificate.
- (5) (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:

 Port Macquarie-Hastings Administration Building Contributions Plan 2007

- Hastings S94 Administration Levy Contributions Plan
- Port Macquarie-Hastings Contributions Plan 1993
 - Part C Car Parking
- Port Macquarie-Hastings Open Space Contributions Plan 2018
- Hastings S94 Major Roads Contributions Plan

 Port Macquarie-Hastings Community Cultural and Emergency Services Contributions Plan 2005

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

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

- (6) (B011) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution, prior to the issue of a Construction Certificate, of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plan towards the following:
 - augmentation of the town water supply headworks
 - augmentation of the town sewerage system headworks
- (7) (B024) Submission to Council of an application for water meter hire, which is to be referred to the Water Supply section so that a quotation for the installation can be prepared and paid for prior to the issue of a Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.
- (8) (B032) Details of the proposed slab/flooring and wall construction for structural independency are to be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.
- (9) (B034) Prior to release of the Construction Certificate the submission of details to Council for the disposal of any spoil gained from the site and/or details of the source of fill, heavy construction materials and proposed routes to and from the site, including, but not limited to:
 - The pavement condition of the route/s proposed (excluding collector, subarterial and arterial roads) for the haulage of fill material to the site and/or haulage of excess material from the site. The condition report shall include photographs of the existing pavement and pavement deflection test results taken in the travel lanes;
 - Recommended load limits for haulage vehicles and;
 - A procedure for monitoring the condition of the pavement during the haulage;

Bond to guarantee public infrastructure is not damaged as a result of construction activity,

and;

Council shall determine the need for and extent of any rectification work on the haulage route/s considered attributable by the haulage of materials to and/or from the site.

- (10) (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.
- (11) (B041) Prior to the issue of the Construction Certificate a dilapidation report shall be prepared by a suitably qualified person for buildings on adjoining properties. Such report shall be furnished to the Principal Certifying Authority.
- (12) (B042) A certificate from an approved practising chartered professional civil and/or structural engineer certifying the structural adequacy of the proposed retaining structures supporting the road reserve is to be submitted to Port Macquarie-Hastings Council prior to the release of the building Construction Certificate.
- (13) (B045) A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- (14) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:
 - a) The legal point of discharge for the proposed development is defined as Council's piped drainage system.

In this regard, Council's piped drainage system must be extended by an appropriately sized pipeline to the frontage of the site to allow direct piped connection from the development site into the public drainage system.

The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event.

- b) The design is to be generally in accordance with the preliminary stormwater drainage concept plan being drawing No 2018-51 prepared by David Johnson Consulting Engineer and dated 21 June 2018.
- 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) Where works are staged, a plan is to be provided which demonstrates which treatment measures are to be constructed with which civil works stage. Separate plans are required for any temporary treatment (where applicable e.g. for building phase when a staged construction methodology is adopted) and ultimate design.

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- e) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- f) The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained.
- (15) (B053) The design of the carpark and accesses is to be in accordance with Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6). 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.
- (16) (B054) A driveway longitudinal section shall accompany the section 138 application pursuant to section 138 of the *Roads Act, 1993*. The section shall demonstrate compliance with Council's adopted AUSPEC Design and Construction Guidelines.
- (17) (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.
- (18) (B195) The building Construction Certificate shall not be issued over any part of the site requiring a controlled activity approval (i.e. dewatering) until a copy of the approval has been provided to Council.

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) (C003) A controlled activity approval shall be obtained from the airport operator for any crane that may be used during the construction phase that would penetrate the Obstacle Limitation Surface (OLS). To avoid any doubt as to whether an approval is required, applicants should check with the airport operator at the earliest possible stage.
- (3) (C004) Prior to works commencing an application being made to the electricity and telecommunications service providers. Services are required to be underground.
- (4) (C013) Where a sewer manhole and Vertical Inspection Shaft exists within a property, access to the manhole/VIS shall be made available at all times. Before during and after construction, the sewer manhole/VIS 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.
- (5) The proponent is to prepare a construction management plan which includes the following at a minimum:
 - Schedule of works and approximate timing;
 - Contact number for construction site supervisor/manager; and
 - Mechanism for providing a minimum of 24 hours' notice to immediately adjoining land owners of scheduled noisy works.

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

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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. prior to commencement of site clearing and installation of erosion control facilities;
- b. at completion of installation of erosion control measures
- c. prior to installing traffic management works
- d. at completion of installation of traffic management works
- e. at the commencement of earthworks;
- f. when the sub-grade is exposed and prior to placing of pavement materials;
- g. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
- h. at the completion of each pavement (sub base/base) layer;
- i. before pouring of kerb and gutter;
- j. prior to the pouring of concrete for sewerage works and/or works on public property;
- k. on completion of road gravelling or pavement;
- I. during construction of sewer infrastructure;
- m. during construction of water infrastructure;
- n. 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) (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.
- (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) (D046) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW is to be informed in accordance with Section 146 of the *Heritage Act 1977*.

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written

application is to be submitted to Council specifying detail of works and bond amount.

- (3) (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).
- (4) (E016) Prior to occupation or the issue of the Occupation Certificate (or Interim Occupation Certificate) the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (5) (E021) Pool to be fenced in accordance with the Swimming Pools Act, 1992.
- (6) (E022) Depth markers are to be installed on the swimming pool.
- (7) (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.
- (8) (E034) Prior to occupation or the issuing of the Occupation (Final or Interim) provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (9) (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.

(10) (E046) Prior to the issue of an Occupation Certificate, a positive covenant is to be created under Section 88E of the Conveyancing Act 1919, burdening the owner(s) with the requirement to maintain the on-site stormwater detention facilities on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a. The Proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the on-site stormwater detention facilities ("OSD").
- b. The Proprietor shall have the OSD inspected annually by a competent person.
- c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures in or upon the said land which comprise the OSD or which convey stormwater from the said land; and recover the costs of any such works from the proprietor.

Item 06 Attachment 1 d. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.

The proprietor or successor must bear all costs associated in the preparation of the subject 88E instrument. Evidence of registration with the Lands and Property Information NSW shall be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

(11) (E049) A final Dilapidation Report including a photographic survey must be submitted after the completion of works. A copy of this Dilapidation Report together with the accompanying photographs must be given to the adjoining property owners. A copy must be submitted to Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to the Council prior to the issue of an Occupation Certificate.

- (12) (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.
- (13) (E053) All public infrastructure works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Occupation Certificate or release of the security bond, whichever is to occur first.
- (14) (E056) A Certificate of Compliance under the provisions of Section 307 of the Water Management Act must be obtained prior to the issue of any occupation or subdivision certificate.
- (15) (E061) Landscaped areas being completed prior to occupation or issue of the Occupation Certificate. Public landscaping may be bonded as agreed to by Council.
- (16) (E062) Prior to occupation or the issue of any Occupation Certificate, evidence must be provided to the Principal Certifying Authority that satisfactory arrangements are in place for collection of general waste (rubbish), recycling and food and garden organics from the premises by a private waste contractor. All wastes are to be collected as separate waste streams.
- (17) (E068) Prior to the issue of an Occupation Certificate, evidence to the satisfaction of the Certifying Authority from the electricity and telecommunications providers that satisfactory services arrangements have been made to the development (including street lighting and fibre optic cabling where required).
- (18) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision or Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.
- (19) A roof top management plan for use of the rooftop space is to be prepared and approved by Port Macquarie-Hastings Council prior to the issue of any occupation certificate

F - OCCUPATION OF THE SITE

- (1) (F003) All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.
- (2) (F005) The units are approved for short term accommodation.
- (3) (F010) Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 177 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The statement must only be in the form specified by clause 181 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (4) (F025) Hours of operation of the motel reception is restricted to the following hours:
 - 7am to 9pm Seven days a week.
- (6) (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.

- (7) (F036) Any exterior lighting on the site shall be designed and installed so as not to cause a nuisance or adverse impact on the amenity of the surrounding area by light overspill. The lighting shall be the minimum level of illumination necessary for safe operation and must be designed, installed and used in accordance with AS 4282 - 1997 control of the obtrusive effects of outdoor lighting. No flashing, moving or intermittent lighting is permitted on the site.
- (8) The approved plan of management for use of the rooftop space is to be displayed in a prominent position on the rooftop at all times.
- (9) A noise/nuisance complaints register must be kept up to date at all times by management and must be made available to Council on request. The register must contain:
 - Complaint date and time;
 - Name of person making the complaint;
 - Contact details (phone and address) of person lodging the complaint;
 - Nature of complaint;
 - Name of staff managing the complaint;
 - Action taken (by whom and when); and
 - Outcome and or further action required;
 - A telephone number is to be provided on the front of the building to enable the public to register a complaint with the property manager.



PROPOSED COMMERCIAL & MOTEL/SERVICED APARTMENT DEVELOPMENT AT LOT 123 DP 1219042, 17 CLARENCE STREET, PORT MACQUARIE

JUNE 2018

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Supporting Information Proposed Commercial and Motel/Serviced Apartment Development 17 - 19 Clarence Street, Port Macquarie

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1. INTRODUCTION

This report is submitted to Port Macquarie - Hastings Council as part of a development application for the construction of a mixed commercial and motel/serviced apartment development at Lot 123 DP 1219042, 17 Clarence Street, Port Macquarie.

The final design of the proposed development complies with the requirements of Council's strategic planning objectives and development standards. The proposed development is also consistent with the land use zoning for the area and is compatible with the local context.

This report addresses the nature and form of the development, the characteristics of the site and surrounding area and the impacts of the proposed development.

Aspects of the proposed development have been through a pre-DA consultation process albeit that this involved a development concept centered on a six (6) storey shop top housing development concept. The pre-DA consultation included;

- Council pre-lodgment meeting refer to Appendix 1.
- Consideration of the preliminary design by Councils Urban Design Review Panel.

It is noted that the shop top housing development proposal for the subject site was subsequently approved by Council via Development Consents 332/2015 and 149/2016.

2. LOCATION DESCRIPTION

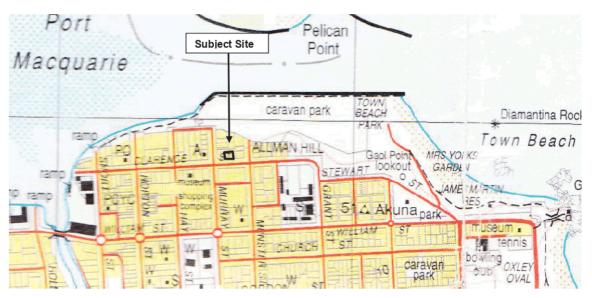
2.1 Local and Regional Context

The subject site is located on the eastern fringe of the Port Macquarie Central Business District (CBD). It is within easy walking distance to the services and facilities located within the CBD as well as Town Beach and the Hastings River Break wall, refer to **Figure 1**.

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Figure 1 – Site Location



The subject site is also in proximity to a range of community/recreational facilities including entertainment venues and sporting and recreational facilities.

The area is characterized by a mix of commercial and residential development which reflects the subject sites CBD fringe location. Apart from commercial land uses the locality contains a range of residential development including serviced apartment developments and older multistory and low-density residential flat and unit developments.

The age of existing building infrastructure is mixed with more recent developments, (i.e. 10 years old), intermingled with historical developments which are more than 40-50 years old.

2.2 The Site

The subject site consists of a single Torrens Title lot at 17 Clarence Street, Port Macquarie. The subject site is currently vacant of improvements with historic residential flat buildings having recently been demolished

The subject site has approximately 2m fall from south to the north (from Clarence Street to the rear of the property). A 1m east to west cross fall is also present although the natural topography of the subject site has been altered as a result of the historic development of the subject site and recent demolition works. The topography of adjoining and adjacent land contains gentle south to north down slopes and a westerly cross-fall.

The subject site is legally known as Lot 123 DP 1219042, 17 Clarence Street, Port Macquarie. The subject site is rectangular in shape with a total site area of approximately 1517.23m². It has a frontage of 45.25m to Clarence Street, and an average depth of 33.53m.

The subject site does not contain any significant vegetation with bare earth and grasses being the predominant surface conditions on the subject site.

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The immediate locality, particularly to the north, south and east is dominated by larger residential flat and serviced apartment buildings. The western aspect of the subject site is dominated by commercial buildings which are generally up to two (2) storey in bulk and scale. The bulk and scale of buildings in the western aspects becomes more significant with distance to the west.

2.3 Description of Existing Environment

2.3.1 Climate

The local climate is considered to be temperate with summer dominant rainfall.

The average daily maximum temperature is around 21.5° C, while the average daily minimum temperature is around 10° C - 11° C.

Long-term average annual rainfall is around between 1,500 mm.

Annual pan evaporation is estimated to be approximately 1,400 mm.

2.3.2 Soils and Vegetation

As detailed in the Department of Land and Water Conservations, soil landscapes of Kempsey 1: 1,000,000 Sheet (1999), the soil grouping on the subject site is shown to be potentially by human activity and as such soils could be high variable in characteristics and limitations.

Geological investigations indicate that the site is situated in an area of red krasnozem clay soils overlying deeply weathered geological units of the Port Macquarie Block which includes slate, basalt, serpentinite and dolerite. Areas of disturbed ground are present in the upper 1m of the soil profile due to the demolition of the former structures at the site and the presence of historical service trenches.

Ground water is variable across the subject site however its presence was encountered approximately 1.5m below ground level. It should be noted that fluctuations in groundwater levels can occur as a result of seasonal variations, temperature, rainfall and other similar factors, the influence of which may not have been apparent at the time of the assessment.

All native vegetation has been removed from the subject site and immediate surrounds as part of the development of the land for the residential uses which exist in the locality.

2.3.3 Drainage

The subject site is well suited to residential/commercial uses, with gentle slopes in all aspects of the subject site. The presence of Clarence Street to the south of the subject site provides for drainage opportunities to the south of the subject site. It is also noted that an inter-allotment drainage line is present along the northern portion of the subject site and as such drainage opportunities exist to the north also. Accordingly, there are no constraints regarding site drainage.

Sufficient drainage infrastructure is present within the Clarence Street road reserve to service the proposed development.

2.3.4 Land Use

The subject site forms part of the Port Macquarie Central Business District.

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The northern and eastern boundaries of the subject site adjoin residential land uses with more recently developed multi storey serviced apartment developments incorporating ground floor commercial uses present to the north and east of the subject site. The southern boundary of the subject site adjoins the Clarence Street road reserve. Beyond the road reserve to the south is an older style multi storey serviced apartment development.

Land use in the western aspect of the subject site consists of a mixture of single and two storey commercial buildings and public road infrastructure.

The foreshore areas of the Hastings River are located approximately 200m to the north of the subject site whilst Town Beach is located approximately 600m to the east of the subject site.

2.3.5 Flora and Fauna

The subject site contains disturbed surface conditions with grasses being the predominant vegetation on the subject site.

Given the modified and highly disturbed nature of the subject site it has limited ecological or habitat value for native flora and fauna.

2.3.6 Air

The air quality at the subject site and surrounds reflects the mixed commercial and residential nature of the land use in the locality. In this regard the existing air quality of the area reflects the dust, odour and exhaust emissions from the commercial activities which are undertaken within the Port Macquarie CBD.

Notwithstanding this, the air quality at the subject site and surrounding area is generally good. This reflects the scale and nature of the development within the CBD.

2.3.7 Noise and Vibration

It is noted that the existing noise and vibration characteristics of the subject site and surrounding areas is dominated by the commercial activities within the Port Macquarie CBD.

Notwithstanding this, the acoustic environment of the subject site and surrounding area is consistent with that which would be expected for a residential habitation within an area which supports the operation of commercial businesses in a town centre landscape.

3. PROPOSED DEVELOPMENT

The proposal includes the construction of a seven (7) storey mixed use commercial and motel/serviced apartment building with a single basement carparking level.

A commercial tenancy, (195m²), together with building access infrastructure, (vehicle and pedestrian), will occupy the ground floor of the building. Twenty-one (21) carparking spaces together with motel/serviced apartment and ancillary use areas are also proposed for this level.

Motel/Serviced Apartment accommodation and associated infrastructure are distributed over Levels 1-7 of the building. The proposed development provides for forty-seven (47) apartments with the following configuration;

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- 4 x 3 bedroom/2-bathroom apartments (twin key); and
- 28 x 2 bedroom/2-bathroom apartments (twin key); and
- 12 x 2 bedroom/2-bathroom apartments; and
- 3 x 1-bedroom apartment.

The usage arrangements of the proposed apartments provide for a maximum of 79 lettable units.

The floor areas of the units are variable ranging from 48m² to 106.4m².

Access to each apartment will be by lift access. Each of the proposed apartments will be provided with an external balcony.

One level of basement car parking, (providing forty (40) spaces), is proposed with access via a single vehicular driveway off Clarence Street via the ground floor of the building. Lift access to the basement level is proposed.

The proposed development also provides for motel/serviced apartment ancillary use areas on Level 7 of the proposed development. In this regard a Conference Room, Gymnasium, BBQ area, amenities and a swimming pool are located on the top floor area of the development.

As indicated on the architectural plans prepared by Wayne Ellis Architects, (included in the development proposal plans), the proposed development will be finished in contemporary tone colours.

Details of the floor areas of the proposed development are provided as follows;

Table 1 – Development Floor Areas

SITE	TOTAL
Total Gross Floor Area	5344.33m ²
Site Area	1517.23m ²
Proposed floor space ratio	3.52:1

4. PLANNING CONTROLS

The statutory and strategic planning instruments that are relevant to this proposal are:

- Environmental Planning and Assessment Act 1979
- Water Management Act, 2000
- State Environmental Planning Policy No. 71 Coastal Protection
- North Coast Regional Environmental Plan
- Port Macquarie Hastings Local Environmental Plan 2011
- Port Macquarie Hastings Development Control Plan 2013

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4.1 Environmental Planning and Assessment Act 1979

Part 4 of the Environmental Planning and Assessment Act, 1979 is relevant to the proposed development; refer to Section 5 of this report.

4.2 Water Management Act, 2000

It is noted that a preliminary worst case geotechnical assessment of the ground water conditions of the subject site, (refer to **Appendix 2**), indicates that the construction of the proposed building will intersect ground waters. Ground water conditions have been experienced at approximately 1m below the lowest existing ground level. In this regard the lowest basement level is proposed to be at approximately RL 2.6m (including floor slab thickness).

Accordingly, the proposed development will require an aquifer interference approval issued pursuant to Clause 91 of the Water Management Act, 2000.

In this regard it is noted that the proposed development will be integrated development under Section 91 of the *Environmental Planning & Assessment Act, 1979* as there is a need for the granting of an approval under the Water Management Act, 2000.

4.3 State Environmental Planning Policy 55 – Remediation of Land and Managing Land Contamination

Based upon historical land use the subject site is not subject to the contaminated land provisions of State Environmental Planning Policy 55 – Remediation of Land and Managing Land Contamination.

4.4 State Environmental Planning Policy No. 71 - Coastal Protection

One of the overall aims of SEPP No. 71 – Coastal Protection is *"to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast"*.

It seeks to do this by requiring additional assessment matters for developments located within the Coastal Zone.

SEPP No. 71 applies to the subject site, as it is located within this Coastal Zone as defined by the SEPP. The matters required to be considered in the assessment of a development application by Port Macquarie-Hastings Council under Clause 7 of the SEPP are as follows:

<u> Table 2 – SEPP 71 Compliance</u>

Clause 8 matters for consideration, SEPP No. 71 – Coastal Protection	Compliance	Proposal as assessed under Clause 8 matters for consideration, SEPP No. 71 – Coastal Protection
(a) the aims of this Policy set out in clause 2,		
(1) This Policy aims:		
(a) to protect and manage the	Complies	The proposal will have a

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natural, cultural, recreational and economic attributes of the New South Wales coast, and		minimal impact on the natural, cultural, recreational and economic attributes of the NSW coast. This development will support economic investment within the local area specifically and the Mid- North Coast generally and will have positive economic benefits for the community.
(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and	Not applicable	The proposal has no impact on public access to and along the coastal foreshore.
(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realized to the extent that this is compatible with the natural attributes of the coastal foreshore. and	Not applicable	See above comment
(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and	Complies	Based on the archaeological clearance assessment contained in Appendix 3 there are no known archaeological or heritage issues present on site.
(e) to ensure that the visual amenity of the coast is protected, and	Complies	The proposal will protect the visual amenity of the coast as it will be in keeping with the characteristics of the area.
(f) to protect and preserve beach environments and beach amenity, and	Complies	The proposal will have no impact on the environment or amenity of beach areas.
(g) to protect and preserve native coastal vegetation, and	Not applicable	The proposal will have no impact on native coastal vegetation.
(h) to protect and preserve the marine environment of NSW,	Not applicable	The proposal will have no impacts on the marine

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and		environment of NSW
(i) to protect and preserve rock platforms, and	Not applicable	The proposal will have no impacts on rock platforms
(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and	Not applicable	The proposal has been designed to consider the principles of ecologically sustainable development. Compliance with the energy efficiency requirements of the Part J of the BCA are applicable to the proposed building.
(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and	Complies	The proposal is of an appropriate type, bulk, scale and size for its location which complements not only the existing built environment but also the scenic quality of the surrounding area.
(I) to encourage a strategic approach to coastal management.	Complies	The proposal does not impact on strategic coastal management.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,	Not applicable	The proposal has no impact on public access to and along the coastal foreshore.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	Not Applicable	
(d) the suitability of development given its type, location and design and its relationship with the surrounding area,	Complies	See the comments made earlier in relation to 1(k).

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(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	Complies	The proposal will not result in any detrimental impact, overshadowing or loss of views from a public place to the foreshore.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	Complies	Given the location of the subject development there are no scenic protections issues
(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,	Not applicable	Given the developed nature of the subject site it is extremely unlikely that the site includes any threatened species or items of conservation significance.
(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats	Not applicable	The proposal will have no impact on fish species or their environment.
(i) existing wildlife corridors and the impact of development on these corridors,	Not applicable	No corridors exist on or adjacent to the subject site
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	Not applicable	Given the location of the subject site it is unlikely that coastal processes or hazards will impact on the development.
(k) measures to reduce the potential for conflict between land-based and water based coastal activities,	Not applicable	Due to its location the development proposal will not conflict with land based and water-based activities.
(I) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	Complies	See comments made earlier in this table regarding cultural and archaeological considerations.

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(m) likely impacts of development on the water	Complies	The proposal will not have a detectable impact on the
quality of coastal water bodies,		water quality of coastal waters.
(n) the conservation and preservation of items of	Complies	See the comments made earlier in this table regarding
heritage, archaeological or		archaeological issues on the
historic significance,		subject site.
(o) only in cases in which a	Not Applicable	Not Applicable
council prepares a draft local environmental plan that applies		
to land to which this Policy		
applies, the means to encourage compact		
towns and cities,		
(p) only in cases in which a	Complies	As the proposal is a
development application in relation to proposed		redevelopment and the subject site is located within
development is determined:		an established urban area, the
(i) the cumulative impacts of the proposed development on the		cumulative impacts of the proposal on the environment
environment, and		are considered to be minimal.
(ii) measures to ensure that water and energy usage by the		Compliance with the Building
proposed development is		Code of Australia
efficient.		requirements which are applicable to the subject
		development will provide for
		water and energy efficiency in the occupation of the
		proposed serviced apartments.

4.5 North Coast Regional Environmental Plan

The following clauses of the North Coast Regional Plan (REP) are considered to be relevant to this application:

Table 3 – NCREP	Compliance	Requirements

Compliance	Proposal as assessed under
Complies	The archeological clearance assessment provided as Appendix 3 confirms there are no known archeological or heritage issues associated with

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	the development of the site.
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4.6 Port Macquarie-Hastings Local Environmental Plan 2011

4.6.1 Land Use Zoning

It is noted that the subject site is zoned B3 (Business Core) under the provisions of Port Macquarie-Hastings LEP 2011, refer to **Figure 2**.

Figure 2 – Site Zoning



The objectives of the B3 zone are:

- 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.

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• To provide for the retention and creation of view corridors and pedestrian links throughout the Greater Port Macquarie city centre.

The proposal development satisfies the objectives of the zone and is therefore an appropriate form of development for the subject site and the general locality.

The location of the development is intended to support the commercial development in conjunction with the tourist and visitor accommodation use of the subject site.

The proposed development will be in keeping with the existing and expected amenity of the area.

It is noted that the proposed development is permissible in the zone. The land use requirements of Port Macquarie Hastings LEP 2011 for the R1 Zone are as follows;

'2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Shop top housing; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Animal boarding or training establishments; Boat building and repair facilities; Camping grounds; Caravan parks; Cemeteries; Correctional centres; Crematoria; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Mortuaries; Open cut mining; Research stations; Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Wharf or boating facilities; Wholesale supplies'

As the proposed development provides for commercial and tourist/visitor accommodation it is a permissible use which is subject to the issuing of development consent by the local council.

4.6.2 LEP Compliance Requirements

Other relevant clauses of the LEP that are considered to be applicable to the subject development are as follows;



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Table 4 – LEP Compliance Requirements

Relevant Development Controls under Port Macquarie - Hastings LEP 2011	Compliance	Proposal as assessed under Port Macquarie - Hastings LEP 2011
Part 2 - Permitted and prohibited D	evelopment	
2.7 Demolition Requires Consent	N/A	Consent has previously been obtained for the demolition of the buildings which previously occupied the subject site.
Part 3 - Exempt and Complying Dev	elopment	
3.3 Environmentally Sensitive Areas excluded	Complies	The subject site does not currently have any trees which trigger Council's TPO.
Part 4 – Principal Development Star	ndards	
4.3 Height of Buildings	Complies - refer to Appendix 4 for Justification of Proposed Building Height in accordance with Clause 4.6 of the LEP	The roof of the proposed building is at 22.0 metres above ground level on the west boundary and 20.9m above ground level on the east boundary along Clarence street frontage due to the topography. It is noted that the proposed building height is in excess of the 19m development standard provided for by Section 4.3 of the LEP. Justification of the proposed building height solution in accordance with Clause 4.6 of the LEP is provided as Appendix 4 .
4.4 Floor Space Ratio	Complies	Floor Space Ratio; Required - 1:3.5 Proposed - 1: 3.51 It is noted there is a minor deviation from the floor space ratio which is provided for in relation to the development of the subject site. The quantum of the deviation from the development standard is considered to be minimal with the design outcome consistent with the outcome envisaged by the development standard.
Part 5 – Miscellaneous Provisions		
5.5 Development in the Coastal Zone	Complies	The proposed development is consistent with the NSW Coastal Policy and SEPP 71; refer to Table 2 of this report.

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5.6 Architectural features on the roof	Complies	There are no architectural features on the roof of the proposed development.
5.9 Preservation of trees or vegetation	Complies	The site does not currently have any trees which trigger Council's TPO.
5.10 Heritage Conservation	Complies	The archeological clearance assessment provided as Appendix 3 confirms there are no known archeological or heritage issues associated with the development of the site.
5.11 Bushfire Hazard Reduction	Not Applicable	The subject site is not shown as being Bushfire Prone Land.
Part 7 – Additional Local Provision	S	
7.1 Acid Sulphate Soils	Not Applicable	The subject site is not shown as being affected by acid sulphate soils on Council's acid sulphate soils maps.
7.2 Earthworks	Complies	The undertaking of proposed earthworks is consistent with the requirements of this provision.
7.4 Flood Planning	Complies	The subject site whilst not identified as being subject to the flood planning level is shown to be affected by the Level of Probable Maximum Flood. In this regard the proposed development is consistent with the requirements of the LEP with no specific evacuation considerations required for the nature of the proposed development.
		The proposed development will not have significant impact in terms of affecting flood behaviour nor will the proposed development be negatively impacted upon by flood waters.
7.5 Koala Habitat	Not applicable	The proposed development contains no vegetation of koala habitat significance.
7.6 Coastal Hazards	Not applicable	The subject site is not subject to coastal hazards.
7.9 Development subject to acoustic controls	Not applicable	The subject site is not subject to specific requirements for acoustic controls.
7.13 Essential Services	Complies	All essential services are available to the

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	land and subject development.
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Having regard to the above it is considered that the proposed development is consistent with the relevant provisions and requirements of of Port Macquarie-Hastings LEP 2011.

4.7 Port Macquarie-Hastings Development Control Plan 2013

The subject site is located within the area affected by Port Macquarie -Hastings Development Control Plan (DCP) 2013.

The subject site is subject to the general provisions of the DCP and also the specific development controls which are considered to be applicable to the Town Centre Area of Port Macquarie.

The DCP has both a number of generic requirements that apply to the entire area affected by the DCP and specific block controls for the individual precincts and sub-precincts.

An assessment of the proposed development against the relevant DCP provisions follows;

Table 5 – DCP Compliance Requirements

DCP CRITERIA – RELEVANT DEVELOPMENT CONTROL STANDARDS	COMPLIANCE COMMENT
PART 2 – GENERAL PROVISIONS	
2.2 Advertising and Signage	
N/A	N/A – no signage proposed as yet.
	Future signage will be the subject of a separate development application.
2.3 Environmental Management	
Cut and fill regrading	Complies – all excavation will be contained within the perimeter of the proposed building.
Environmental management areas and buffers	N/A – there are no environmental management areas and buffers applicable to the proposed development.
Koala habitat	N/A – there are no koala habitat issues relevant to the proposed development.
Hollow bearing trees	N/A – there are no hollow bearing trees on the site of the proposed development.
2.4 Hazards Management	
Airspace protection	N/A

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Bushfire hazard management N/A - the subject site is not bushfire prone land. Flooding Complies. The subject site whilst not identified as being subject to the flood planning level is shown to be affected by the Level of Probable Maximum Flood. In this regard the proposed development is consistent with the requirements of the LEP with no specific evacuation considerations required for the nature of the proposed development. The proposed development will not have significant impact in terms of affecting flood behaviour nor will the proposed development be negatively impacted upon by flood waters. Stormwater Complies A concept plan for storm water management is provided as Appendix 5. 2.5 Transport, Traffic Management, Access and Car Parking Road hierarchy Complies. Parking provision **Relevant DCP Requirements;** (i) Restaurant/Food premises - in commercial zones: 1 per 30 m² serviced floor area. $195.35m^2/30 = 6.5$ (7 spaces) (ii) Serviced Apartment/Motel -1.1 per unit + 1 per 2 employees (onsite at any one time) + 1 for on-site manager. (Maximum of 6 employees onsite at any time with no onsite manager) **Onsite Parking Requirements** Units 47 = 51.7 spaces (52 spaces) Employees = 3 spaces Commercial = 7 spaces Total Required = 62 spaces Total Proposed = 61 Based upon the above there is a short fall in carparking of 1 space.

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It is however noted that the above carparking calculations have no regard to the likely occupancy of the building and is indicative of peak conditions which is likely to be achieved infrequently. Additionally, the above calculations do not reflect the reality that a number of visitors arrive via other forms of transport (i.e. public transport/taxi) which is particularly relevant of CBD locations and the target corporate traveller user. Accordingly, the following factors are considered relevant to the issue of carparking; Average accommodation occupancy – 80% Arrival other than by private vehicle – 10% Applying the above factors provides that the following parking demand is appropriate; Units 47 = 51.7 spaces (52 spaces) @ 70% demand (occupancy and other forms of travel) = 36.4 (37) spaces Employees = 3 spaces Commercial = 7 spaces Total Required = 47 spaces Total Proposed Carparking Spaces = 61 Based upon the above there is an excess of 14 spaces available to the development. Sensitivity analysis - motel/apartment occupancy Notwithstanding the above the proposed development provides for 79 separate room keys and as such the carparking requirements for the motel/apartment component have been further reviewed based upon the following scenario; 80% overall occupancy • 10% of visitors not reliant on private vehicles transport • 50% of dual key apartments let as separate spaces 50% of apartments let as whole 1.1 space per apartment 1 space per dual key room. Based upon the above the following worst case carparking demand is anticipated; No. of Apartments @ 80% Occupancy = 39 • No. of let apartments @ 50% mix = 20

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	• No. dual key rooms = 40
	 10% of dual key rooms arrive without vehicle = 4
	rooms (36 dual key rooms require parking)
	Motel carparking demand =
	• Apartments 1.1 x 20 = 22 spaces
	 Dual key rooms 1 x 36 = 36
	 Total motel demand = 58
	Therefore, carparking demand for development is;
	Motel = 58 spaces
	Employees = 3 spaces
	Commercial = 7 spaces
	Total Required = 68 spaces
	Total Proposed = 61
	Based upon the above there is a short fall in carparking of 7 spaces.
	It is considered that the above assessment encompasses the realistic carparking demand for the proposed development. In this regard any shortfall in onsite carparking is considered acceptable in the circumstance as;
	 The employee carparking spaces will be available for use by tourists/visitors as the employees will not be present for the majority of time during peak daily occupancy (afternoon and evening). This factor reduces any deficiency in carparking to 3 spaces only.
	 Some commercial carparking spaces will be available for use by tourists/visitors as some occupants of the commercial floor space employees will not be present for the majority of time during peak daily occupancy, (afternoon and evening).
	 There are significant on street and other public carparking facilities in close proximity to the subject site. The use of public carparking facilities is considered acceptable on the basis that demand for spaces by tourists/visitors would be mainly outside of peak periods of use by the public.
Parking layout	Complies.

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Redevelopment of heritage items –	Not Applicable - the proposed development is not a
Conservation Incentives	redevelopment of a heritage item.
Section 94 Contributions	Contributions are not proposed in relation to the provision of carparking spaces.
Landscaping of parking areas	Not applicable – all carparking spaces are located behind the built form of the building and will be obscured from view.
	Therefore, landscaping is not required.
Surface finishes	Complies – all surfaces will be reinforced concrete.
Driveway grades	Complies.
Drainage	Complies.
	A concept plan for storm water management is provided as Appendix 5 .
Loading bays	Complies - a designated loading area is provided within the development.
	It is also noted that there is ample opportunity to conduct deliveries from the Clarence Street frontage as it is envisaged that some deliveries will be infrequent and undertaken by van or small rigid truck the parking of which can be accommodated for short periods within Clarence Street.
Industrial development	Not Applicable
Traffic generating development	The proposed development is not a traffic generating development.
2.6 Tree Management	
Tree Management – Clause 5.9 of LEP	N/A – there are no trees to which the LEP provisions apply on the subject site.
Tree management private land	N/A – there are no trees on the site of the proposed development.
Tree management Council controlled land	Complies.
2.7 Social Impact assessment and crime pre-	vention
Social impact assessment	The proposed development will assist in making the locality more of a lively area with an increased demand for localized services.

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	The proposed development is compatible with the land use zoning applicable to the area and the amenity of the area.
	The proposed development will make a positive contribution to the locality by reinforcing the trend for mixed tourist/visitor accommodation and commercial development complying with Council's strategic objectives for the area.
	The proposal will have a positive economic impact through the serviced apartments which will represent a major injection into the local economy and generate significant employment opportunities and flow on benefits to other local businesses.
	Benefits will also be provided to the local construction industry and related services through the construction phase of the project.
Crime prevention	Complies.
	The proposal has been designed to minimize the risk of crime and maximize safety and security.
	Pedestrian entrances will be well lit, secure and visibility to and from the entrances is maintained. The basement car parking areas are secured via controlled roller shutters.
	All apartments will have good casual surveillance of the street from the internal and external living areas (without sacrificing privacy).
	In addition, key card access is proposed to be provided to all apartments.
PART 3.3 – RESIDENTIAL FLAT DEVELOP	MENT, TOURIST & VISITOR ACCOMMODATION AND MIXED-USE
DEVELOPMENT	
Site analysis	Complies.
Site layout	Complies.
Streetscape and front setback	Complies - the top storey of the development is stepped back from the southern and western boundaries of the subject site and for the majority of the eastern boundary thereby reducing the bulk and scale of this aspect of the

proposed development particularly when viewed from the public areas which have line of sight of the building.

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site with lots either side it is clear that a continuous facade was envisaged as being acceptable with the top floor setback only applying to the far ends, (east and west) of the amalgamated site. In this regard the proposed development is consistent with that which is envisaged in the DCP. The proposed development in its current form has no visual, bulk and scale or amenity impacts which are inconsistent with that envisaged by the DCP nor the existing streetscape features and character. Side and rear setbacks N/A - refer to specific block controls. It is however noted that the design solution adopted for the subject site provides for a minimum 8.7m rear boundary setback for Levels 1 - 7 of the proposed building. Additionally, the rear setback to the northeastern portion of the proposed building has been increased on the 5th and 6th floor levels in response to minimizing the impact on the adjoining development to the east of the subject site. Building depth and deep soil zone Building depth is considered appropriate given the proposed use of the development. Ventilation, solar access and view amenity are considered to be appropriate for the nature of use of the proposed building. No deep soil zone is required. Energy Conservation and solar access Complies. Apartments have either a north or south orientation. North facing apartments will have high levels of solar access whilst south facing apartments will have limited solar access. Notwithstanding this the level of solar access which is provides is considered appropriate given the short-term occupancy of the proposed apartments. The impact of the proposed building on solar access have been reviewed for the adjoining sites to the east and west. The assessment indicates that the proposed development will result in a 3-hour time slot of no overshadowing. In addition, compliance with the Part J Energy Efficient Requirements of the Building Code of Australia will provide for significant active and passive energy and thermal performance.

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Landscaping	The subject site does not have any significant vegetation.
	All of this existing vegetation will be removed, and new landscaping incorporated into the new development.
	The landscaping will be designed to be in scale with the buildings, improve the privacy of the serviced apartments, relate to the building forms, add to the amenity of the balconies by screening excessive sun and generally soften the buildings.
Private open space	N/A as there are no ground floor apartments.
	Notwithstanding this all apartments will have access to external balconies. It is considered that the size and relationship of the balconies is considered acceptable in the context of the short-term occupation of the apartments.
Fences and walls	Complies.
Acoustic privacy	The serviced apartments have been designed to comply with the noise transmission requirements of the Building Code of Australia.
	Wherever possible like rooms in adjoining apartments have been located together thereby reducing the potential for reduced acoustic privacy.
Visual privacy	Complies – direct views are minimized through the orientation of all serviced apartments to the front and rear of the subject site.
	Where necessary privacy has been maintained via the use of walls and screens.
	Complies - privacy walls/screens provided where necessary.
Accessibility	Complies.
	Requirements of AS 1428 will be complied with.
	Street level access into the development will be available via the main entry areas off Clarence Street.
	Access will be provided from the ground floor level to all storeys of the building and the communal open space area will be possible.
	The proposal has lift access to all levels of the buildings

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	(including all basement car parking area).
Social dimensions and housing affordability	Complies – being located within the Port Macquarie CBD the development is in close proximity to areas of open space, recreation and entertainment facilities.
	The mix of apartment sizes and configurations provides for flexibility of use and occupation.
Roof form	Complies.
Façade composition and articulation	Complies.
	41% of the ground floor area is setback 3.2m in order to provide for an outdoor terrace area which has a direct relationship with the ground floor commercial area of the proposed development. In addition, approximately 14.5m of the south-eastern ground floor area of the proposed development is not occupied by the building with this area providing for vehicle and pedestrian access infrastructure.
	A small element, (approximately 10m), of the motel/serviced apartment area of the building addresses the street and will define this element of the proposed development.
	The façade above ground level is simple and consists of elements to reduce the layering effect of the proposed apartments. Vertical fin walls in the façade which in combination with horizontal awning and balcony materials reinforce building articulation and differentiation. Similarly, the stepping in of the top floor of the building assists in disassociating the top level.
	The façade treatment will create the base, middle and top effect that the designer was after. Being an infill building it was considered preferable to take this approach because when the sites either side are developed their floor levels are not likely to align because of the slope of Clarence street and the building can be more successful married together if they don't have to contend with misaligned setbacks.
Entries and corridors	Complies.
	The main entrance to the proposed commercial tenancy will be via Clarence Street and as such will be unambiguous and publicly accessible.
	The main entry into the proposed motel/serviced

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	apartments will also be off Clarence Street. Again, the entry arrangements for the motel/serviced apartments will be unambiguous and publicly accessible. Reflecting the tourist accommodation nature of the proposed apartments the lift entry will be safe, well lit and sheltered. In this regard the proposed apartment access strategy provides for two (2) single passenger lifts providing access to a centrally located corridor in each floor with each apartment access off the central corridor.
Balconies	All of the proposed apartments will have access to an external balcony. Balconies are, in the main, an extension of main habitable areas of the apartments, being designed as useable and effective outdoor living spaces.
Laundries and cloths drying facilities	Laundry and drying facilities are not typically
Mailboxes	N/A
Safety and security	Complies. The proposal has been designed to minimize the risk of crime and maximize safety and security. Pedestrian entrances will be well lit, secure and visibility to and from the entrances is maintained. The basement car parking areas are secured via controlled roller shutters.
	In addition, key card access is proposed to be provided in relation to lift access to the residential units. Communication devices will be provided at the ground level lift entry area. The Clarence street frontage is well lit and overlooked from neighbouring buildings specifically the Port Pacific across the road. The entry to the motel portion of the building whilst not being on the street frontage is well defined via paving, will be well and continuously illuminated and will be
Site storage	covered via CCTV surveillance. The basement carpark can only be accessed by building occupants via remote control activation of the security garage door. There is no other access to the site.

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Dedicated storage areas which are relevant to the commercial and tourist occupation of the building have been incorporated into the design of the proposed development. Waste management Complies. A communal waste storage area has been provided on the ground floor level of the proposed development. Providing the waste storage area on the ground floor area ensures that the facilities are easily accessible to the serviced apartments and commercial tenants alike. The ground floor location also provides for ease of servicing of the facility. Utilities All utilities are available to the subject site. PART 3.3 – AREA BASED PROVISIONS (Starting Page 5 – 3) GENERAL Site Amalgamation DP1.1 The subject site historically comprised of three (3) Amalgamations are desired on land identified separate Torrens Title lots which have subsequently been in Figure 26. consolidated to form a single development site. As such the proposed development is in keeping with the site amalgamations which are considered to be desirable. Further site amalgamation is not financially viable and as such have not been pursed further. **Shop Front Widths** DP2.1 Complies - the proposed ground floor shop front width is Maximum shop widths comply with Figure 27: less than the 30m maximum as required by Figure 27 of Maximum shop widths. the DCP. **BLOCK B1 CONTROLS** Maximum Building Depth Front Setback Om except for minimum 3m for top floor Complies The top floor is setback a minimum of 3m.

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Side Setback	
Dm except for 3m for top floor	The proposal has adopted 0m setbacks to the eastern and western (side) boundaries of the subject site except for the top floor which maintains a minimum 2.6m – 3.9m setback except for a small portion of the northeastern wall of the proposed building. The top floo setbacks range between 0m, (approximately 7.6m length of eastern aspect of building – stair shaft and portion of Unit 604), up to 13.695m (northwestern aspect of building).
	The setback variation to the 3m setback standard in relation to portion of the top floor is supportable on the basis of the:
	 reasonably short wall lengths of the proposed buildin compared to the overall length of the site. the relationship of the non-compliant length of external wall of the proposed building with the existin western external wall of the adjoining building to eass the relationship of the proposed building to the bulk and scale of development to the east. the significant open area of the proposed development. the overall merits of the proposed development and the practical difficulties associated with compliance and achieving a viable project. the lack of detrimental overshadowing of the adjoining properties due to the existing lots orientation to north and south. the minimization of privacy impacts to the adjoining properties due to a lack of regular windows in the proposed side elevations, the size and scale of existing adjoining development the the east, west and north. the flow through ventilation for the proposed units which do not need to rely on side windows to provide ventilation. the use of varying finishes on the side elevations to create additional interest and relief and to decrease the vertical emphasis on the building as a whole. the non-compliance will result in no loss of primary views for residents of other buildings. The integration of the subject building into the desire streetscape envisaged by the DCP through the amalgamation of the sites either side of the subject site (refer to previous discussion on streetscape impacts).

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	Having regards to the above this proposal has considered the future adjacent developments in that it would be a first stage to an ultimate outcome that would fulfil the objectives of the DCP, i.e. a continuous street aligned activated facade).
Façade Enclosure	
Ground – 60% First – 50% Remainder – 40%	Complies
Front Articulation Zone	
Ground – minimum 0m First to fifth – Minimum 1.8m Maximum 4m Top – N/A	Generally compliant The proposed materials and colours will reflect a coastal, environmental feel utilizing timber colours, with stone and brickwork. Landscape elements will be utilized where appropriate.
	The building will have an attractive presentation that will complement its context.
	Materials and colours are provided on the Materials Schedule which forms part of the development application plans.
Rear/Side Articulation	
0m	Complies
Vehicle Entry	
Vehicle entry from streets and paths	Complies – vehicular entry is provided for off Clarence Street.
New Streets. Laneways and Paths	
Off Block 1 Lane, Munster or Murray Streets Minimum 7m wide - two-way vehicle movement and 1m footpath Minimum 3m wide, extension of Sunset Parade Minimum 3m wide	It is noted that the Block Controls provide for the creation of a new services laneway along the northern aspect of the subject site and adjoining and adjacent lots to the east and west.
	It is considered that opportunities to create this feature have been lost through the recent construction of the Macquarie Waters development on the corner of Clarence and Munster Streets. In this regard the laneway concept was not included in this development and as such any opportunity to implement a laneway has been lost as the timeframe for any redevelopment of the

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	Macquarie Waters site is considerable.
	Additionally, the full site occupancy of the commercial building on the corner of Clarence and Murray Streets is such that future access to any laneway is uncertain.
	It is also noted that the size of the individual lots in the area are such that the sacrifice of land along the northern aspects of the lots is not sustainable in the context of providing for viable development opportunities on each of the lots.
Carparking	
Underground, on street, some on grade	Complies

5. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

Section 79C (1b) of the Environmental Planning and Assessment Act 1979 as amended specifies the matters which a consent authority must consider when determining a development application.

Comments on these matters are provided as follows;

5.1 Context and Setting

The proposed development makes a positive contribution to the streetscape and its context. This is supported by the level of compliance of the proposed development with the applicable requirements of Port Macquarie–Hasting LEP 2011 and DCP 2013, refer to Sections 4.6 and 4.7 of this report.

5.2 Access and Transport

The subject site is on the eastern fringes of the Port Macquarie CBD thereby minimizing the need for vehicular trips to the CBD to utilize the wide range of services which are available within the CBD.

Being located in the CBD building occupants will be able to walk to the main open space areas, access walks alongside the Hastings River and break-wall as well as taking full benefit of nearby beaches.

The subject site is also easily accessible to public transport routes along Clarence Street where many public transport routes start and finish.

In light of the subject site's CBD location and proximity to recreation facilities and open space areas, the proposed traffic generation from the proposal is not considered to be significant. Given the nature of road infrastructure in the area it is considered that traffic generation from the proposed development will be easily accommodated within the existing capacity of the existing public road system.

Building access and parking infrastructure have been designed to comply with the relevant standards.

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5.3 Public Domain

The proposal is of benefit to the surrounding area as it proposes a positive development of high quality design that will improve surveillance and safety of the adjoining and adjacent streets.

5.4 Utilities

The demands of the development on utility supplies are reasonable given the urban context and the location of all required servicing. All installations will meet the requirements of utility providers.

A storm water management concept plan is provided as **Appendix 5** and demonstrates that the building can be constructed in accordance with the capacity of the public storm water drainage infrastructure.

It is also noted that the proposed development will require the relocation of the reticulated sewerage main which is located in the northern portion of the subject site.

5.5 Heritage

Notwithstanding that the subject site is identified as an archaeological site, (Archaeology of early European Settlement – reference A111), the archaeological clearance assessment and certification of the subject site, refer **Appendix 3** of this report, indicates that there are no items of archaeological significance or interest on the subject site.

5.6 Other Land Resources

Not applicable

5.7 Water

The water requirements of the proposal are considered appropriate given the location and current access to services. The proposed development can be serviced by the reticulated water supply without the need for major augmentation of the existing system.

Appropriate controls will be installed to prevent soil erosion and sediment transport from the site during rainfall during the construction phase of the project. A variety of erosion and sediment controls will be used on the site. Strategies to be used on site will include:

□ Hay bale retardation and sediment retention basin. The removal of stormwater from the excavated area will be via a temporary hay bale structure which will be provided on site. The size of the structure to be determined via the volume of water to be treated. In this regard the operation of the structure is to be inspected on a daily basis and the quality of discharge water monitored.

Where necessary the size of the structure will be increased so as to ensure that acceptable discharge standards are met.

All stormwater is to be collected and conveyed to the structure using suitable sized pumps. The foot valve of the pump is to be fitted with a silt sock. The hay bale structure will act as a two-stage sedimentation basin. Pumped water will be discharged into the larger section of the structure where it will be allowed to settle and seep through the straw bales into the final section where it will be allowed to settle before draining through the overflow to discharge into the stormwater drain servicing the site.

The pond shall be regularly inspected, and excess sediment removed on a daily or more frequent basis as required.

- □ Sediment filter fencing, or gravel groynes/sausages will be used downstream of the discharge from the hay bale structure to provide additional treatment.
- Gravel groynes/sausages for sediment retention will be utilized around stormwater drains, inlets and pits once constructed.
- Tracking of sediment from the site by tucks entering and leaving will be controlled by the provision of a 'shaker grid' at the site entry together with the placing of a gravel driveway at the entry site.

Discharges from dewatering operations shall be treated to remove excess suspended matter prior to discharge from the site. Discharges shall be free of pollutants, shall be within a pH range of 6.5-8.5 and shall have a maximum non-filterable residue (NFR) concentration of 50 mg/L to allow for discharge to the stormwater system within Environment Protection Authority requirements.

Removal of suspended matter from dewatering discharges shall be achieved by treatment of discharges through the hay bale filtration/sedimentation pond detailed in 6.1 above.

In the event that any sewerage or other wastewater discharge is encountered during site works or other operations, immediate steps will be taken to isolate and repair the point of discharge and prevent the discharge of wastewater from the site. Appropriate controls will be implemented to prevent any wastewater entering stormwater drains and other sensitive environments until the discharge source has been repaired and residual wastewater has been removed.

The washing of any equipment used on site shall be carried out in a designated site wash down area that contains all wastewater on the work site. Equipment washing wastewater shall not be discharged from the site to any waters.

5.8 Soils

Given the historical residential occupation and use of the subject site there are no soil contamination issues that are required to be addressed.

Soil disturbance will occur as a result of the construction of the proposed development including the movement of vehicles to and from the site during construction.

The utilization of standard erosion and sediment control devices can be incorporated on site to minimize any erosion and sedimentation caused through site disturbance. In this regard an erosion and sediment control plan will be implemented on site during construction activities on the site.

Once the construction of the proposed building has been completed the impacts on soils will be minimal.

The subject site is not identified as containing Acid Sulphate Soils and as such no specific management actions are required.

Based upon historical land use the subject site is not subject to the contaminated land provisions of State Environmental Planning Policy 55 – Remediation of Land and Managing Land Contamination.

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5.9 Air and Microclimate

The proposal will not give rise to any significant air or microclimate impacts although construction activities on the site have the potential to create dust emissions.

The main sources of potential dust generation will be;

- The mechanical disturbance of the site as part of the creation of site levels
- The movement of trucks to and from the site.

Dust generation mitigation and control measures such as the following will be implemented on site;

- □ wetting down the disturbed areas;
- □ limiting the extent of haulage routes and the utilization of any existing stabilized road surfaces to accommodate vehicle movements;
- □ wetting down of road surfaces which are likely to generate dust;
- □ regular cleaning of road and work surfaces so as to minimize the accumulation of soil and waste particles.

5.10 Flora and Fauna

Given that the subject site has been cleared of all native vegetation as part of the historical development and occupation of the site for residential purposes there are no impacts on flora and fauna associated with the proposed redevelopment of the subject site beyond that which already exists.

5.11 Waste

Adequate dedicated waste storage and collection facilities complying with Council's waste requirements will be incorporated into the operation of the proposed development.

Arrangements will be put in place for proposed the storage and collection of waste and recyclables during the construction of the subject structure.

A construction waste management plan has been prepared for the proposed development and is included as **Appendix 6** of this report.

5.12 Energy

Energy saving devices and fittings will be installed into the proposed development in accordance with the requirements of Part J of the Building Code of Australia.

5.13 Noise and Vibration

The noise levels from the development will be consistent with the mixed tourist and visitor/residential and commercial nature of the locality.

The imposition of Councils standard conditions with respect to the hours of work and maximum sound pressure levels provides for control of noise and vibration generated throughout the construction phase of the project.

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5.14 Natural Hazards

Given the location of the subject site the proposed development is not considered to be subjected to any natural hazards.

Whilst not being identified as being subject to the flood planning level, the subject site is shown to be affected by the Level of Probable Maximum Flood. In this regard the proposed development is consistent with the requirements of the LEP with no specific evacuation considerations required for the nature of the proposed development.

The proposed development will not have significant impact in terms of affecting flood behaviour nor will the proposed development be negatively impacted upon by flood waters.

5.15 Safety, Security and Crime Prevention

The proposal has been designed to maximize safety and minimize the opportunities for criminal behavior. There are no issues related to safety, security and crime prevention that arise as a result of the proposed development.

5.16 Social Impact in the Locality

The proposed development will assist in making the locality more of a lively area with an increased demand for localized services.

The proposed development is compatible with the land use zoning applicable to the area and the amenity of the area.

5.18 Economic Impact in the Locality

The proposed development will make a positive contribution by reinforcing the trend for mixed tourist/visitor accommodation and commercial development complying with Council's strategic objectives for the area.

The proposal will have a positive economic impact through the serviced apartments which will represent a major injection into the local economy and generate significant employment opportunities and flow on benefits to other local businesses.

Benefits will also be provided to the local construction industry and related services through the construction phase of the project.

5.19 Site Design and Internal Design

The proposed building addresses and contributes to the street frontage whilst also providing opportunities for casual surveillance.

Whilst site orientation, setbacks and street address predominantly dictate the building orientation this also provided optimum orientation and assists the residential units to take advantage where possible solar access and cross ventilation.

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5.20 Cumulative Impacts

The subject allotment is adequately sized, shaped and orientated to accommodate the proposed development. The ability of the site to absorb the proposed density is demonstrated by the general compliance with Council's development controls and the limited environmental impacts.

Accordingly, the cumulative impact of the development on the amenity of the locality is expected to be negligible.

5.21 The Public Interest

It is considered that the proposal development is consistent with the public interest.

Having regard to the location of the subject site, and the preceding assessment of the proposal the site will adequately accommodate the development in that:

- The proposed development will reinforce the existing trend for redevelopment of the mixed-use area and be in line with Council's strategic objectives; and
- The subject site is located within the Port Macquarie CBD with its retail, recreational, local open space and tourist attractions in close proximity; and
- The proposed development takes advantage of, addresses and defines the site's street frontage; and
- The adjacent developments do not pose any prohibitive constraints and will not be detrimentally
 affected by the proposal; and
- It is not subject to any natural hazards that may inhibit its operation in the proposed form.

6.0 CONCLUSION

The proposed mixed commercial and serviced apartment development will contribute architecturally to the area, create economic benefits and positively contribute to the amenity of the area.

The proposal will also take advantage of the site's excellent proximity to the Port Macquarie CBD, Town Beach, the Hastings River, coastal walks, local recreational facilities and will make the immediate area an even more attractive place to live and visit.

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Appendix 1 Pre-lodgment Meeting Advice (June 2012)

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Appendix 2 Ground Water Assessment

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Appendix 3 Archaeological Assessment and Clearance

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Appendix 4 LEP Height Variation Justification

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Appendix 5 Stormwater Concept Plan

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Appendix 6 Waste Management Plan

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Justification of Variation to Development Standard Building Height – Report Pursuant to Clause 4.6 of Port Macquarie–Hastings Local Environmental Plan (2011)

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APPENDIX 1 – 19M HEIGHT PLAN APPENDIX 2 – BULK AND SCALE CONTEXT PLAN

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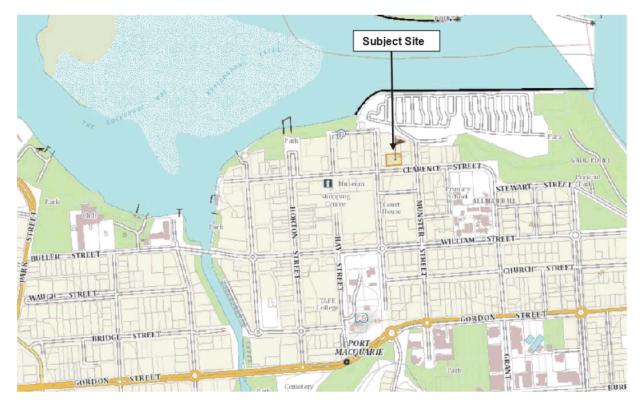
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1. INTRODUCTION

1.1 Purpose of Report

This report has been prepared to accompany a development application which seeks approval for the construction of a mixed tourist accommodation and commercial development at Lot 123 DP 1219042, 17 Clarence Street, Port Macquarie.

Figure 1 – Site Location



The purpose of this report is to provide justification for a variation to the Building Height provisions of Port Macquarie-Hastings Councils Local Environmental Plan, (LEP) 2011 for the mixed-use development which is proposed to be undertaken on the subject site.

1.2 Background

The proposed includes the construction of a seven (7) storey tourist accommodation and commercial building with a basement level to accommodate onsite carparking.

A commercial tenancy, (195m²), together with the tourist accommodation reception and building access infrastructure, (vehicle and pedestrian), will occupy the ground floor of the building.

Twenty-one (21) carparking spaces together with, loading dock, amenity and waste management storage areas are also proposed for this level.

Motel/Serviced Apartment accommodation comprising 48 apartments and associated infrastructure are distributed over Levels 1-7 of the building. The proposed development provides for the following apartment configuration;

- 4 x 3 bedroom/2-bathroom apartments (twin key); and
- 27 x 2 bedroom/2-bathroom apartments (twin key); and
- 12 x 2 bedroom/2-bathroom apartments; and
- 5 x 1-bedroom apartment.

The usage arrangements of the proposed apartments provide for a maximum of 79 lettable apartments.

Each apartment is proposed to be provided with lift access with each of the proposed apartments provided with an external balcony.

The floor areas of the apartments are variable ranging from 48m² to 106.4m².

A single basement level of car parking, (providing forty (40) spaces), is proposed with access via a single vehicular driveway off Clarence Street utilizing the ground floor level of the proposed development. As well as the car parking areas the basement level will include general and dedicated service areas for the proposed development. Lift access to the basement level is proposed.

The proposed development also provides for motel/serviced apartment ancillary use areas on Level 7 of the proposed development. In this regard a Conference Room, Gymnasium, BBQ area, amenities and a swimming pool are located on the top floor area of the development.

The subject site has approximately 2m fall from south to the north (from Clarence Street to the rear of the property). A 1m east to west cross fall is also present.

It is however noted that the topography of the subject site has been altered as a result of the historic development of the subject site and recent demolition works and required heritage and geotechnical assessment.

The topography of adjoining and adjacent land contains east to west down slopes and a northerly cross-fall.

This report therefore provides justification as to why Port Macquarie-Hastings Council should support the variation to the building height standard as proposed.

2. LEP 2011 REQUIREMENTS

2.1 Introduction

Port Macquarie – Hastings LEP 2011 specifies a number of principle development standards that are applicable for the erection of buildings in the Port Macquarie-Hastings Local Government Area.

In this regard Part 4 of the LEP provides for development standards related to;

- Lot size;
- Rural Subdivision;
- Building Height;
- Floor Space Ratio;

Being a "performance based" document the LEP provides for a series of objective together with specific design provisions that are 'Deemed to Satisfy' the performance objectives. Adoption of the specified design provisions would therefore provide for a building solution to be approved by Council as this specified solution is 'deemed' to meet the relevant performance objectives.

However, Clause 4.6 of the LEP recognizes the need to allow for exceptions to the specified design provisions. In this regard Clause 4.6 (2) of the LEP provides that;

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

It is noted that issues pertaining to the height of buildings is not expressly excluded from the operation of <u>Clause 4.6.</u>

In addition to establishing a framework for the consideration of variations to the LEP development standards, Clause 4.6 (3) – (5) of the LEP establishes the process by which variations to development standards are to be lodged, assessed and determined. The LEP provisions which are applicable are as follows;

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(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.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by sub clause (3), and

(ii) the proposed development will 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, and

(b) the concurrence of the Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General must consider:

DEVELOPMENT STANDARD VARIATION JUSTIFICATION

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

This report will provide justification for the variation of the acceptable design solution for the Height of the proposed building having regard to the relevant provisions of the LEP.

2.2 Building Height Development Standard

Clause 4.3 of the LEP provides that the height of a building erected on the subject site is not to exceed 19m, refer to **Figure 1** below;



Figure 2 - Building Height 'Deemed to Satisfy' Standard for Subject site.

It is noted that the following definition applies to the determination of the actual height of building;

building height (or **height of building**) means 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.

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2.3 Development Standard Exemption Sought

Along the Clarence Street frontage of the subject site the roof of the proposed building above existing ground level ranges between 17.8 metres (south-eastern corner of boundary) and 19.5m (south-western corner of boundary). Along the northern elevation of the proposed building, (which is setback approximately 8.7m from the northern property boundary), the building height above ground level ranges between 22.65m and 23.65m.

It is noted that the top floor of the proposed building is setback from the Clarence Street frontage with the height of the building at this point above ground level being 20.55m (south eastern corner) and up to 22.65m (south western corner)

It is noted that the differences in building height reflect changes in the significant changes in the topography of the subject site.

The following table summarizes the development standard together with the proposed height of the building together with the quantum of the variation which is sought. The following table has been prepared having regard to the building height definition provided for in Section 2.2 of this report;

BUILDING HIEGHT DEVELOPMENT STANDARD	BUILDING HIEGHT SOUTHEASTERN ASPECT OF PROPOSED BUILDING	BUILDING HIEGHT NORTHWESTERN ASPECT OF PROPOSED BUILDING	QUANTUM OF VARIATION TO DEEMED TO SATISFY BUILDING HIEGHT STANDARD
19m	20.8m	23.65m	1.8m – 4.65m

The height of the proposed building and its relationship to the 19m height standard is illustrated in **Appendix 1** of this report – Height Plane Plan.

It is however noted that the determination of the height of the building has been based upon existing ground levels. In this regard it is noted that the subject site has been the subject of significant excavation in conjunction with archaeological and geotechnical assessments which were carried out in early 2017 as part of planning for the commencement of construction of the previously approved residential flat building on the subject site (DA 410/2014 and DA 149/2016) of significance is the changes in topography in the western central portion of the subject site whereby current ground levels are at least 700mm lower than historic natural ground levels. This is significant in the context of considering the quantum of the height variation which is relevant to the proposed development. The following table therefore summarizes the development standard together with the proposed height of the building together with the quantum of the variation which is sought having regards to the historical ground levels.

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BUILDING HIEGHT DEVELOPMENT STANDARD	BUILDING HIEGHT SOUTHEASTERN ASPECT OF PROPOSED BUILDING	BUILDING HIEGHT NORTHWESTERN ASPECT OF PROPOSED BUILDING	QUANTUM OF VARIATION TO DEEMED TO SATISFY BUILDING HIEGHT STANDARD
19m	20.8m	22.95m	1.8m – 3.95m

It is also noted that Councils Town Centre Masterplan works require that the Clarence Street frontage road reserve height be raised in order to accommodate revised finished levels for the northern portion of the Clarence Street carriageway and associated footpath area. Accordingly, the finished ground level adjacent to the southern elevation of the building will be approximately 800mm above the existing ground levels. Accordingly, the height, bulk and scale of the building when viewed from the southern and western aspects will have a context to the required new ground levels along Clarence Street and not the existing ground levels. Accordingly, the height of the proposed building (at its highest 3.0m behind the southern property boundary), when viewed from the southern aspect and having regard to the new Clarence Street road reserve levels will be in the range of 19.77m and 21.9m. This again is an important consideration in the context of quantifying and qualifying the height of the proposed development and its actual bulk and scale impacts.

3. PERFORMANCE ASSESSMENT

As has already been identified the structure of Port Macquarie Hastings LEP 2011 provides for merit assessment of variations to development standards.

This structure is reflected in;

- The inclusion of Clause 4.6 into the LEP which recognizes the need to allow for exceptions to the specified design provisions.
- The inclusion of performance objectives in relation to development standards. The
 inclusion of specific performance objectives provides for a design solution to be approved
 on the basis that its outcomes will be consistent with the nominated performance
 objectives.

It is however noted that the LEP does not indicate the manner by which a performance assessment is to be carried out.

3.1 Performance Objectives

The performance objectives that are relevant to the requested variation are contained within Clause 4.3(1) of LEP (2011) as follows;

'(1) The objectives of this clause are as follows:

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

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

(c) to minimise the adverse impact of development on heritage conservation areas and heritage items, (d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan'.

It is therefore considered that where a building design solution is consistent with the above objectives it can be assessed as being consistent with the requirements of PMHC LEP (2011) and as such development consent can be issued on the basis that the proposed development is in accordance with the relevant development standards.

3.2 Performance Assessment Method

To ensure that a performance-based solution meets the relevant Performance Objectives it must be assessed using a nominated/accepted Assessment Method. In this regard it is noted that PMHC LEP (2011) does not nominated a process/method of assessment of an alternative design solution. In this regard common assessment methods used for performance-based building design are as follows;

(a) Evidence to support that a design meets a Performance Requirement or a Deemed-to-Satisfy Provision. (b) Verification Methods.

- (c) Comparison with the Deemed-to-Satisfy Provisions.
- (d) Expert Judgement.

Having regard to the above it is proposed to utilize a combination of (a) and (c) above as the method of assessing the proposed building design and the variation of the buildings height when compared to the 'Deemed to Satisfy' provision.

3.3 Performance Assessment

The following justification is provided in respect of each of the performance objectives provided for in the LEP and d listed in Section 3.1 of this report;

Table 2 – Performance Assessment

PERFORMANCE OBJECTIVE	PERFORMANCE ASSESSMENT
(a) to ensure that buildings are	The existing and future character of the locality is mixed
compatible with the height, bulk and	with tourist and residential development dominating the
scale of the existing and desired future	immediate area with cafes and other tourist and residential
character of the locality.	uses fronting Clarence Street.

The relevance of the proposed building height design solution to the existing and future character of the locality is assessed as follows; **Existing Character** It is noted that the existing character of the area, from the perspective of height, bulk and scale, is dominated by several taller buildings in the immediate vicinity. These include the Tasman, to the northeast (9 storeys), Northpoint, located immediately to the north of the subject site (8 storeys), Port Pacific on the southern side of Clarence Street (8 storeys) and Macquarie Waters to the east (7 storeys). It is also noted that the existing height of the of Macquarie Waters building to the east of the subject site provides for a height relationship to the subject site which is in excess of a 7 storey envelope due to the predominating east to west topography and the lack of response of the Macquarie Waters building to landform. Whilst lower density development is present on immediately adjoining land to the west the predominant building height back drop when viewed from the north, south and west is that of 7 - 8 storey buildings with heights up to at least 25m common in these aspects. Whilst lower building heights predominate further to the west of the subject site, buildings of a height of up to 25m are also present in this aspect (e.g. Rydges).

Northern backdrop (viewed from the south)

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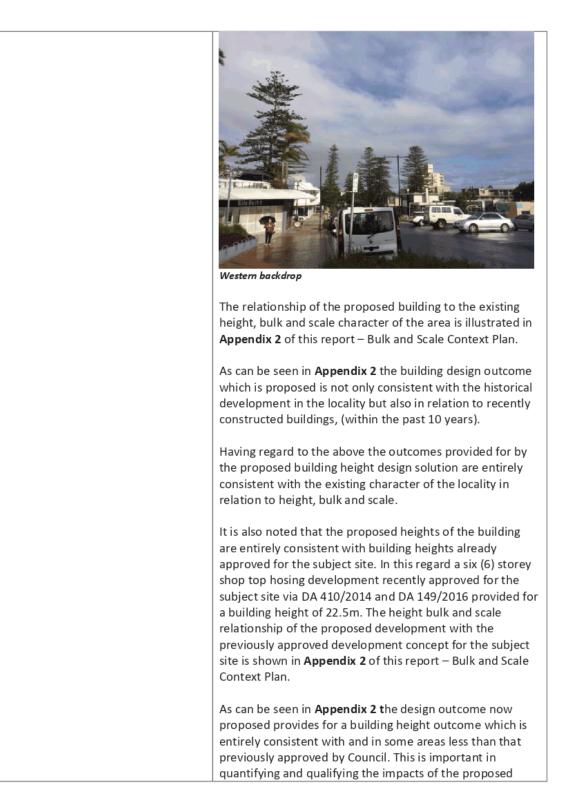
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development above that which has already been assessed by Port Macquarie Hastings Council as being acceptable via the issuing of development approvals DA 410/2014 and DA 149/2016. It is however acknowledged that the top floor area of the previously approved development concept for the site did include some open structures however it is noted that the open nature of the structures would be in general not perceivable when viewed from ground level open space areas with the roof structures being the most likely influence on perceived building height and as such the height, bulk and scale impacts of the proposed development will be entirely consistent with that which has already been assessed by council as being acceptable and appropriate for the locality.
Future Character The building height development standards provided for by LEP 2011 for the subject site and surrounds provide for a 'Deemed to Satisfy' standard of 19m which would typically provide for a 6 – 7 storey building. In this regard it is noted that the proposed development is entirely consistent with this development standard on the Clarence Street frontage with the roof of the main building being between 20.8m and 22.65m which taking into account the topography of the area provides for a seven (7) storey building. The stepping back of the top floor of the development together with the integration of open space areas on this level, (swimming pool/BBQ area), is a feature intended to reduce the perceived scale of the building by disrupting the layering effect of each storey. In this regard when viewed from the street the top floor of the building will not be visible from the northside footpath and will only be partially visible from the southside footpath along Clarence Street.
It is also noted that Councils Town Centre Masterplan works require that the Clarence Street frontage road reserve height be raised in order to accommodate revised finished levels for the northern portion of the Clarence Street carriageway and associated footpath area. Accordingly, the finished ground level adjacent to the southern elevation of the building will be approximately 800mm above the existing ground levels. Accordingly, the height, bulk and scale of the building when viewed from

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the southern and western aspects will have a context to the required new ground levels along Clarence Street and not the existing ground levels. Therefore, the height of the proposed building when viewed from the southern aspect and having regard to the new Clarence Street road reserve levels will be in the range of 19.77m and 21.9m. This again is an important consideration in the context of quantifying and qualifying the resulting height, bulk and scale of the proposed development and its impacts.
It is noted that the majority of the height exceedance associated with the main bulk of the building is associated with the south to north topography of the subject site. In the context of the topography of the subject site and adjoining and adjacent land the bulk and scale of the lower elevated areas of the building will be masked by adjoining development to the north, east and west with the height, bulk and scale with the southern and western elevations providing the visual context for the height, bulk and scale rather than the northern aspect of the proposed building whereby the existing Northpoint building dominates the height, bulk and scale landscape.
Similarly, the height, bulk and scale of the eastern aspect of the proposed building is obscured by the existing Macquarie Waters building with the proposed building retaining a consistent height, bulk and scale with the Macquarie Waters building, refer to Appendix 2 .
Additionally, the top storey of the proposed building is setback from the main bulk and scale of the building with enclosed areas not occupying the entire area of the top storey. This approach greatly assists in reducing the overall bulk and scale of the top storey area with stepping down of the building's height, bulk and scale towards the western boundary of the subject site. Therefore, when viewed from the Clarence Street frontage the additional building height associated with the top storey will be largely obscured and as such will have a minimal impact on the existing and future character of the area. As can be seen in Appendix 1 , the height, bulk and scale of the top storey is moderated through the setbacks which have been incorporated at this level.
As can be seen in Appendix 1 the major elements of the top storey which will be evident from Clarence Street will be portion of the roof structure of the building which is

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consistent with the visual impacts assessed and approved by Council through the issuing of development approval for the residential flat building concept for the subject site ((DA 410/2014 and DA 149/2016). As can be seen in Appendix 2 the future development of adjoining land to the west of the subject site has the potential to provide for a built form which significantly shields the height, bulk and scale of the proposed building with the future development of the land on the corner of Murray and Clarence Streets being the dominant factor in terms of height, bulk and scale impacts associated with the proposed development when viewed from the western
aspect. It is also noted that Clarence Street is a main connector road within the Port Macquarie CBD `being some 30m wide and can clearly accommodate development of greater densities and heights through site redevelopment within the framework of integrating good urban design principles. The width of the Clarence Street and its ability to accommodate developments of greater densities and heights is further reinforced by the significant setback of the existing bulk and scale of the building to the south of the Clarence Street road reserve adjacent to the subject site.
Similarly, when viewed from adjoining and adjacent buildings in the area the portion of the subject building which is in excess of the 19m development standard will have a negligible visual and amenity impacts in relation to the proposed buildings height, bulk and scale as it;
 Will be generally indiscernible from the main bulk of the building. Will have a minimal impact when considered in the context of the height, bulk and scale backdrop which exists by virtue of existing multi storey buildings in the locality which already have a height beyond that contemplated for the proposed building. Will be consistent with the height of buildings which could result through the redevelopment of adjoining land to the east of the subject site.
Having regards to the above it is considered that the impact on the future character of the locality of the

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	proposed building design solution as it relates to building
	height will be minimal.
	It is also noted that notwithstanding the height development standards provided for in LEP 2011 the future character of the locality has to a large extent been significantly influenced by the height of buildings which have been constructed in the past ten (10) years particularly in relation to buildings in proximity to the subject site. In the context of the life cycle of building infrastructure most recent decisions of Council have had a significant impact upon the achievement of the future character envisaged by the LEP development standard.
(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development	Solar access studies show acceptable results for June 22 as a result of the proposed development in relation to adjoining and adjacent existing development. Accordingly, the proposed building height design solution will have no significant impact on solar access beyond that contemplated by the 'Deemed to Satisfy' development standard.
	It is noted that when viewed from Clarence Street the proposed building will present as a seven (7) storey building which is generally consistent with the 'Deemed to Satisfy' development standard. Accordingly, the visual impact of the proposed building height solution will minimal.
	Given the dominance of existing buildings to the north, east and south the proposed building will have no greater visual impact than that which currently exists as the existing buildings define the bulk scale and scale when viewed from adjoining buildings. In this regard the bulk and scale of the proposed development is consistent, (even less), than that which currently exist.
	Views will not be impacted upon by the proposed development as view paths to the north, south and east are constrained by the existing buildings which form the backdrop in these aspects. View impacts to the west will be minimized due to;
	 The location of the major bulk of the subject building in the southern portion of the site provides for view sharing promoted to the west. The orientation of the adjacent buildings to take advantage of views to the north, northeast and east.

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	In this regard the design of a number of buildings to the east of the proposed building do not seek to take advantage of view paths to the west. Notwithstanding the variation to the building height
	development standard acceptable standards of solar access will continue to be provided to adjoining and adjacent buildings.
	Having regard to the above it is clear that quality urban and building design will be achieved as a result of the proposed development and that the proposed building height design solution will have negligible impact in relation to visual impact, views, loss of privacy and loss of solar access issues.
(c) to minimise the adverse impact of development on heritage conservation areas and heritage items,	Whilst the subject site forms part of an area which the LEP identifies as being of potential heritage importance the archeological assessment which has been completed for the subject site indicates that the proposed development will have no impact on the heritage values of the subject site.
	In a broader context identified items/issues of heritage significance are not located in the immediate area to the subject site and as such the height of the proposed development is appropriate in the context of existing and future height, bulk and scale of the locality.
(d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan'.	The proposed building height design solution will continue to provide for a transition in built form and land use intensity within the area covered by this Plan.

Having regard to the above it is considered that the design solution of the subject building as it relates to the issue of building height is consistent to the relevant performance objectives of Port Macquarie – Hastings Council LEP 2011.

3.4 Consistency with LEP Exception Requirements

Given that the proposed building height design solution is consistent with the relevant building height development standard performance objectives of the LEP it is considered that the issuing of development approval for the subject development, (as proposed), by Port Macquarie-Hastings Council is consistent with the requirements of Clause 4.3 of the LEP in that;

• compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the proposed alternative design solution satisfies the specific performance objectives which are relevant to the height of buildings; and

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- there are sufficient environmental planning grounds to justify contravening the development standard as demonstrated in the performance assessment (Section 3.2 of this report); and
- the applicant's written request has adequately addressed the matters required to be demonstrated; and
- the proposed development will 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; and
- the contravention of the subject development standard does not raise any matter of significance for State or regional environmental planning, and
- based upon merit assessment there is no public benefit in maintaining the development standard, and

Accordingly, it is recommended that Port Macquarie-Hastings Council seek the concurrence of the Director-General (NSW Department of Planning) for the variation to the height standard as provided for by the proposed building design solution.

4. CONCLUSION

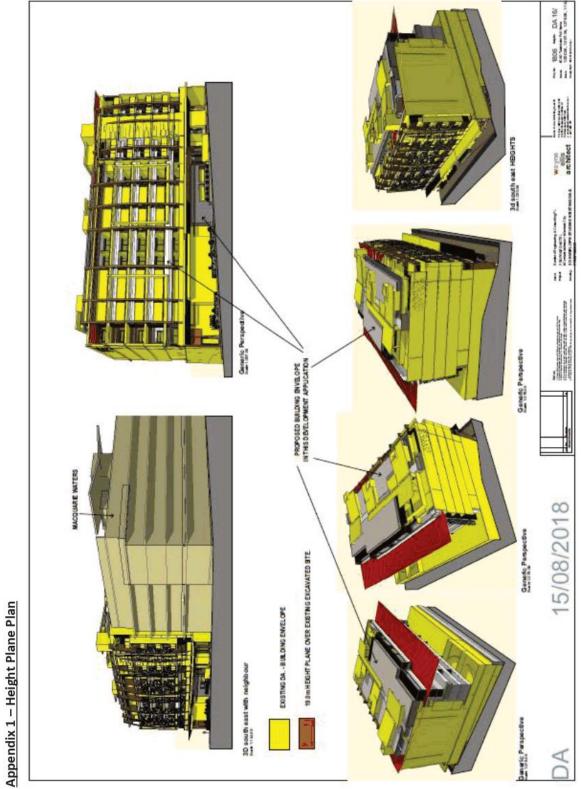
Having regard to the above it is considered that the proposed building design solution is consistent with the relevant building height performance standards as provided for by Clause 4.3 of the LEP and as such the exemption to the development standard is appropriate in the specific circumstances.

Accordingly, the proposed building design solution is able to be supported by Port Macquarie-Hastings Council pursuant to Clause 4.3 of the LEP.

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ATTACHMENT



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Justification of Variation to Development Standard Floor Space Ratio – Report Pursuant to Clause 4.6 of Port Macquarie–Hastings Local Environmental Plan (2011)

PROPOSED TOURIST ACCOOMMODATION & COMMERCIAL DEVELOPMENT AT 17 - 19 CLARENCE STREET, PORT MACQUARIE NSW

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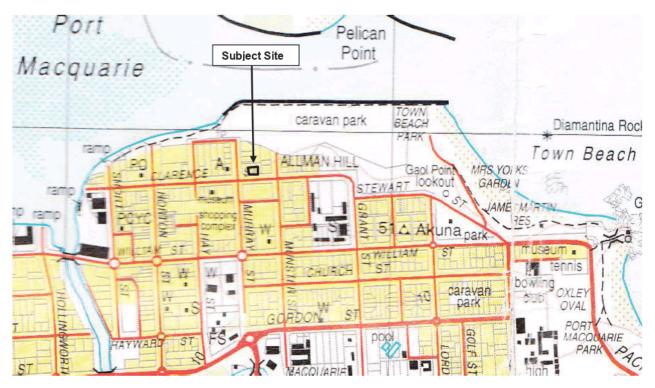
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1. INTRODUCTION

1.1 Purpose of Report

This report has been prepared to accompany a development application which seeks approval for the construction of a mixed tourist accommodation and commercial development at Lot 123 DP 1219042, 17 Clarence Street, Port Macquarie.

Figure 1 – Site Location



The purpose of this report is to provide justification for a variation to the Floor Space Ratio provisions of Port Macquarie-Hastings Councils Local Environmental Plan, (LEP) 2011 for the mixed-use development which is proposed to be undertaken on the subject site.

1.2 Background

The proposed includes the construction of a seven (7) storey tourist accommodation and commercial residential flat building with a basement level to accommodate onsite carparking.

A commercial tenancy, (195m²), together with the tourist accommodation reception and building access infrastructure, (vehicle and pedestrian), will occupy the ground floor of the building. Twenty-one (21) carparking spaces together with, loading dock, amenity and waste management storage areas are also proposed for this level.

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Motel/Serviced Apartment accommodation comprising 48 apartments and associated infrastructure are distributed over Levels 1-7 of the building. The proposed development provides for the following apartment configuration;

- 4 x 3 bedroom/2-bathroom apartments (twin key); and
- 27 x 2 bedroom/2-bathroom apartments (twin key); and
- 12 x 2 bedroom/2-bathroom apartments; and
- 5 x 1-bedroom apartment.

The usage arrangements of the proposed apartments provide for a maximum of 79 lettable apartments.

Each apartment is proposed to be provided with lift access. Each of the proposed apartments will be provided with an external balcony. The floor areas of the apartments are variable ranging from 48m² to 106.4m².

A single basement level of car parking, (providing forty (40) spaces), is proposed with access via a single vehicular driveway off Clarence Street via the ground floor of the building. As well as the car parking areas the basement levels will include general and dedicated service areas for the development. Lift access to the basement level is proposed.

The proposed development also provides for motel/serviced apartment ancillary use areas on Level 7 of the proposed development. In this regard a Conference Room, Gymnasium, BBQ area, amenities and a swimming pool are located on the top floor area of the development.

The subject site has approximately 2m fall from south to the north (from Clarence Street to the rear of the property). A 1m east to west cross fall is also present although the natural topography of the subject site has been altered as a result of the historic development of the subject site and recent demolition works. The topography of adjoining and adjacent land contains gentle south to north down slopes and a westerly cross-fall.

This report therefore provides justification as to why Port Macquarie-Hastings Council should support the variation to the buildings floor space ratio as proposed.

2. LEP 2011 REQUIREMENTS

2.1 Introduction

Port Macquarie – Hastings LEP 2011 specifies a number of principle development standards that are applicable for the erection of buildings in the Port Macquarie-Hastings Local Government Area.

In this regard Part 4 of the LEP provides for development standards related to;

- Lot size;
- Rural Subdivision;
- Building Height;
- Floor Space Ratio;

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Being a "performance based" document the LEP provides for a series of objective together with specific design provisions that are 'Deemed to Satisfy' the performance objectives. Adoption of the specified design provisions would therefore provide for a building solution to be approved by Council as this specified solution is deemed to meet the relevant performance objectives.

However, Clause 4.6 of the LEP recognizes the need to allow for exceptions to the specified design provisions. In this regard Clause 4.6 (2) of the LEP provides that;

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

It is noted that issues pertaining to the floor space ratio of buildings is not expressly excluded from the operation of Clause 4.6.

In addition to establishing a framework for the consideration of exceptions to LEP development standards Clause 4.6 (3) - (5) of the LEP establishes the process by which exceptions to development standards are to be lodged, assessed and determined. The LEP which are applicable are as follows;

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(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.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by sub clause (3), and

(ii) the proposed development will 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, and

(b) the concurrence of the Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

This report will provide justification for the variation of the acceptable design solution for the Floor Space Ratio of the proposed building having regard to the relevant provisions of the LEP.

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2.2 Floor Space Ratio Development Standard

Clause 4.4 of the LEP provides that the floor space ratio of a building erected on the subject site is not to exceed 3.5:1, refer to **Figure 1** below;

Figure 2 – Floor Space Ratio 'Deemed to Satisfy' Standard for Subject site.



It is noted that Clause 4.5 of the LEP provides guidance on the calculation of the floor space ratio of a building as follows;

4.5 Calculation of floor space ratio and site area

(1) Objectives

The objectives of this clause are as follows: (a) to define **floor space ratio**,

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(b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:

(i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and

(ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and

(iii) require community land and public places to be dealt with separately.

(2) Definition of "floor space ratio"

The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

(3) Site area

In determining the site area of proposed development for the purpose of applying a floor space ratio, the **site area** is taken to be:

(a) if the proposed development is to be carried out on only one lot, the area of that lot, or
(b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) Exclusions from site area

The following land must be excluded from the site area:

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,
- (b) community land or a public place (except as provided by subclause (7)).

(5) Strata subdivisions

The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.

(6) Only significant development to be included

The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.

(7) Certain public land to be separately considered

For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that

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community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.

(8) Existing buildings

The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.

(9) Covenants to prevent "double dipping"

When development consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.

(10) Covenants affect consolidated sites

lf:

(a) a covenant of the kind referred to in subclause (9) applies to any land (**affected land**), and (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development, the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.

2.3 Development Standard Exemption Sought

It is noted that the size of the site is 1517.23m2 which provides that the floor space of a building on the subject site would need to be 5,310.30m² in order to be consistent with the development standard provided for by Clause 4.4 of the LEP (3.5:1 FSR).

It is noted that the floor area of the proposed building for the purposes of determining the proposed floor space ratio is 5344.33m². The floor space of the proposed building has therefore been calculated to be 3.52:1.

The following table summarizes the development standard together with the proposed floor space ratio of the building together with the quantum of the variation which is sought. The following table has been prepared having regard to the building floor space definition provided for in Section 2.2 of this report;

<u> Table 1 – Building Height Summary.</u>

	FLOOR SPACE RATIO DEVELOPMENT STANDARD	PROPOSED FLOOR SPACE RATIO	QUANTUM OF VARIATION TO DEEMED TO SATISFY FLOOR SPACE RATIO STANDARD	FLOOR AREA ABOVE FSR DEVELOPMENT STANDARD
ľ	3.5:1	3.52:1	0.02:1	34.03m ²

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	(0.57% or)	

3. PERFORMANCE ASSESSMENT

As has already been identified the structure of Port Macquarie Hastings LEP 2011 provides for merit assessment of variations to development standards.

This structure is reflected in;

- The inclusion of Clause 4.6 into the LEP which recognizes the need to allow for exceptions to the specified design provisions.
- The inclusion of performance objectives in relation to development standards. The
 inclusion of specific performance objectives provides for a design solution to be approved
 on the basis that its outcomes will be consistent with the nominated performance
 objectives.

It is however noted that the LEP does not indicate the manner by which a performance assessment is to be carried out.

3.1 Performance Objectives

The performance objectives that are relevant to the requested variation are contained within Clause 4.4(1) of LEP (2011) as follows;

The objectives of this clause are as follows:

- (a) to regulate density of development and generation of vehicular and pedestrian traffic,
- (b) to encourage increased building height and site amalgamation at key locations,
- (c) to provide sufficient floor space for high quality development for the foreseeable future,

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

It is therefore considered that where a building design solution is consistent with the above objectives it can be assessed as being consistent with the requirements of PMHC LEP (2011) and as such development consent can be issued on the basis that the proposed development is in accordance with the relevant development standards.

3.2 Performance Assessment Method

To ensure that a performance-based solution meets the relevant Performance Objectives it must be assessed using a nominated/accepted Assessment Method. In this regard it is noted that PMHC LEP (2011) does not nominated a process/method of assessment of an alternative design solution. In this regard common assessment methods used for performance-based building design are as follows;

(a) Evidence to support that a design meets a Performance Requirement or a Deemed-to-Satisfy Provision.

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(b) Verification Methods.

(c) Comparison with the Deemed-to-Satisfy Provisions.

(d) Expert Judgement.

Having regard to the above it is proposed to utilize a combination of (a) and (c) above as the method of assessing the proposed building design and the variation of the buildings height when compared to the 'Deemed to Satisfy' provision.

3.3 Performance Assessment

The following justification is provided in respect of each of the performance objectives listed in section 3.1 of this report;

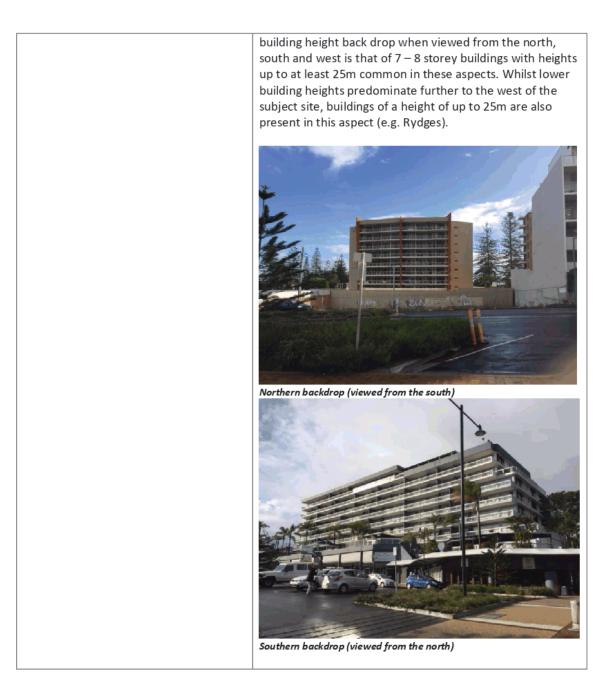
Table 2 – Performance Assessment

PERFORMANCE OBJECTIVE	PERFORMANCE ASSESSMENT
(a) to regulate density of development and generation of vehicular and pedestrian traffic,	The existing and future character of the locality is mixed with tourist and residential development dominating the immediate area with cafes and other tourist and residential uses fronting Clarence Street.
	The relevance of the proposed building height design solution to the existing and future character of the locality is assessed as follows;
	Existing Character
	It is noted that the existing character of the area, from the perspective of height, bulk and scale, is dominated by several taller buildings in the immediate vicinity. These include the Tasman, to the northeast (9 storeys), Northpoint, located immediately to the north of the subject site (8 storeys), Port Pacific on the southern side of Clarence Street (8 storeys) and Macquarie Waters to the east (7 storeys). It is also noted that the existing height of the of Macquarie Waters building to the east of the subject site provides for a height relationship to the subject site which is in excess of a 7 storey envelope due to the predominating east to west topography and the lack of response of the Macquarie Waters building to landform.
	Whilst lower density development is present on immediately adjoining land to the west the predominant

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Eastern backdrop (viewed from the west)



Western backdrop

The building design outcome which is proposed is not only consistent with the historical development in the locality but also in relation to recently constructed buildings, (within the past 10 years).

Having regard to the above the outcomes provided for by the proposed building height design solution are entirely consistent with the existing character of the locality in relation to height, bulk and scale.

It is also noted that the proposed heights of the building are entirely consistent with building heights already approved for the subject site. In this regard a six (6) storey shop top hosing development recently approved for the

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subject site via DA 410/2014 and DA 149/2016 provided for a building height of 22.5m.
In this regard the design outcome now proposed provides for a building height outcome which is less than that previously approved.
Future Character
The building height development standards provided for by LEP 2011 for the subject site and surrounds provide for a 'Deemed to Satisfy' standard of 19m which would typically provide for a 6 – 7 storey building. In this regard it is noted that the proposed development is entirely consistent with this development standard on the Clarence Street frontage with the roof of the main building being between 20.9m and 22m which taking into account the topography of the area provides for a seven (7) storey building. The stepping back of the top floor of the development together with the integration of open space areas on this level, (swimming pool/BBQ area), is a feature intended to reduce the perceived scale of the building by disrupting the layering effect of each storey.
It is also noted that the majority of the height exceedance associated with the main bulk of the building is associated with the south to north topography of the subject site. In the context of the topography of the subject site and adjoining and adjacent land the bulk and scale of the lower elevated areas of the building will be masked by adjoining development to the north, east and west.
Additionally, the top storey of the building is setback from the main bulk and scale of the building with enclosed areas not occupying the entire area of the storey. This approach greatly assists in reducing the overall bulk and scale of the top storey area. When viewed from the Clarence Street frontage the additional building height associated with the top storey will be largely obscured and as such will have a minimal impact on the existing and future character of the area. In this regard the bulk and scale of the top storey is moderated through the setbacks which have been incorporated at this level.
Clarence Street is a main connector road being some 30m wide and can clearly accommodate development of greater densities and heights through site redevelopment within

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	the framework of integrating good urban design principles. The width of the Clarence Street and its ability to accommodate developments of greater densities and heights is further reinforced by the significant setback of the existing bulk and scale of the building to the south of the Clarence Street road reserve adjacent to the subject site.
	Similarly, when viewed from adjoining and adjacent buildings in the area the portion of the subject building which is in excess of the 19m development standard will have a negligible impact in relation to proposed buildings bulk and scale as it;
	 Will be generally indiscernible from the main bulk of the building. Will have a minimum impact when considered in the context of the height, bulk and scale backdrop which exists by virtue of existing multi storey buildings in the locality which have a height beyond that contemplated for the proposed building.
	 Will be consistent with the height of buildings which could result through the redevelopment of adjoining land to the east of the subject site.
	Having regards to the above it is considered that the impact on the future character of the locality of the proposed building design solution as it relates to building height will be minimal.
	It is also noted that notwithstanding the height development standards provided for in LEP 2011 the future character of the locality has to a large extent been significantly influenced by the height of buildings which have been constructed in the past ten (10) years particularly in relation to buildings in proximity to the subject site. In the context of the life cycle of building infrastructure most recent decisions of Council have had a significant impact upon the achievement of the future character envisaged by the LEP development standard.
(b) to encourage increased building height and site amalgamation at key locations,	Solar access studies show acceptable results for June 22 as a result of the proposed development in relation to adjoining and adjacent existing development. Accordingly, the proposed building height design solution will have no

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	significant impact on solar access beyond that contemplated by the 'Deemed to Satisfy' development standard.
	It is noted that when viewed from Clarence Street the proposed building will present as a seven (7) storey building which is generally consistent with the 'Deemed to Satisfy' development standard. Accordingly, the visual impact of the proposed building height solution will minimal.
	Given the dominance of existing buildings to the north, east and south the proposed building will have no greater visual impact than that which currently exists as the existing buildings define the bulk scale and scale when viewed from adjoining buildings. In this regard the bulk and scale of the proposed development is consistent, (even less), than that which currently exist.
	Views will not be impacted upon by the proposed development as view paths to the north, south and east are constrained by the existing buildings which form the backdrop in these aspects. View impacts to the west will be minimized due to;
	 The location of the major bulk of the subject building in the southern portion of the site provides for view sharing promoted to the west. The orientation of the adjacent buildings to take advantage of views to the north, northeast and east. In this regard the design of a number of buildings to take advantage of view paths to the west.
	Notwithstanding the variation to the building height development standard acceptable standards of solar access will continue to be provided to adjoining and adjacent buildings.
	Having regard to the above it is clear that quality urban and building design will be achieved as a result of the proposed development and that the proposed building height design solution will have negligible impact in relation to visual impact, views, loss of privacy and loss of solar access issues.
(c) to provide sufficient floor space for high quality development for the foreseeable future,	Whilst the subject site forms part of an area which the LEP identifies as being of potential heritage importance the archeological assessment which has been completed for

DEVELOPMENT STANDARD VARIATION JUSTIFICATION

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	the subject site indicates that the proposed development will have no impact on the heritage values of the subject site.
	In a broader context identified items/issues of heritage significance are not located in the immediate area to the subject site and as such the height of the proposed development is appropriate in the context of existing and future height, bulk and scale of the locality.
(d) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality.	The proposed building height design solution will continue to provide for a transition in built form and land use intensity within the area covered by this Plan.

Having regard to the above it is considered that the design solution of the subject building as it relates to the issue of building height is consistent to the relevant performance objectives of Port Macquarie – Hastings Council LEP 2011.

3.4 Consistency with LEP Exception Requirements

Given that the proposed building height design solution is consistent with the relevant building height development standard performance objectives of the LEP it is considered that the issuing of development approval for the subject development, (as proposed), by Port Macquarie-Hastings Council is consistent with the requirements of Clause 4.3 of the LEP in that;

- compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the proposed alternative design solution satisfies the specific performance objectives which are relevant to the height of buildings; and
- there are sufficient environmental planning grounds to justify contravening the development standard as demonstrated in the performance assessment (Section 3.2of this report); and
- the applicant's written request has adequately addressed the matters required to be demonstrated; and
- the proposed development will 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; and
- the contravention of the subject development standard does not raise any matter of significance for State or regional environmental planning, and
- based upon merit assessment there is no public benefit in maintaining the development standard, and

Accordingly, it is recommended that Port Macquarie-Hastings Council seek the concurrence of the Director-General (NSW Department of Planning) for the variation to the height standard as provided for by the proposed building design solution.

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4. CONCLUSION

Having regard to the above it is considered that the proposed building design solution is consistent with the relevant building height performance standards as provided for by Clause 4.3 of the LEP and as such the exemption to the development standard is appropriate in the specific circumstances.

Accordingly, the proposed building design solution is able to be supported by Port Macquarie-Hastings Council pursuant to Clause 4.3 of the LEP.

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FINAL ARCHAEOLOGICAL REPORT

15-19 Clarence Street, Port Macquarie NSW



Ivana Vetta

Archaeo*logical* Management & Consulting Group

for

Bamford Engineering and Consulting

August 2018

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Disclaimer

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Martin Carney Director (mobile 0411 727 395)



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Cover Image

Archaeological Monitoring, 15 Clarence Street, Port Macquarie, facing south. AMAC Image 2663, 17/03/16

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	Part of an 1826 plan showing the layout of Port Macquarie A section of an 1831 plan, showing new street alignments and development

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EXECUTIVE SUMMARY

Documentary Research

The study site is located near the c.1824 Surgeon's Quarters (later the Clergyman's House), the Clerk of Works Quarters, and the original Government Gardens. The study site likely formed part of the curtilage afforded to the Colonial Chaplain, Reverend John Cross, and may have been the location of the c.1826 kitchen associated with his residence, the Clergyman's House. Reverend Cross and his family occupied the study site from 1827-1837, after their departure the house and kitchen were likely condemned and demolished c.1839.

After the period of government ownership, the study site formed part of Allotments 1-3 in Section 2A of the subdivision of Port Macquarie. Original owners included the Trustees of the Presbyterian Church in 1843 (Lot 1), William Fraser in 1855 (Lot 2) and Archibald Clunes Innes and William Cross (Lot 3- in trust for Louisa McIntyre). All three allotments were in the hands of the McIntyre family by 1917, however, no known development occurred to the study site during this time. The sole phase of development to take place on the study site followed after the second subdivision where Allotments 1-3 became nine new lots, these residential structures were extant on each lot at the time of site inspection. These buildings were demolished in September 2015.

Results of Archaeological Monitoring

No relics were uncovered during archaeological monitoring of the eastern portion of the site, 15 Clarence Street, and these results confirm the analysis of data collected during Test Excavation. Only the concrete foundations of the previous 1930s apartment block were uncovered as well as a series of 20th century services. These features were all cut into the natural topsoil. It is clear that the natural soil profile remains intact on the site and has not been truncated by later development. This assertion is consistent with the conclusion that the site remained undeveloped and unoccupied during the 19th century. No evidence was found of the kitchen associated with the c.1826 Clergyman's House and it is suggested that this building must have been contained by the neighbouring allotment. For this reason, the archaeological potential for the site is reassessed as nil.

Recommendations

As no archaeological relics have been identified on the site and it has been determined that it is unlikely that the site was occupied at all prior to the 1930s, no further archaeological works are recommended for the site.

It is recommended that this current report be submitted to the Heritage Division in fulfilment of Conditions 17 and 18 of Permit 2016/S140/01.

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GLOSSARY

Term	Definition
AMAC	Archaeological Management and Consulting Group
Archaeological feature	Archaeological material which is not considered a relic in terms of the NSW Heritage Act 1977. For example- postholes, artefact scatters, cesspits or rubbish pits
DCP	Development Control Plan
DP	Deposited Plan
Former relic	A deposit, artefact, object or material evidence whereby the integrity of the relic is viewed to have been destroyed or disturbed to the point where it is no longer considered to hold any significance as a relic in terms of the NSW Heritage Act 1977.
Heritage Division	Formerly known as the Heritage Branch
LEP	Local Environment Plan
LGA	Local Government Area
LTO	Land Titles Office
NPW Act	National Parks and Wildlife Act 1974
OEH	NSW Office of Environment and Heritage (formerly known as the DECCW)
Relic	Defined by the NSW Heritage Act (see Section 1.5.3) as: "any deposit, artefact, object or material evidence that: (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and (b) is of State or local heritage significance"
S57	Refers to definition of Section 57 in the NSW Heritage Act 1977
S60	Refers to definition of Section 60 in the NSW Heritage Act 1977
S139	Refers to definition of Section 139 in the NSW Heritage Act 1977
S140	Refers to definition of Section 140 in the NSW Heritage Act 1977
SHI	State Heritage Inventory
SHR	State Heritage Register
Work	Archaeological material related to road and rail infrastructure which is not considered a relic in terms of the NSW Heritage Act 1977, however may retain an archaeological significance independent of the statutory definitions. The interpretation of a 'work' has been defined in consultation with the Heritage Division

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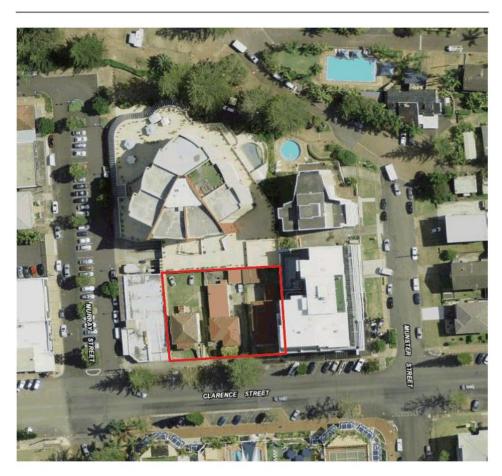
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Figure 1.1 Site location, outlined in red. NSW Land and Property Information, Six Maps Viewer, accessed 26th October 2015.

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Figure 1.2 Aerial photograph showing the study site outlined in red. NSW Land and Property Information, Six Maps Viewer, accessed 26th October 2015.

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1.0 INTRODUCTION

1.1 BACKGROUND

Bamford Engineering and Consulting have commissioned the Archaeological Management and Consulting Group to prepare a Final Archaeological Report in accordance with Conditions 17 and 18 of Permit 2016/s140/01 following archaeological monitoring at 15-19 Clarence Street, Port Macquarie. No relics were found during this work and this report provides details of the archaeological monitoring which took place in March 2017. The report conforms to Heritage Office Guidelines for Archaeological Assessment.¹

1.2 STUDY AREA

The study site is that piece of land described as Lots 1-3 in Land Titles Office Deposited Plan 18834. The street address for the site is 15-19 Clarence Street, Port Macquarie, in the Parish of Macquarie, County of Macquarie.

1.3 SCOPE

This report does not consider the potential Aboriginal archaeology of the study site. However, any Aboriginal sites and objects are protected by the National Parks and Wildlife Act (see Section 1.5.2). No Aboriginal objects were identified at the study site during archaeological monitoring.

The heritage value of the structures currently standing on the study site is not assessed as part of this report.

The discovery of unknown and unassessed remains will require additional assessment.

1.4 AUTHOR IDENTIFICATION

This report was researched and written by Ivana Vetta using existing information written by Ivana Vetta and Jaki Baloh (see historical summary, <u>Section 2.0</u> and Section 1.6.2-1.6.3). This report has been reviewed by Martin Carney.

The collections used were the Port Macquarie-Hastings Library, National Library of Australia (Trove), Mitchell Library, Births, Deaths and Marriages Register, Ancestry Online, Land and Property Information and NSW State Records.

1.5 STATUTORY CONTROLS AND HERITAGE STUDIES

1.5.1 NSW Heritage Act 1977 (as amended)

The NSW Heritage Act 1977 affords automatic statutory protection to relics that form archaeological deposits or part thereof. The Act defines relics as:

Relic means any deposit, artefact, object or material evidence that:

 (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and

(b) is of State or local heritage significance

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¹ Heritage Office and Department of Urban Affairs and Planning (1996).

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Sections 139 to 145 of the Act prevent the excavation or disturbance of land for the purpose of discovering, exposing or moving a relic, except by a qualified archaeologist to whom an excavation permit has been issued by the Heritage Council of NSW.

1.5.2 National Parks and Wildlife Act (1974)

The *National Parks and Wildlife Act 1974* (as amended) affords protection to all Aboriginal objects and is governed by the NSW Office of Environment and Heritage. These objects are defined as:

any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.²

It is an offence to destroy Aboriginal objects or places without the consent of the Director-General.³ Section 86 discusses 'Harming or desecration of Aboriginal objects and Aboriginal places':

- (1) A person must not harm or desecrate an object that the person knows is an Aboriginal object. Maximum penalty:
 - (a) in the case of an individual-2,500 penalty units or imprisonment for 1 year, or both, or (in circumstances of aggravation) 5,000 penalty units or imprisonment for 2 years, or both, or
 - (b) in the case of a corporation-10,000 penalty unit.
- (2) A person must not harm an Aboriginal object. Maximum penalty:
- (a) in the case of an individual-500 penalty unit or (in circumstances of
 - aggravation) 1,000 penalty units, or
 - (b) in the case of a corporation-2,000 penalty unit.
- (3) For the purposes of this section, "circumstances of aggravation" are:
 - (a) that the offence was committed in the course of carrying out a commercial activity, or
 - (b) that the offence was the second or subsequent occasion on which the offender was convicted of an offence under this section.
 - This subsection does not apply unless the circumstances of aggravation were
 - identified in the court attendance notice or summons for the offence.
- (4) A person must not harm or desecrate an Aboriginal place.
- Maximum penalty:
 - (a) in the case of an individual-5,000 penalty units or imprisonment for 2 years, or both, or
 - (b) in the case of a corporation-10,000 penalty unit.
- (5) The offences under subsections (2) and (4) are offences of strict liability and the defence of honest and reasonable mistake of fact applies.
- (6) Subsections (1) and (2) do not apply with respect to an Aboriginal object that is dealt with in accordance with section 85A.
- (7) A single prosecution for an offence under subsection (1) or (2) may relate to a single Aboriginal object or a group of Aboriginal objects.
- (8) If, in proceedings for an offence under subsection (1), the court is satisfied that, at the time the accused harmed the Aboriginal object concerned, the accused did not know that the object was an Aboriginal object, the court may find an offence proved under subsection (2).⁴

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² Part 1 Section 5, National Parks and Wildlife Act 1974.

³ Part 6 Section 90 (1) National Parks and Wildlife Act 1974.

⁴ Part 6 Section 86, National Parks and Wildlife Act 1974.

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1.5.2.1 Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW

In October 2010 DECCW (now the Office of Environment and Heritage) introduced the "Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW".⁵ This code of conduct was released in response to changes in the NPW Act which now states "A person must not harm or desecrate an object that the person knows is an Aboriginal object" or that "A person must not harm or desecrate an Aboriginal place" (NPW Act, Amendment 2010). Individuals or organisations who are contemplating undertaking activities which could harm Aboriginal objects should consult this code or engage the services of an appropriately qualified archaeological consultant to carry out a Due Diligence study on any proposed development.

This code provides a process whereby a reasonable determination can be made as to whether or not Aboriginal objects will be harmed by an activity, whether further investigation is warranted, and whether the activity requires an Aboriginal Heritage Impact Permit (AHIP) application.

If through this or any other process which meets the standards of this code, such as the commission of an Environmental Impact Assessment, one has already taken reasonable steps to identify Aboriginal objects in an area subject to a proposed activity. Subsequently if it is already known that Aboriginal objects will be harmed, or are likely to be harmed by an activity, then an application should be made for an AHIP.

1.5.3 State Heritage Register and Inventory

The NSW State Heritage Register or Inventory is a list which contains places, items and areas of heritage value to New South Wales. These places are protected under the New South Wales Heritage Act 1977.

The site is not listed on the NSW State Heritage Register or Inventory.

1.5.4 National Heritage List

The National Heritage List is a list which contains places, items and areas of outstanding heritage value to Australia. This can include places and areas overseas as well as items of Aboriginal significance and origin. These places are protected under the Australian Government's EPBC Act.

The study site is not listed on the National Heritage List.

1.5.5 Commonwealth Heritage List

The Commonwealth Heritage List can include natural, Indigenous and historic places of value to the nation. Items on this list are under Commonwealth ownership or control and as such are identified, protected and managed by the federal government.

The study site is not listed on the Commonwealth Heritage List.

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⁵ Office of Environment and Heritage,

http://www.environment.nsw.gov.au/resources/cultureheritage/ddcop/10798ddcop.pdf

1.5.6 Port Macquarie-Hastings Local Environmental Plan 2011

The Port Macquarie-Hastings Local Environmental Plan was prepared in 2011 by the Port Macquarie-Hastings Council. Heritage Conservation is dealt with in Section 5 Part 10 of this plan. Section 5.10.2.c states that consent is required for

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.

Procedures for dealing with "Archaeological Sites" is stated in Section 5.10.7 of this plan. It states that:

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 *Heritage Act* 1977 applies):

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

The study site is listed as part of an Archaeological Site, under Schedule 5 Part 3 of this plan. The site is part of the "Port Macquarie – Archaeology of Early Settlement - Parts of Town Centre and Town Beach precincts (Item A111) which is listed as being of local significance (See Figure 1.3 in AMAC July 2015).

1.5.7 Hastings Heritage Study

The *Hastings Heritage Study* was prepared by Suters Architects Snell, Newcastle, in 1991. The study site is not listed within the heritage study.

1.5.8 Archaeological Management Plan, Port Macquarie

The Archaeological Management Plan was prepared for Hastings Council in August 1994 by Dr Edward Higginbotham. The study site is dealt with as Inventory Number 154. This area is described as partly disturbed, being cut into the slope at the front. The site is described as being locally significant:

This site possesses historical or archaeological significance because it may reveal evidence relating to 3b. The late 19th or 20th century development of the town (Representative. Local).

1.6 PREVIOUS HERITAGE STUDIES AND REPORTS

1.6.1 Anne Bickford Heritage Consultants (March 2003) 'Archaeological Assessment: Corner of Munster and Clarence Streets, Port Macquarie' for King and Campbell Pty Ltd

In 2003 Anne Bickford Heritage Consultants completed an archaeological assessment for the site adjacent to the eastern side of the study site, known as 5 Munster Street and 11 Clarence Street, Port Macquarie. Historical research indicated that the Munster and Clarence Street site was the location of two early 1820s Government buildings within an area designated as the Government Garden, of which the easternmost portion of the present study site formed part of this original wider allotment. Historical overlays by Bickford further indicated the possibility of

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1820s subsidiary structures being present within the footprint of 15 Clarence Street (Lot 1 DP18834), or a portion of the original Clergyman's residence.⁶

1.6.2 AMAC Group (March 2014), 'Baseline Archaeological Assessment: 17-19 Clarence Street, Port Macquarie', for Bamford Engineering and Consulting

In March 2014 AMAC Group completed a Baseline Archaeological assessment for part of the study site at 17-19 Clarence Street (Lots 2 and 3 DP18834), Port Macquarie. The assessment found no evidence for development of the site prior to the construction of the present buildings. However, its location is close to the Government Gardens and the site may contain archaeological material associated with this early occupation phase of Port Macquarie. Consultation with the Heritage Division (see <u>Appendix 9.1</u>) has recommended archaeological test excavation within 17-19 Clarence Street to determine the presence or absence of archaeological material dating to this early occupation period.

1.6.3 AMAC Group (March 2015), 'Baseline Archaeological Assessment: 15 Clarence Street, Port Macquarie', for Wayne Ellis Architects on behalf of Anthony Vereker

In March 2015 AMAC Group completed a Baseline Archaeological assessment for part of the study site at 15 Clarence Street. The assessment identified the potential to contain archaeological relics of local or State significance. These relics relate to c.1824 – c. 1850 domestic occupation and may include whole or part of a c.1826 kitchen structure associated with the c.1824 Surgeon's House (later Clergyman's House). Based on the historical research and potential for early nineteenth century relics, archaeological test excavation was recommended as a way to determine the nature and condition of the archaeological resource in order to inform future development.

1.6.4 AMAC Group (July 2015) 'Archaeological Assessment supporting Exception Notification for Archaeological Test Excavation: 15-19 Clarence Street, Port Macquarie', for Bamford Engineering and Consulting

Based on the results of previous baseline assessments, in July 2015, AMAC Group submitted an Exception Notification application for archaeological test excavation at 15-19 Clarence Street, Port Macquarie. Test excavation was planned with the intention of identifying the presence or absence of material relating to the early nineteenth century government occupation of the wider area through the Surgeon's House (Clergyman's House). This document forms the results of archaeological test excavation.

1.6.4 AMAC Group (November 2015) 'Interim Archaeological Test Excavation Report: 15-19 Clarence Street, Port Macquarie', for Bamford Engineering and Consulting

Archaeological test excavation was carried out by AMAC Group in October 2015. The Interim Archaeological Test Excavation Report details the results of the test excavation. No relics were uncovered during these works. This report also provides a methodology and research design endorsed by Permit 2016/S140/01 and forms the basis of this current document.

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⁶ Anne Bickford Heritage Consultants (March 2003), Figure 5.1, p. 47.

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2.0 SITE HISTORY

The following section contains a summarised version of the historical development of the study site based on previous reports by AMAC Group, with the addition of some new aerial and historical photographs.⁷ For a complete history, including a title table and all historical maps, plans and photographs, refer to earlier reports by AMAC Group.

2.1 ORIGINAL GRANT

Prior to the original grant, the study site was government owned land and formed part of the government gardens. By the 1824 plan that land was shown divided and annotated, with the number '9' in the north and number '10' in the south - the study site being located within the area marked number 9. Also within this area, in the north-eastern corner, were two fenced areas that contained a small structure each, numbered '2' and '4' (Figure 2.1). ⁸ By 1826 these cottages and the study site were still shown within area '9', which at that point in time was still noted as 'government gardens' (Figure 2.2).⁹ The numbering of the cottages had swapped in the 1826 plan: the structure that was '2' in 1824 is labelled '4' in 1826 and the structure that was '4' in 1824 is '2' in 1826. The northernmost of the pair (1824: '2' and 1826: '4') is referred to as 'the pilot's quarters' in the key for the 1826 plan. The southernmost of the pair (1824: '4' and 1826: '2') is referred to as 'the surgeon's quarters' in the key for the 1826 plan.¹⁰

An account of the occupation of the Surgeon's (later Clergyman's) building between 1824 and 1839 is given by an existing study by Bickford:¹¹

"The first chaplain's place of residence is not recorded but it seems most likely that this was in the centre of the settlement with the other civil officers. It may even have been the cottage on the east side of the Government Garden that was later used by the Reverend John Cross (Building 2 on the 1826 plan - Figure 2.2) which could have enlarged or rebuilt for Hassall's arrival.

On the basis of the 1831 plan (Figure 2.3) and of other documentary evidence, the residence allocated to the Reverend John Cross and his family can be identified as the cottage at the north-east corner of the old Government Garden. These were the quarters that were being used by the surgeon in 1826 [Building 2].^{"12}

The study site forms three separate grants of land forming part of Allotments 1, 2 and 3 of Section 2A of the subdivision of Port Macquarie: 15 Clarence Street forms part of original Lot 3; 17 Clarence Street part of original Lots 2 and 3; and 19 Clarence Street part of original Lots 1 and 2. Original Lot 1 was granted to the Presbyterian Church in 1843, via Trustees Robert Andrew Wauch, Alexander Thomson, Joseph Richard Middleton and William Mackenzie. The land was retained by the trustees of the church until 1917 when it was transferred into the possession of the McIntyre family. Original Lot 2 was granted to William Fraser of Hastings River in 1855, who in turn passed the property on to Louisa McIntyre (also spelt

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⁷ AMAC Group (March 2014); AMAC Group (March 2015); AMAC Group (July 2015).

⁸ Bickford, A. (March 2003), pp. 21-23, 35.

⁹ Bickford, A. (March 2003), p. 23, 35.

¹⁰ Bickford, A. (March 2003), p. 22.

¹¹ For a larger excerpt from Bickford's report, see AMAC Group (July 2015), p. 19.

¹² Bickford, A. (March 2003), p. 23, 30.

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MacIntyre) two years later. Original Lot 3 was granted to Archibald Clunes Innes and William Cross, in trust for Louisa McIntyre in 1851.

2.2 SUBSEQUENT OWNERS AND OCCUPANTS

Louisa McIntyre (nee Cross), arrived in the colony aboard *Barring* in 1819 with her parents Reverend John Cross, Ann Cross and two other siblings. In 1828, the family moved to Port Macquarie as John Cross had been appointed as the chaplain of the new St Thomas' Church.¹³ In 1838, Louisa Cross married Dr James McIntyre, a government medical officer and together they had seven children, Louisa Isabella (born 1840), James William (born 1842), Ann Margaret (born 1844), William (born 1845), John Cross (born 1846), Eliza Caroline (born 1847) and Sarah Elizabeth (born 1850).¹⁴ Dr McIntyre continued to live and work in Port Macquarie until his death in 1853.¹⁵ Louisa McIntyre already owned Lot 3 and acquired Lot 2 in 1857. Following her death in 1887, the property was inherited by her daughter Eliza Caroline McIntyre.

In 1907, Eliza Caroline died in Queensland,¹⁶ and left the lot to her sister Sarah Elizabeth Noble (then married to John H. Noble) who in turn gave the property to her elder brother John Cross in 1913. Lot 1 had also been promised to John Cross, though this transfer was never made official. John Cross McIntyre (1846-1915)¹⁷ worked as a grazier in Port Macquarie and appears to have had continuing involvement with the Church of England, acting as a reader for the church and nominated as a trustee for land owned by the Church of England.¹⁸ He married Ellen Pender in 1889¹⁹ and together they had four children.²⁰ Following the death of John Cross in 1915, Lots 1, 2 and 3 were transferred to the trustees of his will, his nephew James Neville Parker (1869-1965),²¹ son John Pender McIntyre and nephew Ernest George McIntyre (1878-1957).²²

In 1936, John Pender McIntyre, working as a station overseer in Queensland, and his sister Leila Lester (nee McIntyre) Hope, purchased all three lots and within three years had subdivided the land into nine smaller lots (DP18834). This subdivision placed the study site into their current formation, Lots 1-3 DP18834.

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¹³ Herbert Marshall, 'Cross, John (1781–1858)', Australian Dictionary of Biography, National Centre of Biography, Australian National University, http://adb.anu.edu.au/biography/cross-john-1937/text2315, accessed 6 December 2013.

¹⁴ NSW Births, Deaths and Marriages Index V18402037 25A/1840; V18421973 26A/1842; V1844378 44A/1844; V1846412 44A/1846; V1845969 30A/1845; V1847467 44A/1847; V1850599 44A/1850

¹⁵ Port Macquarie Historical Society (1996) p.264.

¹⁶ Ancestry.com Australia Death Index, 1787-1985

¹⁷ NSW Births, Deaths and Marriages Index V1846412 44A/1846; 18373/1915

¹⁸ Sydney Morning Herald, 16 August 1882, p.7; Maitland Mercury and Hunter River General Advertiser, 10 November 1883, p.3.

¹⁹ NSW Births, Deaths and Marriages Index 5076/1889

 ²⁰ John Pender (1891-1976), Leila Lester (1894-1962), Frank I (born 1899) and Harry Parker (born 1907). NSW Births, Deaths and Marriages Index, 29348/1891; 104297/1976; 27858/1894; 25334/1962; 24309/1899; 17282/1907

²¹ Son of Louisa Isabella nee McIntyre and Henry H Parker. NSW Births, Deaths and Marriages Index 16964/1869; 24838/1965

²² Son of James William and Catherine Martha McIntyre NSW Births, Deaths and Marriages Index 20641/1878; 6136/1957; LPI Primary Application 32951

Lot 1 (15 Clarence Street) was purchased by Horace Leslie Larcombe and his wife Elsie Isabel Larcombe in 1943. Lot 1 was later sold to Harry Charles Potts in 1950, who then sold it to Wilfred and Ilma Oxenbridge in 1953. During the 1960s the property was owned by a succession of local residents before being purchased by Edwin and Colleen Stubbs in 1977.

Lot 2 (17 Clarence Street) was purchased by Alice Winifred Kennards in 1943. No further land titles have been found to indicate the owners of the property or the year in which Kennards sold the property.

Lot 3 (19 Clarence Street) was sold in 1945 to Lavinia Maud Smith. Lavinia Maud (nee Bogan) married William Alexander Smith in 1911.²³ Electoral roll records show that Lavinia and her husband, a dentist, were living on Horton Street during the late 1940s and 1950s.²⁴ Following her death in 1959²⁵ the property was acquired by her husband, William Alexander Smith in 1960 and then by Joan Smith in 1963.²⁶ During the 1960s the property was owned by a succession of local residents of Port Macquarie before being purchased by Yung Kwang and Lucy Lowe Chu in 1973.²⁷

2.3 DEVELOPMENT

The study site forms a small part of Section 2A of the original Port Macquarie subdivision. During the early years of the settlement, Block 2A was owned by the Government and formed part of the government gardens. The study area, 15 Clarence Street (Lot 1 DP18834) is thought to be located in the vicinity of two c.1820s cottages and may be the location of a c.1826 kitchen as well as being within the curtilage of both cottages. There is no specific evidence to suggest development on the area of the study site contained by 17 or 19 Clarence Street (Lots 2 and 3 DP18834) from its first use as part of the government gardens, up until the early twentieth century. Not until the mid-twentieth century does such evidence appear. It could be that no development occurred or that no record was made.

15 Clarence Street (Lot 1 DP18834)

By 1824, the Government Gardens were characterised by fenced areas: '9' being the gardens, '10' which '*contains the first plantings of the Sugar Cane*', and two smaller fenced areas in the north-eastern corner which each contained one timber building (Figure 2.1).²⁸ Existing analysis of the 1824 map also suggests:

"Running parallel with the eastern boundary of the fenced area and the enclosure alongside building No. 4 was what would appear to be (by comparison with similar features elsewhere) a drainage line."²⁹

The precise location of the drainage line is uncertain, and it is unlikely to fall within the bounds of the current site, however, this type of structure should be noted as a possibility for development in its general vicinity. Particularly in light of the many drainage lines noted in the garden area south of the c.1824 Commandant's

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²³ NSW Births, Deaths and Marriages Index 10436/1911

²⁴ Australian Electoral Rolls 1903-1980 (1949; 1954; 1958)

²⁵ NSW Births, Deaths and Marriages Index 27659/1959

²⁶ LPI Vol 5531 Fol 241

²⁷ LPI Vol 5531 Fol 241

²⁸ Bickford, A. (March 2003), p. 21.

²⁹ Bickford, A. (March 2003), p. 21.

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residence and the nearby sugar cane plantation. The two fenced areas in the northeastern corner which contain two timber structures marked '2' in the north and '4' in the east were respectively known as the Pilot's Quarters and the Surgeon's Quarters.³⁰

By 1826, the numbers for the structures have swapped, the northernmost Pilot's Quarters now '4' and shown as having an 'L' shape, possibly with a veranda or outbuilding on its southern face. The eastern 'Surgeon's quarters' (now '2', and also likely now occupied by Reverend Thomas Hassall),³¹ had either been replaced or expanded since their representation in 1824. By 1826, the structure appears to have a north and east facing veranda and a smaller rectangular outbuilding to its west (Figure 2.2).³² This structure is likely the kitchen described in the repairs request by Alexander Thomson in 1833. The garden associated with this house is also thought to be 'much enlarged after 1826.'³³

Further details on the Clergyman's House and its kitchen are included in a repairs specification made by Alexander Thomson, Clerk of Works, in March 1833.³⁴ These are detailed in a previous study:³⁵

"Thomson described the main building as about 40 feet long, 16 feet wide and 9 feet high, divided into five rooms and a hall with a verandah in front and at one end. The detached kitchen, about 8 feet from the house, was 17 feet by 16 feet. The specifications provided for a covered way to be built between the back of the house and the kitchen and a weatherboard building 30 feet by 14 feet with a skilling roof, divided into two rooms by a studded partition."³⁶

It is not certain whether the specifications were asking permission to build the skilling roof structure or if it existed and required repair. This is a question that has been included in the research design for test excavation.

As these accounts are contemporaneous with the 1831 plan of Port Macquarie, it is posited that once an estimate exists for the location of the Clergyman's House, Thomson's repairs request could be used to estimate a location and size for the kitchen building to its west.³⁷ Based on the historical descriptions and imagery, it is estimated that the kitchen, or part of it, falls within the bounds of the study site and within the lot known as 15 Clarence Street (Lot 1 DP18834), however, no evidence of this building was found during archaeological test excavation or monitoring indicating that it was most likely located in the neighbouring property and therefore outside of the study site.

Last occupied by Reverend Cross in 1837, the former Surgeon's Quarters (from c.1827 known as 'Clergyman's House'), and likely the kitchen structure were

32 Bickford, A. (March 2003), p. 22.

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³⁰ Bickford, A. (March 2003), p. 21.

³¹ Bickford, A. (March 2003), p. 23.

³³ Bickford, A. (March 2003), p. 24.

³⁴ 'Specification of repairs &c required to be done at the parsonage Port Macquarie', signed by Alex Thomson, Clerk of Works, Commissariat Branch 12 March 1833, Clergy & School Lands Corporation, Architects' and Mechanics' Estimates and Tenders 1833,4/348 pp 75-82, Letter 33/169 (State Records NSW); Bickford, A. (March 2003), p. 24.

 ³⁵ For a larger excerpt from Bickford's report, see AMAC Group (July 2015), p. 27.
 ³⁶ Bickford, A. (March 2003), p. 24.

³⁷ Refer to Section 3.3 in AMAC Group (March 2015) and AMAC Group (July 2015), for a detailed discussion on the location and size estimate of the kitchen structure devised from Thomson's repairs request.

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considered "condemned and abandoned" by November 1839 and were subsequently demolished by 1840 (Figure 2.4).³⁸

There is no evidence to suggest development on the study site between 1841 and the early twentieth century and this is confirmed by the archaeological evidence. No maps or plans of Port Macquarie were found for the periods during the 1850s and early 1900s, which in turn creates difficulty for identifying the presence of any buildings or dwellings unless it has been acknowledged among written records. Aerial photographs dating to 1909 and 1933 (Figure 2.5 and Figure 2.6) suggests the site was likely vacant. The Royal Hotel, a presence since at least 1840, is known to have remained on the same allotment on Horton Street well into the twentieth century. As a result, the hotel has been identified by a blue arrow in all plans and photographs as a matter of orientation for the current study site. With this in mind, the 1909 photograph shows the northern end of Hay Street with Horton Street to the left and Murray Street to the right. The approximate western edge of the study site might be within this photograph is dependent on the original width of Murray Street.

It can be suggested that development did not occur directly on the study site until after the subdivision from original Lots 1, 2 and 3 into nine new lots during the late 1930s (Figure 2.7). An aerial photograph dating to 1941 shows the study site still vacant (Figure 2.8). 15 Clarence Street (Lot 1 DP18834) had been developed sometime after 1941 and prior to 1959, most likely with the current structure, as indicated by second aerial photograph (Figure 2.9). A survey of the surrounding area, date unknown, shows a brick and fire cement structure on the site as well as a smaller fibre cement outbuilding in the lot's north east corner. That smaller structure is no longer extant, and the outline of the main structure is different to that presented in the current survey of the 15 Clarence Street (Figure 2.11).

17 and 19 Clarence Street

The early plans (Figure 2.1 - Figure 2.3) detailing the government gardens, Surgeon's Quarters (later Clergyman's House) and Pilot's Quarters (later Sergeant's Quarters), indicate that the area now contained by 17 and 19 Clarence Street (Lot 2 and 3 DP18834), west of 15 Clarence Street, would have formed part of the yard space associated with those early dwellings. No evidence has been found to suggest the presence of any buildings or structures on this part of the study site during the government occupation phase.

As with 15 Clarence Street, there is no evidence to suggest development on either original lots 1, 2 or 3 in Section 2A between 1841 (following the closure of Clergyman's House and government gardens), and the early twentieth century. It can be suggested that development did not occur directly on 17 or 19 Clarence Street until after the subdivision from original lots 1, 2 and 3 into their present formation (current Lots 2 and 3). Direct development of 17 and 19 Clarence Street is believed to date between the 1940s and early 1950s. A split level fibro dwelling was constructed on 17 Clarence Street (Lot 2 DP18834) during its ownership by Alice Winifred Kennards (purchased in 1943). A 1959 aerial photograph (Figure 2.9), shows that 19 Clarence Street was occupied by a square shaped building. This is the same two-storey, fibro and brick building which currently occupies the study site.

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³⁸ Report by Colonial Architect on parsonage houses 13 November 1839, Colonial Secretary from Port Macquarie 1836-1841, 4/2546 (State Records NSW); Bickford, A. (March 2003), p. 28.

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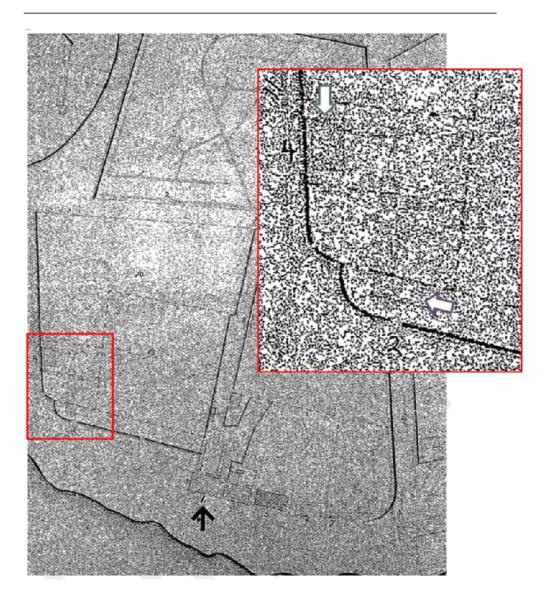
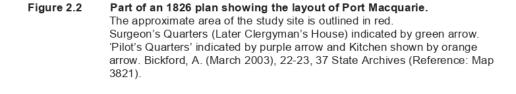


Figure 2.1 Excerpt from the 1824 plan of Port Macquarie. Note map reproduction is very faint, arrows are approximate. Black arrow shows Commandant's House, '1' Green arrow shows Surgeon's Quarters (later Clergyman's House), '4' Purple arrow shows Pilot's Quarters (later Sergeant's Quarters), '2' State Records NSW Map 74 Bickford, A. (March 2003) 35.

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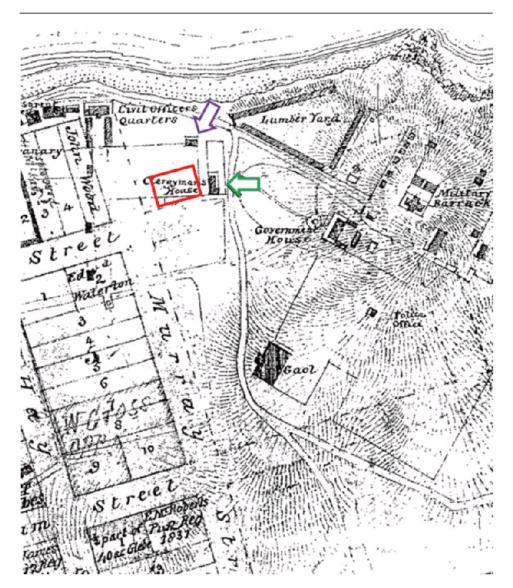
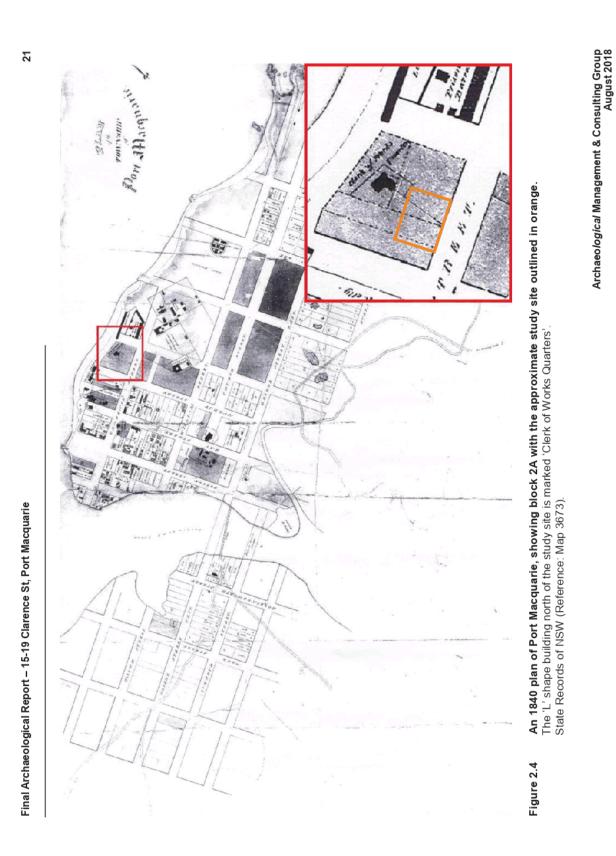


Figure 2.3 A section of an 1831 plan, showing new street alignments and development.

Note that the approximate area of the study site is outlined in red, with the Clergyman's house indicated by the green arrow and 'Pilot's Quarters' indicated by purple arrow. Murray Street is yet to be established. State Records of NSW (Reference: Map 6372).

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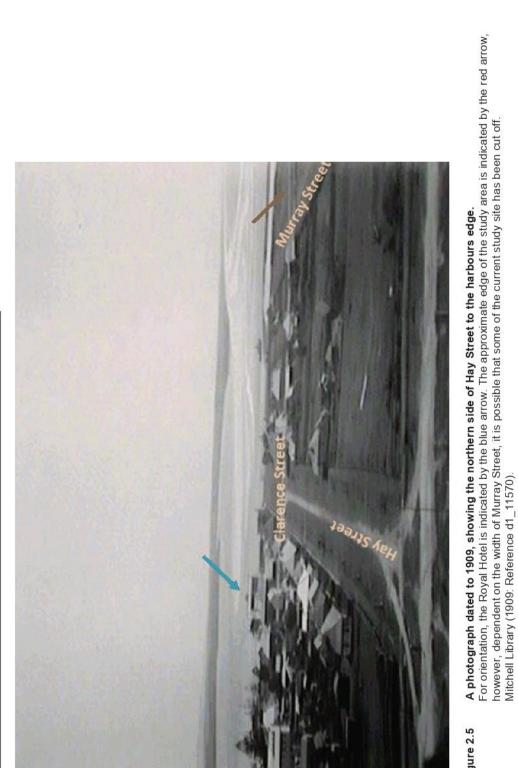


Figure 2.5

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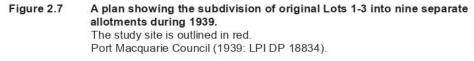
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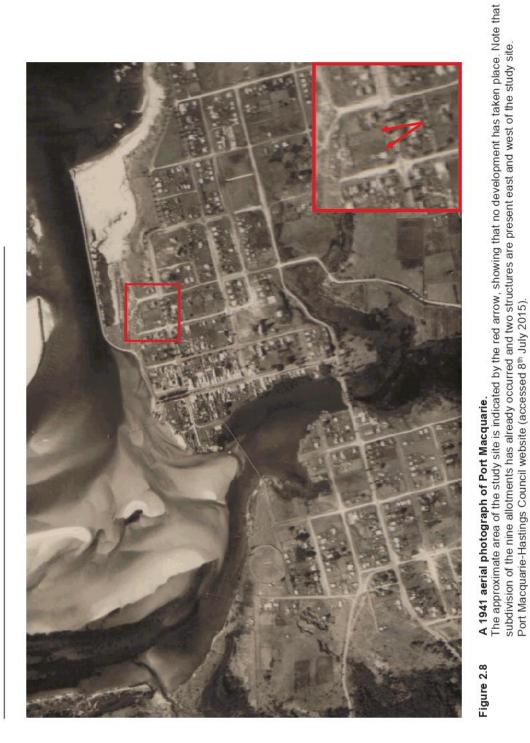




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Figure 2.9 A 1959 aerial photograph of Port Macquarie. Study site indicated by red arrow. Land and Property Information (1959).

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Figure 2.10

Survey plan of structures along Clarence Street, study site shown as Lots 1-3 (outlined in red).

Partly illegible notes on Lot 1 (15 Clarence St): 'Marie(?) (? / Flats (B) (?) F. C.' Which may refer to a name for the structure and then go on to describe it as 'Flats' of brick and fibre cement construction. Note also fibre cement outbuilding in northeast of site. Lot 2 (17 Clarence St): 'Aberdeenshire Holiday Flats FC'. Lot 3 (19 Clarence St): 'FC & Br'. Undated plan included in property information report made in 1972 by Brian Bada Tiannay of Dulburbu and Tiannay the Limited regarding Let 2 DD

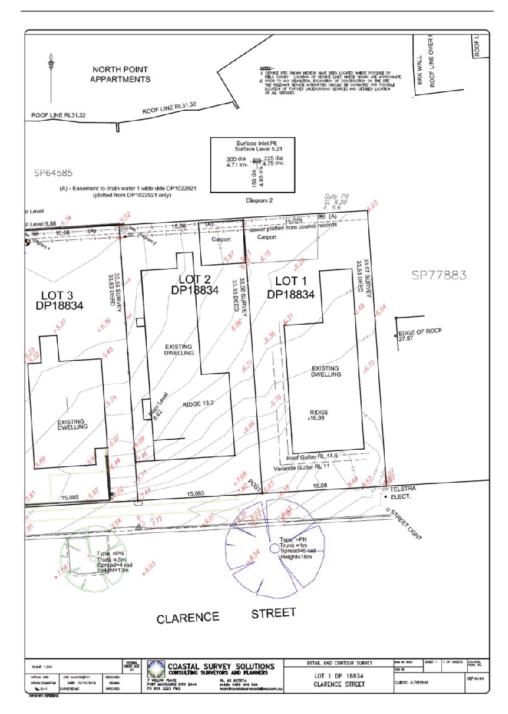
Bede Tierney of Dulhunty and Tierney Pty. Limited regarding Lot 3 DP 18834.

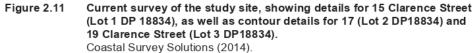
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3.0 ARCHAEOLOGICAL MONITORING

3.1 BACKGROUND

Archaeological monitoring was carried out at 15 -19 Clarence Street, Port Macquarie, on 17 March 2016 with Ivana Vetta of AMAC Group supervising the works. This work was carried out in compliance with Permit 2016/S140/01. Monitoring was confined to 15 Clarence Street (Lot 1 DP18834) as this was the area with the highest archaeological potential as per the Interim Test Excavation Report (November 2015). During this work, the sump identified in the centre of the site during test excavation was further exposed and photographed. No relics were uncovered during any of these works (Figure 3.1).

3.1.1 Archaeological Monitoring Methodology

All buildings were demolished to the level of footings prior to archaeological works commencing on the site. A qualified archaeologist monitored the removal of all topsoil by a mechanical excavator using a mud bucket in the eastern third of the site (Figure 3.1) to identify whether any material remains exist in this portion of the site. The excavation was carried out according to the direction of the archaeologist. In general, machinery used moved backwards in order not to damage any potential archaeological relics. The soil was removed in stratigraphic layers, with no more than one context, such as topsoil, being removed at one time.

No archaeological relics were found during this work.

3.2 GEOLOGY AND SOILS

The study site appears to fall within 'disturbed terrain' of the Soils Landscapes of the Kempsey sheet (1:100 000). Urban development and the site's close proximity to the river foreshore are most likely determining factors in the disturbed nature of the soil profile. Also bordering the site, and possibly present in pockets, is the 'Thrumster' (th) soil profile.³⁹ A short summary has been made to outline the soil profile and its characteristics, which is present over a large portion of the original town settlement of Port Macquarie.

The Thrumster (th) soil profile is located across the Kempsey Low Hills, around the west coast of the Pacific Highway.⁴⁰ The soil hydrology of the Thrumster (th) landscape is slowly permeable, moderately well drained and overall considered to be a quality agricultural soil.⁴¹ The geology of the profile is metamorphic complexes of the Port Macquarie Block and is an erosion hazard. Land use for this soil profile across the wider Port Macquarie area is primarily urbanised, with pockets of private forested land or agricultural land.⁴²

The dominant or expected soil materials/profiles for the Thrumster (th) profile include:⁴³

 th1 – dark reddish brown pedal clay loam (topsoil, A1 horizon). Commonly sandy to light clay, low wet bearing strength, high permeability.

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³⁹ Atkinson (1999), pp. 56-59.

⁴⁰ Atkinson (1999), pp. 56.

⁴¹ Atkinson (1999), pp. 56.

⁴² Atkinson (1999), pp. 56.

⁴³ Atkinson (1999), pp. 57.

- th2 dark reddish brown sub-plastic pedal clay (subsoil, B horizon). Subplastic clay loam, coarse fragments typically absent, low wet bearing, high permeability, low fertility.
- th3 mottled red sub-plastic pedal clay (deep subsoil, C horizon). Dark reddish brown to red sub-plastic clay loam to light clay. Parent material coarse fragments (<20%), low fertility.

Associated soil materials include:

- th4 orange pedal light clay (deep subsoil on steep slopes, C horizon). Orange light clay with moderate smooth-faced peds, Parent material coarse fragments (<20%).
- **th5** gravelly pedal clay (subsoil in drainage plans, C horizon). Pedal grey clay commonly containing chert gravel in angular bands.

Road Net Pty Ltd conducted bore hole testing at the study site in June 2015.⁴⁴ Four boreholes were drilled across the site prior to the buildings being demolished. The report also notes the site's location within the Thrumster soil landscape, describing the profile as:

The dominant soil materials are clays and clay loams, generally dark reddish brown, mottled red or orange pedal clays. Some laterite ironstone can be found within the landscape. Serpentine is also present in the area.⁴⁵

Results from bore hole testing stated the presence of clay of varying colours with some layers described as silty clay, sandy clay and some with gravel inclusions.⁴⁶ Of note is that the soil structure as a whole was described as a silty clay, which is different to the pedal clay in the Thrumster soil landscape.⁴⁷ The colouration of almost all sampled soil layers do not match the general dark reddish-browns of the Thrumster landscape.

3.3 RESULTS OF ARCHAEOLOGICAL MONITORING

3.3.1 15 Clarence Street (Lot 1 DP18834)

The surface of the southern part of the eastern allotment was covered with a mottled dark reddish-brown loamy clay [500] which was approximately 1.4m in depth and appears to have been introduced in the 20th century to build up this part of the site which is significantly below street level (Figure 3.3-Figure 3.4). Some of this fill was displaced during the demolition works and partly overlaid the concrete foundations of the former 1930s apartment block. These foundations [502] (oriented east-west) and [503] (oriented north-south) which were contained by construction trench [505] which cut directly into the natural mid brown loamy clay (A1 horizon) [501]. Fill [500] sat directly above natural A1 horizon [501] except for in the southeast part of this allotment where fill [500] overlay an introduced topsoil [504] which contained some fragments of sandstone and concrete. In this area fill [504] sat directly above the natural [501] (Figure 3.4-Figure 3.8). In the northern part of this allotment, fill [500] sat directly above a natural stiff orange clay [507], natural B horizon. It appears that natural soil [501] was previously removed in this area with this part of the site truncated down to the B horizon.

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⁴⁴ Road Net Pty Ltd (June 2015).

⁴⁵ Road Net Pty Ltd (June 2015), p. 4.

⁴⁶ Road Net Pty Ltd (June 2015), p. 5.

⁴⁷ Road Net Pty Ltd (June 2015), p. 6.

In the east of this area, a rectangular pit cut [508] (2.5x4m) was located butting the neighbouring building. This pit was filled with redeposited B horizon clay [506] and appears to have been the investigative trench excavated to explore the depth of the foundations on the neighbouring property (this work occurred during test excavation). See Figure 3.9.

The northern part of this allotment contained a number of modern service trenches, filled with broken pipes and red brown clay, which cut the natural soils [501] and [507]. This includes service trench [510] with fill [511] (oriented north-south), adjoining service trench [523] with fill [509] (oriented east-west), service trench [512] with fill [513] (oriented northwest-southeast) and adjoining service trench [514] with fill [515] (Figure 3.10-Figure 3.11). The rough location of these features is shown in Figure 3.2.

The driveway along the western side of this allotment was covered with a concrete surface [516]. This surface sat above a mixed yellowish orange sand and clay [517] which was used as bedding for the slab. Below fill [517] was a mottled reddish brown loamy clay fill [518] which was the same as fill [500] which in turn sat above a mottled yellowish grey sand and clay fill [519]. Fill [519] sat above natural A1 topsoil [501] (Figure 3.12-Figure 3.13). A concrete partition [521] separated the driveway for 15 Clarence Street from the driveway for 17 Clarence Street. Below concrete slab [516] on the 17 Clarence Street side of the driveway was an orange-red clay fill [520] which in turn sat above a lens of dark grey clay [522]. Fill [522] sat above natural [501].

Context Number	Туре	Description
500	Fill	Mottled reddish brown loamy clay
501	Natural	Natural A1 horizon – mid grey brown loamy clay
502	Structure	Concrete foundation
503	Structure	Concrete foundation
504	Deposit	Modified topsoil – interface between [500] and [501]
505	Cut	Construction cut for foundations [502] and [503]
506	Fill	Redeposited B1 horizon clay
507	Natural	Natural B1 horizon
508	Cut	Rectangular cut
509	Fill	Fill in cut [508]
510	Cut	Service trench
511	Fill	Fill in cut [510]
512	Cut	Service trench
513	Fill	Fill in cut [512]
514	Cut	Service trench
515	Fill	Fill in cut [514]
516	Structure	Concrete surface of driveway
517	Fill	Yellowish orange sandy clay bedding fill
518	Fill	Mottled reddish brown loamy clay
519	Fill	Mottled yellowish grey sand and clay
520	Fill	Orange-red clay

Table 3.1 Context List (Archaeological Monitoring)

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Context Number	Туре	Description
521	Structure	Concrete barrier wall between 15 and 17 Clarence Street
522	Fill	Lens of dark grey clay
523	Cut	Service trench

3.3.2 Sump in 19 Clarence Street

The sump in 19 Clarence Street was inspected as part of this work. This sump was lined with modern timber planks and was saturated with water. The upper portion of the sump was removed, however, the quantity of water prevented further excavation. This feature was modern and likely associated with the mid-20th century use of the site (Figure 3.14-Figure 3.15).

3.4 INTERPRETATION OF RESULTS

No relics were uncovered during the monitoring of the 15 Clarence Street part of the site. It is noted that natural topsoils still survive in most of this allotment and there was no evidence during any of the excavations, of the 19th century occupation of Port Macquarie. This suggests that this site was not built upon prior to the mid-20th century apartment blocks which once stood here. This is consistent with the historic research. It is suggested that this land may not have been suitable for early construction being apparently low-lying. The modern sump in 19 Clarence Street is testament to the fact that water may have been a problem on the site making it unsuitable for earlier occupation. Based on this, it is clear that the kitchen constructed for the 1820s Clergyman's House was most likely on the neighbouring site, 11-13 Clarence Street.

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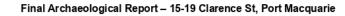
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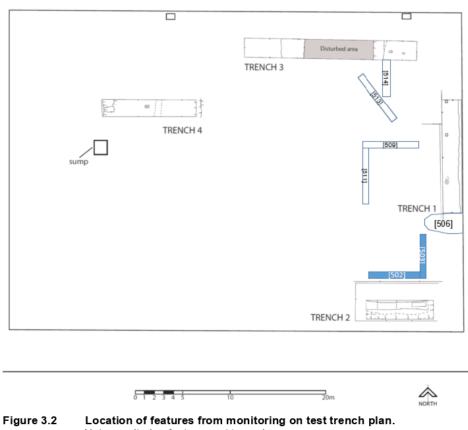


Figure 3.1Location of archaeological monitoring (green) with approximate
location of sump (blue arrow).
Study site is outlined in red. NSW Land and Property Information, Six
Maps Viewer, accessed 24th November 2015.

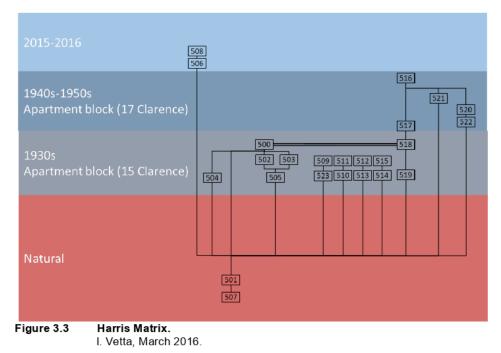
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Note monitoring features not to scale.



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Figure 3.415 Clarence Street prior to excavation, facing south.AMAC Image 2565, 17/03/16.



Figure 3.5 Excavation of fill [500], facing southwest. AMAC Image 2573, 17/03/16.

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Figure 3.6 Exposure of concrete footings [502] and [503] cutting natural [501], facing east. AMAC Image 2652, 17/03/16.



Figure 3.7 Exposure of concrete footings [502] and [503] cutting natural [501], facing south. AMAC Image 2630, 17/03/16.

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Figure 3.8 Exposure of concrete footings [502] and [503] cutting natural [501], facing south. AMAC Image 2603, 17/03/16.



Figure 3.9 Backfilled investigative trench [508], facing north. AMAC Image 2641, 17/03/16.

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Figure 3.10Service trenches in rear yard, facing north.
AMAC Image 2655, 17/03/16.



Figure 3.11 Service trenches in rear yard, facing south. AMAC Image 2663, 17/03/16.

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Figure 3.12 Section below driveway, facing west. AMAC Image 2667, 17/03/16.



Figure 3.13 Excavation of driveway, facing north. AMAC Image 2675, 17/03/16.

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Figure 3.14 Sump, facing south. AMAC Image 2698, 17/03/16.



3.15 Sump, facing west. AMAC Image 2700, 17/03/16.

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4.0 **Response to Research Design**

4.1 INTRODUCTION TO RESEARCH DESIGN

The following is a response to the research design provided in the archaeological assessment and Exception Notification application by AMAC Group⁴⁸ and amended research design in the Interim Test Excavation Report⁴⁹ developed based on the Heritage Council of NSW's Historical Themes in order to guide the methodology for the proposed archaeological excavation of the site. The research design has been set out in accordance to these themes (Table 6.1).

The following responses incorporate both the results of Test Excavation (October 2015) and Archaeological Monitoring (March 2016) and present an amended version of the responses provided in the Interim Test Excavation Report with additional responses to the questions posed in that report.

Australian Theme	NSW Theme	Study Site
 Tracing the natural evolution of Australia 	Environment – naturally evolved	Pre nineteenth century use of the site
 Building settlements, towns and cities 	Towns, suburbs and villages	c.1840s town subdivision of Port Macquarie
 Building settlements, towns and cities 	Utilities	Unknown infrastructure associated with Clergyman's house, and c.1826 kitchen. For example: well, cesspit
 Building settlements, towns and cities 	Accommodation	Mid twentieth century residential dwellings
8. Developing Australia's cultural life	Domestic Life	Use of c.1826 kitchen structure and rear yard space associated with Clergyman's House

Table 4.1 Historical Themes concerning the study site

4.2 REVISED RESEARCH DESIGN

General Questions

These are general questions designed to consider the overall archaeological footprint of the study site. These questions can be considered in isolation or in conjunction with the subsequent chronology specific questions detailed further.

Question	Response
At what level are archaeologically sensitive materials found?	Archaeological works did not reveal evidence for any structures or features relating to the c.1826 kitchen structure or associated with the early nineteenth century government settlement of Port Macquarie. A timber lined pit/sump feature, exposed during demolition of the building at 19 Clarence Street was determined to be a twentieth century feature likely associated with the mid- twentieth century development of the site. The top of the

⁴⁸ AMAC Group (July 2015).

⁴⁹ AMAC Group (November 2015).

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	timber lined sump sat at approximately RL 5.36. Two extant timber posts [111] and [114] within Test Trench 1 sat at RL 6.16 and RL 6.1 respectively, though both formed part of the mid-twentieth century development of the site.
What archaeological evidence is there of the features which are known to have existed on the site?	The initial archaeological assessment (AMAC Group, March 2015; July 2015) indicated the potential for a single, weatherboard kitchen structure constructed in c.1826 for the Clergyman's House. No evidence for this structure was found during archaeological works at the site, though the proposed locations were based on written descriptions to create an interpretive overlay. It is now most likely that this kitchen was located in the neighbouring property (11-13 Clarence Street).
What evidence is there of previously unknown features?	A timber lined sump feature was identified on the western side of the site within the area once contained by 19 Clarence Street. Found by contractors during the demolition of existing structures, the feature was covered and left in situ. Inspection of the feature during test excavation and again during archaeological monitoring determined that the timber lined pit most likely formed a twentieth century sump utilised by the occupants at 19 Clarence Street. A circular cut had been made into the top remaining timber board on the western side for a ceramic service pipe. Only the pipe join remained, no cut visible in the exposed section for a service line therefore suggesting that the line was likely removed from the yard following the sump's disuse. The fill in the top of the sump was typical with the demolition fill seen across all parts of the site, though the base of the sump was not visible. Some internal areas were also waterlogged which further affected inspection of the base. Although a common practice with this type of infrastructure, it could not be determined as to whether the sump had been constructed on top of an existing well or cesspit.
How has the process of development affected earlier remains on the site?	Trenches for modern services have affected parts of the natural soil profile but impacts to archaeological material is nil as none were found. Cut and levelling processes for the mid-twentieth century residential buildings have occurred to the southern front of the site, although this area was found to have been significantly built up with imported fills.
What information can the relics on the site provide? How does this compare to information available from documentary sources?	No relics were identified on the study site during archaeological test excavation or monitoring.

Environment – Naturally Evolved

Question	Response
Is there any evidence	Excavation of Test Trench 2 and archaeological
of the natural flora and	monitoring indicated that the current slope of the study

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topography of the site that was present prior to European presence in Port Macquarie? Do any intact soil profiles remain on the site?	site has been artificially created by the introduction of more than 1.5 metres of imported fill. Evidence for intact soil profiles were identified in all four test trenches, showing a predominantly dark brown-black loamy clay A horizon topsoil ([106], [207], [302], [403]) on top of a yellowish cream B horizon clay ([303], [404]) and during archaeological monitoring ([501]). Archaeological monitoring exposed the compact, clean yellowish-orange B horizon clay [507]. While the study site's location falls within the 'Thrumster' soil landscape or disturbed terrain, the matrix and colouration of the natural soil profile better matches the 'Cairncross' soil landscape, which is a transferral landscape present across pockets of Port Macquarie. The imported fills seen across the southern boundary of the study site are consistent with the Thrumster soil landscape and a stark contrast to the natural soil profiles identified on site. It is also likely that the original topography of the site was considerably flatter than its current state, or if the level of Clarence Street has remained the same, the site sloped up towards Clarence Street though not evident in historical photographs (Figure 2.6). No evidence was found to indicate the natural flora of the site.
Test excavation presented evidence for intact soil profiles across various portions of the site. Is this consistent with the exposed soil profiles removed during bulk excavation?	Archaeological monitoring within 15 Clarence Street confirmed the natural profile uncovered during Test Excavation.
The 'Soil Landscapes of the Kempsey 1:100 000 Sheet' indicates that the study site falls within the 'Thrumster' soil landscape or 'disturbed terrain', though the results of the test excavation suggested that the natural profiles do not correlate to this soil landscape. Can more information be shed regarding the natural soil profile of the study site?	The same soil profile was uncovered during archaeological monitoring as was identified during testing. This soil profile does not conform to the Thrumster soil landscape but more closely resembles the neighbouring Cairncross profile.
Excavation of Test Trench 2 indicated the built up nature of the southern portion of the site, altering the natural	No further data was obtained during archaeological monitoring to clarify this question.

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topography of the site. Can any information be found to suggest that the original level of Clarence Street is the same as its present level?	
Is the level of Clarence Street the only catalyst for altering the natural topography of the study site?	This was not apparent from archaeological monitoring.

Building settlements, towns and cities: Towns, suburbs and Villages, Utilities and Accommodation

Clergyman's House and Government Gardens: c.1820s - c.1840

The study site forms part of an area originally designated as government gardens and furthermore forms part of the rear yard space for the c.1820s Clergyman's House and Pilot's Quarter's. No out buildings or subsidiary structures for either of these main dwellings are indicated among the early maps and plans, however, based on written evidence a detached c.1826 kitchen constructed for the Clergyman's House was anticipated to be within the southeast portion of the study site. However, no evidence of this structure was uncovered.

Question	Response
Does any physical evidence exist to indicate the presence of the c.1826 kitchen structure on the study site?	No evidence for the c.1826 kitchen structure, nor any material associated with the Clergyman's House was identified during archaeological test excavation or archaeological monitoring. As the natural A horizon topsoil is present across this area unmodified, it is proposed that this kitchen was not located on the study site, rather was more likely in the neighbouring allotment.
If present, what building materials have been used for the construction of the kitchen structure?	No evidence for the kitchen structure was identified during archaeological test excavation or monitoring.
Does the location of the kitchen structure correlate to either position offered by the interpretive overlay (Figure 3.21 in AMAC Group, July 2015)?	No evidence for the kitchen structure was identified during archaeological test excavation or monitoring.
A repairs specification made by Alexander Thomson, Clerk of Works in March 1833, outlines the request for a "covered way" to be constructed between the rear of the Clergyman's House and the kitchen. Does any	No nineteenth century structural or occupational evidence was identified during archaeological test excavation or monitoring. This suggests that this site was not occupied during the 19 th century.

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evidence exist for this structure?No nineteenth century structural or occupational evidence was identified during archaeological te excavation or monitoring. This suggests that the site was not occupied during the 19th century.Thomson also requests the construction of a weatherboard building "30 feet by 14 feet with a skilling roof" on the site containing the Clergyman's House, although no location has been anneified for thisNo nineteenth century structural or occupational evidence was identified during archaeological te excavation or monitoring. This suggests that the site was not occupied during the 19th century.
construction of a weatherboard building "30 feet by 14 feet with a skilling roof" on the site containing the Clergyman's House, although no location has
been specified for this structure. Does any evidence exist pertaining to this structure? Can any comment be made as to its function?
Is there any evidence for associated infrastructure such as wells, drainage lines, privies or out buildings? A channel cut [208] running east-west through Test Trench 2 may have formed an agricultural drain. Cut into the natural soil profile below the introduced fills used to level the southern fronta with the level of Clarence Street, there is no definitive evidence to indicate when the feature was cut. If the channel is in fact an agricultural drain, it is possible that the feature could have been made during the government gardens occupation phase. At the same time, while the site was undeveloped, neighbours may have been utilising the property as agricultural land. artefacts were seen within the fill [209] for the channel cut [208] as an aid for dating. No other evidence for outbuildings or associated infrastructure were found during archaeological test excavation or monitoring.
Does any archaeological evidence exist to suggest use of the site by the nearby Pilot's Station or later Sergeant's Quarters?
Test Trench 1 and 2 presented no evidence for the c.1826 kitchen structure. Has any evidence been found to indicate its location (cuts, fills etc.)? No further evidence was found during archaeological monitoring. The intact natural so profiles in 15 Clarence Street suggests that if the area was once part of the c.1826 kitchen, there should have been evidence in the soil profile. It therefore concluded that the kitchen was never constructed within the study site but was more likely located on the neighbouring property.
A channel cut [208] for a possible agricultural drain was found within Test Trench 2. Does this cut continue west? Can any more information be found to indicate its function?
A large fragment of a possible convict brick was found pressed into theNo evidence was found during the archaeologic monitoring of this area to suggest that the site was ever occupied during the 19 th century.

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natural topsoil layer in Test
Trench 3 (east side) as well
as a single posthole. Does
any other evidence exist in
the northeast corner of the
site to suggest use of the site
during the 19 th century?

Original subdivision of Port Macquarie and private ownership: c.1840 - c.1936

Following the overall decline in government presence in Port Macquarie, demolition and removal of the Clergyman's House and government gardens, the site was subdivided and advertised for private sale. The study site forms part of three original allotments (1-3 in Section 2A), of which no development phases are known to have occurred during the nineteenth and early twentieth centuries.

Question	Response
Does evidence for nineteenth or early twentieth century activities predating the present structures exist, and if so what is the date, nature and significance of the evidence?	No evidence for nineteenth or early twentieth century activities predating the present structures were identified during archaeological test excavation or monitoring. A channel cut [208] possibly forming an agricultural drain was identified within Test Trench 2 (see above response), however, it is not possible to apply an absolute date to this feature. Historical photographs dating to the early twentieth century imply that the land was being used as agricultural paddocks by neighbouring properties.

Re-subdivision and development of the study site: c.1936 - present

The re-subdivision of the wider study site into its present formation (Lots 1-3 DP18834) saw the construction of apartment buildings on each lot during the mid-twentieth century.

Question	Response
Site inspection indicates that cut and levelling processes during construction have occurred in particular for the dwellings fronting 17 and 19 Clarence Street. To what extent has this process affected any earlier remains?	Excavation of Test Trench 2 and archaeological monitoring indicated that the southern frontage of the study site has been significantly built up with imported fills prior to the cut and levelling processes which were visible across 15-19 Clarence Street during site inspection. More than 1.5 metres of imported fill ([203], [204], [205], [206]) was visible in profile across the south section of Test Trench 2 (also identified during monitoring). The general matrix of the fills was consistent with the Thrumster soil landscape (reddish- brown loamy clay) therefore certainly not forming redeposited natural from the study site, but rather likely imported from a nearby source. The initial observation from site inspection that the building at 15 Clarence Street mostly respects the natural slope of the land is incorrect as the slope itself is artificial. While no structural remains predating the mid- twentieth century development were identified during test excavation, it can be suggested that the amount

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	of imported fill along the southern front of the site would preserve any early remains rather than disturb them. The fact that no remains were found during archaeological monitoring of this area suggests that the site remained unoccupied during the 19 th century and early 20 th century.
Have modern services for the present dwellings affected any earlier remains?	Modern services were found within three of the four test trenches and along the north of the monitoring area. This included cuts for service trenches covered with rubble as fill (Test Trench 3 and 4), as well as ceramic service pipes sitting beneath modern concrete slabs (Test Trench 1) and services cut into the natural profile (service trenches [510], [523], [512] and [514] observed during archaeological monitoring). The ceramic pipe partially truncated the cuts for two wooden posts [111] and [114] in Test Trench 1, however, these posts were also of twentieth century construction. The modern services were predominantly orientated north-south, heading towards the main connection line along the northern boundary of the site. As no earlier remains were found on site, these services have not impacted earlier remains.
What is the depth of the timber sump? Has it been constructed on top of existing infrastructure (for example, a well or cesspit)?	The full depth of the sump was not able to be ascertained during monitoring due to the high water level within the feature. It is suggested that this sump was constructed to manage the water drainage issues on the site.
Trenches 1, 3 and 4 were disturbed by modern services, in particular across the northern half of the site. Has the southern half of the site been affected to the same extent?	More services were uncovered during archaeological monitoring, however, these were mostly contained within the northern part of the site.

Developing Australia's cultural life – Domestic Life

Question	Response	
Are there any features such as rubbish pits or artefact scatters present on the study site which may relate to the use of the c. 1826 kitchen structure?	No occupation material, deposits or artefact scatters were found during test excavation or archaeological monitoring dating to the early nineteenth century government occupation phase. No evidence for the c.1826 kitchen structure, or any other early structure, was identified during archaeological investigation. Interpretation of this evidence suggests that the site was not occupied during this period and that the kitchen was in fact located on the neighbouring property 11-13 Clarence Street.	
The kitchen in Thomson's 1833 repairs request is described as needing "to	No evidence of the kitchen structure was found during test excavation or archaeological monitoring.	

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be re-laid with bricks or tiles". Does evidence for two phases of flooring exist? And if so, has this affected the collation of occupation deposits?	
Does any archaeological material in the form of rubbish pits or artefacts exist and can be specifically attributed to either the Clergyman's House, Pilot's Quarter's or Sergeant's Quarters?	No archaeological material relating to the Clergyman's House, Pilot's Quarter's or Sergeant's Quarters was found during test excavation or archaeological monitoring.
Does any occupation material or underfloor deposits exist within the footprint of the c.1826 kitchen structure?	No evidence of the kitchen structure was found during test excavation or archaeological monitoring.
Does any evidence exist to provide specific information demonstrating occupation and use of the study site in relation to the government gardens?	Part of an agricultural drain running east-west was discovered in Trench 2, however, it could not be conclusively linked to the government occupation of the study site. It may also relate to the early twentieth century use of the site by neighbouring properties. No further evidence was identified during archaeological monitoring
Does any occupation material, artefact scatters or rubbish pits exist at the study site?	No such evidence was uncovered during archaeological monitoring.
Based on the lack of early archaeological material found during test excavation, does any material evidence exist to suggest direct occupation of the study site during the nineteenth century?	No evidence has been uncovered during any of the archaeological works at the site to suggest the 19 th century occupation of the site. It is proposed that this was most likely low lying land, unsuitable for construction and possibly prone to inundation and it is for this reason that the site remained undeveloped until the middle of the 20 th century.

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5.0 REVISED ASSESSMENT OF SIGNIFICANCE

5.1 METHODOLOGY

The current standard for assessment of significance of heritage items in NSW is the publication 'Assessing Significance for Historical Archaeological Sites and 'Relics'' produced by the Heritage Branch of the NSW Department of Planning (December 2009). This production is an update to the NSW Heritage Manual (1996), and the criteria detailed therein are a revised version of those of the Australia ICOMOS Burra Charter, formulated in 1979, which was based largely on the Venice Charter (for International Heritage) of 1966.

Archaeological heritage significance can also be viewed in light of the framework set out by Bickford and Sullivan in 1984.⁵⁰ Bickford and Sullivan, taking into consideration the "archaeological, scientific or research significance" of a site posed three questions in order to identify significance:

- 1. Can the site contribute knowledge which no other resource can?
- 2. Can the site contribute knowledge which no other site can?
- Is this knowledge relevant to general questions about human history or other substantive problems relating to Australian history, or does it contribute to other major research questions?⁵¹

These questions have been broadly used to shape the response to the heritage significance criteria as described in Sections 5.2 and 5.3.

The criteria and the definitions provided by 'Assessing Significance for Historical Archaeological Sites and 'Relics'' have been adhered to in assessing the cultural significance of the potential archaeological site at 15-19 Clarence Street, Port Macquarie. An assessment of significance, under each of the criteria, is made possible by an analysis of the broad body of archaeological sites previously excavated both locally and elsewhere, in conjunction with the historical overview of the study site in particular.

The Criteria used to assess Heritage Significance in NSW are the following:

Table 5.1 Criteria for Assessing Heritage in NSW

Criterion	Description	Significance
Criterion A	An item is important in the course, or pattem, of NSW's or the local area's cultural or natural history	State significant or locally significant
Criterion B	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's or a local area's cultural or natural history	State significant or locally significant
Criterion C	An item is important in demonstrating aesthetic characteristics and/or a high	State significant or locally significant

⁵⁰ Bickford and Sullivan (1984).

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⁵¹ Bickford and Sullivan (1984), p.23-4.

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	degree of creative or technical achievement in NSW or the local area	
Criterion D	An item has strong or special association with a particular community or cultural group in NSW or a local area for social, cultural or spiritual reasons	State significant or locally significant
Criterion E	An item has potential to yield information that will contribute to an understanding of NSW's or a local area's cultural or natural history	State significant or locally significant
Criterion F	An item possesses uncommon, rare or endangered aspects of NSW's or a local area's cultural or natural history	State significant or locally significant
Criterion G	An item is important in demonstrating the principal characteristics of a class of NSW's or a local area's - cultural or natural places; or	State significant or locally significant
	 cultural or natural environments 	

The following assessment deals only with sub-surface archaeological features and deposits. The built environment is not considered in this study.

5.2 IDENTIFICATION OF SIGNIFICANCE

Archaeological Research Potential (NSW Heritage Criterion E)

The study site is located within the earliest developed part of the town of Port Macquarie. The site is within close proximity to three c. 1820s residences: the c. 1824 Surgeon's Quarters (later Clergyman's House) to the west its c. 1826 kitchen, which may be within the study site, and the c. 1824 Pilot's Quarters (later Sergeant's Quarters) to the north. In addition to the kitchen structure, the study site was close enough to the Clergyman's House and Sergeant's Quarters to have formed a part of their immediate curtilage from approximately the 1820s to the 1850s. Based on this historical data, it was anticipated that the study site would contain the mixed remains of two phases of domestic occupation; the first related to the Surgeon's Quarters/Clergyman's House and kitchen (c.1824 to c.1840) and the second related to the Sergeant's Quarters (c.1840 to 1850s) once the Clergyman's House and kitchen was demolished.

However, test excavation and archaeological monitoring have found no evidence of the 19th century occupation of this area. The intact natural soil profiles within the study site, without evidence of 19th century occupation, suggests that the site remained vacant throughout the early township of Port Macquarie and remained unoccupied until the early to mid 20th century. Therefore, the c.1826 kitchen associated with the Clergyman's House must have been constructed on the neighbouring allotment and not within the study site.

Based on the results of archaeological test excavation and monitoring, the study site was found to have no archaeological research potential and therefore is not considered significant according to this criterion.

Associations with individuals, events or groups of historical importance (NSW Heritage Criteria A, B and D)

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In terms of Criterion D, the study site is not widely recognised nor does it have symbolic value or belong to a community of interest which values the site specifically, therefore is not considered significant according to that criterion.

Criterion B is relevant to an appreciation of the site's significance as it is associated with the occupation of Reverend John Cross and his family between c.1827 to c.1837. The site is considered potentially locally significant for this association. Test excavation and archaeological monitoring did not reveal any material evidence for this early occupation period, nor specifically associated with Reverend John Cross.

Aesthetic or technical significance (NSW Heritage Criterion C)

The study site is not considered significant according to this criterion.

Ability to demonstrate the past through archaeological remains (NSW Heritage Criteria A, C, F & G)

Historical research demonstrates a period of occupation on and immediately surrounding the study site between c.1824 and the 1850s, however, no evidence of this period was identified from the archaeological works at the site. It is suggested that the site was largely unoccupied during the 19th century and therefore no archaeological remains exist within the site to attribute significance according to Criteria A, C, F and G.

5.3 STATEMENT OF CULTURAL SIGNIFICANCE

The study site was initially assessed as having potential to hold a state level of cultural heritage significance for its association with the earliest phase of settlement and development at Port Macquarie during the 1820s, however, no evidence was found during archaeological testing or monitoring of this phase of occupation. The presence of intact natural soil profiles within the site suggests that the site was not disturbed or truncated, indicating that archaeological remains and deposits were never created within the study site. The archaeological evidence suggests that the study site is situated on low lying land, most likely prone to inundation, and therefore was not suitable for early development. In this way, no evidence was found of the c. 1826 kitchen associated with the Clergyman's House and it is suggested that the building must have been located on the neighbouring property. As there is no potential for archaeological evidence on the site predating the construction of the 1930s and 1940s apartment blocks, the site is assessed as having no significant archaeological remains. In this way, the study site is not considered culturally significant in terms of archaeological remains.

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6.0 RESULTS AND RECOMMENDATIONS

6.1 RESULTS

No relics were uncovered during archaeological monitoring of the eastern portion of the site, 15 Clarence Street, and these results confirm the analysis of data collected during Test Excavation. Only the concrete foundations of the previous 1930s apartment block were uncovered as well as a series of 20th century services. These features were all cut into the natural topsoil. It is clear that the natural soil profile remains intact on the site and has not been truncated by later development. This assertion is consistent with the conclusion that the site remained undeveloped and unoccupied during the 19th century. No evidence was found of the kitchen associated with the c.1826 Clergyman's House and it is suggested that this building must have been contained by the neighbouring allotment. For this reason, the archaeological potential for the site is reassessed as nil.

6.2 **RECOMMENDATIONS**

As no archaeological relics have been identified on the site and it has been determined that it is unlikely that the site was occupied at all prior to the 1930s, no further archaeological works are recommended for the site.

It is recommended that this current report be submitted to the Heritage Division in fulfilment of Conditions 17 and 18 of Permit 2016/S140/01.

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8.0 APPENDICES

8.1 HERITAGE DIVISION EXCAVATION PERMIT 2016/S140/01

NGO	Heritage Council	3 Marist Place Parramatta NSW 2150 Locked Bag 5020 Parramatta NSW 2124 DX 8225 PARRAMATTA	Telephone: 61 2 9873 8500 Facsimile: 61 2 9873 8599 heritage@heritage.nsw.gov.au www.heritage.nsw.gov.au		
		File: EF14/2 Our ref: DOC15	1684 /528598		
Man Barr 10/6	Blake Cannavo aging Director Iford Engineering & Consulting Pty Ltd -14 Clarence Street IT MACQUARIE NSW 2444				
Dea	r Mr Cannavo				
	Excavation Permit – S140 for monitoring and salva rence Street, Port Macquarie.	age of locally sig	nificant relics at 15-19		
	erence is made to your application under Section 14 ertake archaeological work at the above property (Applic				
pern cond that	er delegated authority approval is given for the S140 ap nit. Please note this permit is subject to the conditions ditions by the Applicant and Excavation Director is a rec as the Applicant, this Approval (and the fulfilment of all the Land which is the subject of the works.	s attached. Accept uirement of this pe	tance of these statutory ermit. It should be noted		
You are reminded that it is a condition of this permit that the Applicant is responsible for the safe keeping of artefacts recovered from this site. You are required to nominate a repository for archaeologically excavated material, as well as referencing the final location in the excavation report as per section 146(b) of the Act. This is to enable a record to be kept of the location of all archaeologically excavated material.					
It should be noted that an approval for an archaeological permit under the Act covers only those archaeological works described in the application. Any additional archaeological investigations will require a further approval. It should also be noted that an approval for an archaeological permit under the Act is additional to those which may be required from other local, State or Commonwealth Government authorities. Inquiries about any other approvals needed should, in the first instance, be directed to the local council, State and Commonwealth Government where appropriate.					
You	are also requested to provide the following information:				
(1)	The estimated total cost of the archaeological investigation including GST;	ations (both in the f	ield and laboratory),		
(2)	The estimated total cost of the development/redevelop	ment, including GS	ST;		
(3)	Whether this project creates new long term jobs (for exfacility);	ample through pro	viding a new service or		
(4)	If this project creates new long term jobs, how many? a	and			
(5)	How many construction and professional workers will be the project?	e engaged on this	project during the life of		

This information will help the Heritage Council of NSW determine the economic role of heritage in development in NSW and should be submitted to the Director of the Heritage Division within one (1) month of the completion of the field excavation programme. This information should be updated at the

Final Archaeological Report – 15-19 Clarence St, Port Macquarie

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end of the project and updated figures should be submitted with the Final Excavation Report to the Heritage Council for approval within one (1) year of the completion of the field excavation programme.

This permit, issued by the Heritage Council of NSW, does not give approval to harm Aboriginal objects. Aboriginal objects and Aboriginal places in NSW are protected under the *National Parks* and *Wildlife Act* 1974 (NPW Act). It is an offence to do any of the following without an exemption or defence (penalties apply):

- knowingly harm or desecrate an Aboriginal object (the 'knowing' offence)
- harm or desecrate an Aboriginal object or Aboriginal place (the 'strict liability' offence)

The NPW Act provides a number of exemptions and defences to these offences and also excludes certain acts and omissions from the definition of harm. For more information about the regulation of Aboriginal cultural heritage, go to the OEH website: http://www.environment.nsw.gov.au/licences/achregulation.htm

This permit is issued to the applicant on the condition that the nominated Excavation Director is present at the site supervising all archaeological fieldwork activity likely to expose significant relics. Permits are not transferable without the written consent of the Heritage Council of New South Wales. Your attention is drawn to the right of appeal against these conditions in accordance with section 142 of the *Heritage Act,* 1977.

Inquiries on this matter may be directed to Katrina Stankowski on 9873 8569 or via email at Katrina.Stankowski@environment.nsw.gov.au.

Yours sincerely

Rajeev Maini A/Manager Conservation Heritage Division Office of Environment and Heritage As Delegate of the Heritage Council of NSW

DATE: 15 January 2016

CC

Enclosure: Approval Conditions for S140 Permit

The Chief Executive Officer, Port Macquarie-Hastings Council, PO Box 84, Port Macquarie NSW 2444 Martin Carney & Ivana Vetta, AMAC Archaeological, 122C Percival Road, Stanmore, NSW, 2048.

> Archaeological Management & Consulting Group August 2018

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	15-19 Clarence Street, Port Macquarie Conditions of Approval 2016/S140/01
1	
Арр і 01.	All works shall be in accordance with the approved research design and methodology outlined in 'Interim Archaeological Test Excavation Report: Permit Application S140 Heritage Act NSW – 1977 – Research Design & Excavation Methodology: 15-19 Clarence Street, Port Macquarie' by AMAC Archaeological, dated November 2015,
exce	pt as amended by the following conditions:
02.	This permit covers the removal of locally significant archaeology, only.
03.	This archaeological approval is valid for five (5) years from the date of approval. Requests for extensions beyond this time must be made in writing prior to expiry of the permit.
Field	work
04.	The Heritage Council of NSW or its delegate must be informed of the commencement and completion of the archaeological program at least 5 days prior to the commencement and within 5 days of the completion of work on site. The Heritage Council and staff of the Heritage Division, Office of Environment & Heritage authorised under section 148(1) of the <i>Heritage Act</i> , 1977, reserve the right to inspect the site and records at all times and to access any relics recovered from the site.
05.	The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics not identified in 'Interim Archaeological Test Excavation Report: Permit Application S140 Heritage Act NSW – 1977 – Research Design & Excavation Methodology: 15-19 Clarence Street, Port Macquarie' by AMAC Archaeological, dated November 2015, are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
06.	Should any Aboriginal objects be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage (Enviroline 131 555) is to be notified in accordance with Section 89A of the <i>National Parks and Wildlife Act, 1974</i> (NPW Act). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by the Office of Environment & Heritage.
07.	The Heritage Council of NSW must approve any substantial deviations from the approved research design outlined in 'Interim Archaeological Test Excavation Report: Permit Application S140 Heritage Act NSW – 1977 – Research Design & Excavation Methodology: 15-19 Clarence Street, Port Macquarie' by AMAC Archaeological, dated November 2015, including extent and techniques of excavations, as an application for the variation or revocation of a permit under section 144 of the <i>Heritage Act</i> , 1977.
08.	The Applicant must ensure that the approved Primary and Secondary Excavation Directors nominated in the section 140 application 2016/S140/01, Martin Carney and Ivana Vetta, are present at the site supervising all archaeological fieldwork activity likely to expose significant relics.
09.	The Applicant must ensure that the approved Primary and Secondary Excavation Directors nominated in the section 140 application 2016/S140/01, Martin Carney and Ivana Vetta, take adequate steps to record in detail relics, structures and features discovered on the site during the archaeological works in accordance with current best practice. This work must be undertaken in accordance with relevant Heritage Council guidelines.
10.	The Applicant must ensure that the nominated Excavation Director briefs all personnel involved in the project about the requirements of the NSW <i>Heritage Act, 1977</i> in relation to the proposed archaeological program. This briefing should be undertaken prior to the commencement of on-site excavation works.
11.	The Applicant must ensure that the nominated Excavation Director and the excavation team is given adequate resources to allow full and detailed recording to be undertaken to the satisfaction of the Heritage Council.

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Final Archaeological Report – 15-19 Clarence St, Port Macquarie

The Applicant must ensure that the site under archaeological investigation is made secure and that 12 the unexcavated artefacts, structures and features are not subject to deterioration, damage, destruction or theft during fieldwork.

The Applicant is responsible for the safe-keeping of all relics recovered from the site. 13.

Analysis and Reporting

- The Applicant must ensure that the approved Primary Excavation Director or an appropriate specialist, 14 cleans, stabilises, labels, analyses, catalogues and stores any artefacts recovered from the site in a way that allows them to be retrieved according to both type and provenance.
- The Applicant must ensure that a summary of the results of the field work, up to 500 words in length, 15. prepared by the approved Primary and Secondary Excavation Directors nominated in the section 140 application 2016/S140/01, Martin Carney and Ivana Vetta, are submitted to the Heritage Council of NSW for approval within one (1) month of completion of archaeological field work. This information is required in accordance with section 146(b) of the Heritage Act, 1977
- The Applicant must ensure that a final excavation report is written by the approved Primary and Secondary Excavation Directors nominated in the section 140 application 2016/S140/01, Martin Carney and Ivana Vetta, to publication standard, within one (1) year of the completion of the field 16. based archaeological activity unless an extension of time or other variation is approved by the Heritage Council of NSW in accordance with section 144 of the Heritage Act, 1977.
- The Applicant must ensure that one (1) electronic copy of the final excavation report is submitted on 17 CD to the Heritage Council of NSW together with two (2) printed copies of the final excavation report. These reports are required in accordance with section 146(b) of the Heritage Act, 1977. The Applicant must also ensure that further copies are lodged with the local library and/or another appropriate local repository in the area in which the site is located. It is also required that all digital resources (including reports, context and artefact data, scanned field notes, other datasets and documentation) should be lodged with a sustainable, online and open-access repository.
- The Applicant must ensure that the information presented in a final excavation report includes the 18. following:
 - An executive summary of the archaeological programme; a/.
 - Due credit to the client paying for the excavation, on the title page; b/
 - An accurate site location and site plan (with scale and north arrow) and including geo-reference c/ data:
 - d/.
 - Historical research, references, and bibliography; Detailed information on the excavation including the aim, the context for the excavation, procedures, treatment of artefacts (cleaning, conserving, sorting, cataloguing, labelling, scale e/. photographs and/or drawings, location of repository) and analysis of the information retrieved;
 - Nominated repository for the items; f/.
 - Detailed response to research questions (at minimum those stated in the Heritage Council g/ approved Research Design); Conclusions from the archaeological programme. This information must include a
 - h/ reassessment of the site's heritage significance; statement(s) on how archaeological investigations at this site have contributed to the community's understanding of the early Port Macquarie housing sites; recommendations for the future management of the site and how much of the site remains undisturbed;
 - Details of how this information about this excavation has been publicly disseminated (for i/ example, provide details about Public Open Days and include copies of press releases, public brochures and information signs produced to explain the archaeological significance of the site).

Compliance

19

Officers of the Office of Environment and Heritage, Heritage Division are to be permitted entry to the site at any time as a condition of this approval

Officers of the Office of Environment and Heritage, Heritage Division may photograph, take samples 20 or request records in relation to any aspects of the approved activity.

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8 Traffic Impact Assessment

Proposed Mixed Use - Motel and Commercial At 15, 17 & 19 Clarence Street, Port Macquarie On behalf of Bamford Engineering and Consulting Pty Ltd



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About TTM

For 30 years, we've been at the centre of the Australian development and infrastructure industry. Our unique combination of acoustics, data, traffic and waste services is fundamental to the success of any architectural or development project.

We have over 50 staff, with an unrivalled depth of experience. Our industry knowledge, technical expertise and commercial insight allow us to deliver an exceptional and reliable service.

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Revision Record

No.	Author	Reviewed/Approved	Description	Date
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2.	B. Baker	R. Jones	TIA Report	09/08/18
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4.				
5.				

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1 Introduction

1.1 Background

TTM Consulting has been engaged by Bamford Engineering and Consulting Pty Ltd to prepare a traffic engineering report investigating a proposed motel development.

1.2 Scope

This report investigates the transport aspects associated with the proposed development. The scope of the transport aspects investigated includes:

- Parking supply required to cater for development demand
- Parking layout to provide efficient and safe internal manoeuvring
- Identification of likely traffic volumes and traffic distribution from the future development
- Qualitatively discuss the likely traffic impact of development on the public road network
- Access configuration to provide efficient and safe manoeuvring between the site and the public road network
- Internal road layout to provide efficient and safe internal manoeuvring for service vehicles
- Suitability of access and internal facilities to provide for pedestrian and cyclist operation
- Access to suitable level of public transport

To assess the proposed transport arrangements, the development plans have been assessed against the following guidelines and planning documents:

- Port Macquarie-Hastings Local Environmental Plan 2011
- Port Macquarie-Hastings Development Control Plan, specifically:
 - Transport, Traffic Management, Access and Car Parking
- Australian Standard 2890
- Austroads guidelines
- Building Code of Australia

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Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



1.3 Site Location

The site is located at 15, 17 & 19 Clarence Street, Port Macquarie NSW 2444, near the intersection of Clarence Street and Murray Street, as shown in Figure 1.1. The property description is Lot 123 on RP1219042. The site has road frontage to Clarence Street. The site used to be occupied by 3 detached dwellings. It is understood that the former detached dwellings have been demolished and flattening earthworks has been undertaken. Access to the site is currently via a 6.5m wide crossover from Clarence Street. It is understood that access to the site was formerly provided via a residential dwelling driveway and a shared driveway.

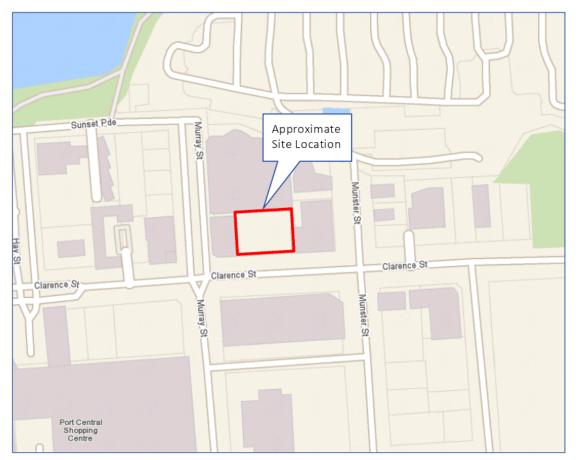


Figure 1.1: Site location

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



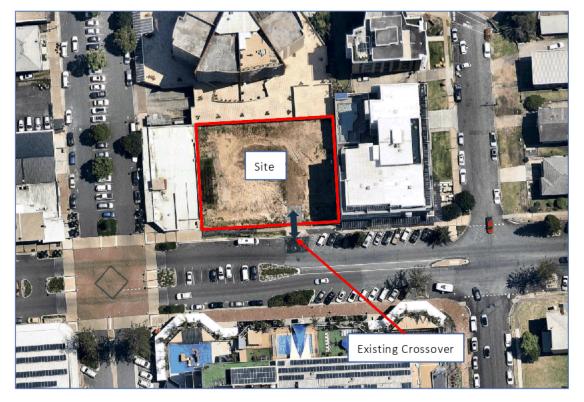


Figure 1.2: Site area

1.4 Development Profile

The proposed land uses for this development are summarised in Table 1.1.

Table 1.1: Proposed land uses

Use	Area/Qty
Tenancy 1 – Commercial	
- Tenancy	141.6 m ²
– Toilets	10.8 m ²
 External Terrace 	53.7 m²
Tenancy 2 – Motel	
– Rooms	47 Units
 Administration 	201.4 m ²
 Service Areas 	63.8 m²
 Gym, BBQ, Amenities 	246.7 m ²

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



1.5 Access

The development plan includes the following access arrangements:

- Clarence Street Access located at the southern side of the subject site. The characteristics of this access include:
 - Category 2 driveway access
 - 6.0m wide at the property boundary
 - Priority control
 - All turns permitted

1.6 Parking

The development proposal includes the following car parking supply:

- 64 car parking spaces, which are located in the basement levels and on the ground level including:
 - 1 PWD bay and associated shared bay
 - 11 staff parking bays
 - 2 pairs of tandem bays
 - 48 general parking bays
- 2 vehicular drop-off / check-in bays

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



2 Existing Transport Infrastructure

2.1 The Road Network

The majority of roads in the immediate vicinity of the site are administered by the Port Macquarie-Hasting Council. The hierarchy and characteristics of roads in the vicinity of the site are shown in Table 2.1.

Table 2.1: Local Road Hierarchy

Road	Speed Limit	Lanes	Classification	Road Authority
Clarence Street	50kph	2 (divided, plus on-street parking)	Local Road	Council
Murray Street	50kph	2 (undivided plus on-street parking)	Local Road	Council
Munster Street	50kph	2 (undivided plus on-street)	Local Road	Council

Clarence Street has a 22.7m wide carriageway at the site frontage. The intersection of Clarence Street and Murray Street is a priority controlled 4-way intersection.

2.2 Road Planning

Council / RMS did not specify any other works in the vicinity of the site which will impact upon or be impacted by the proposed development.

A standard condition of approval will be the construction/repair and reinstatement of pedestrian footpaths across the frontage of the site subsequent to construction activity on the site.

2.3 Public Transport and Pedestrian Facilities

Buses

There is a bus stop located on Munster Street, approximately 350m to the south of the site. The bus stop provides regular services to the surrounding residential areas, shopping centres and town centre. The bus stop services the 324, 327, 329, 334 and 334K bus routes. These bus routes are operated by Transport NSW.

There is also a bus stop located on Hayward Street, approximately 850m walking distance from the site. This bus stop provided regular services to the Port Macquarie Airport (along the 340 and 341 routes). It also provides connection to the Munster Street stop discussed above, as it services the 5 bus services outlined above.

Pedestrians

Formal pedestrian footpaths are located on both sides of Clarence Street.

Cyclists

There are no dedicated on-street cyclist facilities.

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



2.4 On-Street Parking

Clarence Street and the site is located within the Port Macquarie Community Core Zone. On-street parking along the site frontage is limited to two hours between Monday to Friday, 8:30am to 6pm and between 8:30am to 12:30pm on Saturdays. There are angled and parallel parking on both sides of Clarence Street and a perpendicular parking aisle forms part of the central median on Clarence Street, as shown in Figure 1.2.

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3 Car Parking Arrangements

3.1 Council Parking Supply Requirement

Council's Development Control Plan's (DCP) minimum parking requirements for a Restaurant/Food premises and Serviced Apartment/Motel type developments, are outlined in Table 3.1.

Table 3.1: Parking Supply Requirement

Land Use	Council Requirement	Extent	Requirement	Provision
Tenancy 1 – Commercial – Restaurant / Food Premises	1 per 30m² serviced floor area (in commercial zones)	195.3m²	6.5	
Tenancy 2 – Motel – Serviced Apartment / Motel	1.1 per unit + 1 per 2 employees (on-site at any one time) + 1 for on-site manager	47 units 6 employees On-site manager	51.7 3 1	64 Bays + 2 check-in / drop-off bays
Total			62.2	

The development is proposing to provide 64 parking spaces, which consists of 11 staff bays (for both tenancies), 2 pairs of tandem bays, 1 PWD bay with associated shared bay and 48 general bays.

The total parking provision exceeds the parking requirement outlined within Council's DCP. TTM understands that the allocation of spaces is not strictly in accordance with Council's requirements. However, TTM considers the proposed provision and allocation to be suitable for the development and is discussed below in Section 3.3.4.

TTM consider this to be adequate to service the developments demands as the development is within the Port Macquarie Commercial Centre, which would have high pedestrian traffic and has a large amount of onstreet public parking.

3.2 People with Disability (PWD)

The Building Code of Australia (BCA) outlines the requirements for parking for people with a disability (PWD). The development, with motel/serviced apartment and food tenancy uses, is not required to provide any PWD spaces for motel/services apartment uses and would be required to provide PWD parking spaces at a rate of 1 space per 50 car parking spaces for the food tenancy uses.

It is proposal incorporates 1 PWD space with associated shared space. TTM expects this to be sufficient to cater for the requirements of the proposed development.



3.3 Car Park Layout

Table 3.2 identifies the characteristics of the proposed parking area with respect to the Council requirements. The last column identifies the compliance of each design aspect. Where compliance with Council is not achieved, further information is provided below.

Table 2.1	D	Line D		Description and the
Table 3.	z: Pari	king u	esign	Requirements

Design Aspect	Minimum AS2890.1 Standard	Proposed Provision	Compliance
Parking space length: - General Bay	5.4m 5.4m	5.4m 5.4m	Compliant
 Staff Bay Tandem Bay PWD Bay / Shared Area 	5.4m 10.8m 5.4m	5.4m 10.8m 5.4m	Compliant Compliant Compliant
Parking space width: – General Bay – Staff Bay – Tandem Bay – PWD Bay / Shared Area	2.5m 2.4m 2.4m 2.4m	2.5m 2.4m 2.5m 2.5m	Compliant Compliant Compliant Compliant
Aisle Width: – Parking Aisle – Circulation Aisle/Ramp	5.8m 6.1m	5.8m minimum 6.1m	Compliant Compliant
Parking envelope clearance - Column intrusion	0.25m into bay within 0.3m & 0.2m into bay within 1.2m of front of bay	No intrusion	Compliant
Parking envelope clearance - Column adjacent to bay	Located between 0.75m and 1.75m of aisle	Located between 0.75m and 1.75m of aisle	Compliant
Parking envelope clearance – space adjacent to wall	Space 0.3m clear of wall	Space 0.3m clear of wall	Compliant
Maximum Gradient: – Parking Bay – Parking Aisle – Ramp – PWD Bay	1:20 (5.0%) 1:16 (6.25%) 1:5 (20%) 1:40 (2.5%)	1:20 (5.0%) 1:20 (5.0%) 1:5 (20%) 1:40 (2.5%)	Compliant
Maximum Change in Grade	1:8 (12.5%) summit 1:6.67 (15.0%) sag	1:8 (12.5%) summit 1:6.67 (15.0%) sag	Compliant
Height Clearance — General Min. — Absolute Min.	2.2m NA	2.2m	Compliant
Parking Aisle Extension	1m beyond last bay	1m beyond last bay	Compliant

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



3.3.1 Tandem Bays

TTM recommends that each of the two pairs of tandem bays be designated to a single serviced apartment. Therefore, there would be a parking provision for effectively 50 spaces, which would equate to parking for 50 apartments (at a rate of 1 space per apartment).

3.3.2 Staff Bays

Car parking spaces 1-11 on the ground floor are to be designated to employees of the motel and commercial uses. These spaces have been designed to be 5.4m long by 2.4m wide, which is in accordance with User Class 1A car parking spaces as per AS2890.1. TTM considers the proposed staff parking arrangement to be suitable for the proposed development.

3.3.3 Drop-off / Set-down Area

TTM understands that access to all of the car park is restricted by a security access door.

The proposal incorporates a drop-off area suitable to accommodate 2 vehicles, as shown in Figure 3.1. This would allow for people to temporarily park, check-in and then drive to their designated parking space.

The drop off area is clear of the access drive and would not impede entering and exiting vehicles.

TTM understands if a vehicle is not provided access beyond the security line, a vehicle would be able to perform a 3-point turn, utilising the drop-off area, and egress the site, as shown in Figure 3.2.

TTM consider this arrangement to be suitable to cater for the proposed development.

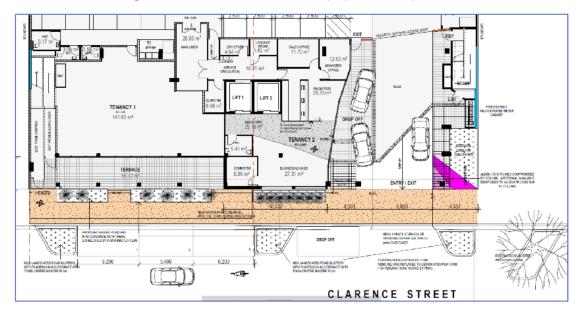


Figure 3.1: Drop-off / Set-down Area

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166

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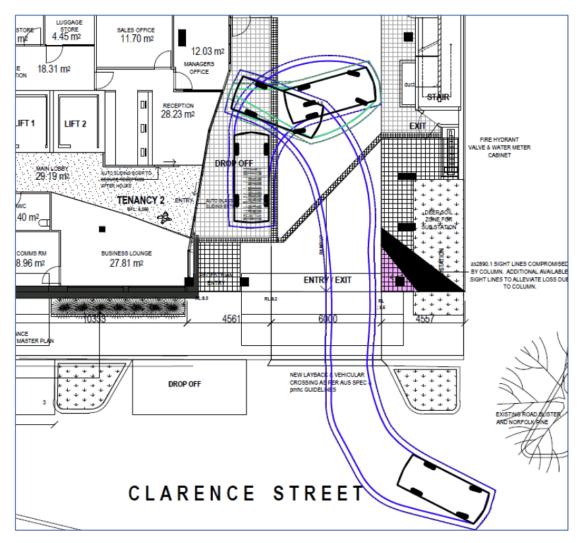


Figure 3.2: Drop-off / Set-down Area Turnaround

3.3.4 Car Parking Allocation

As outlined in Section 3.1, the proposed development would incorporate 64 parking spaces, including:

- 11 staff bays
- 48 general bays
- 1 PWD bay with associated shared bay
- 2 pair for tandem bays (4 spaces in total)

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



TTM understands that access to the car parking area is restricted to be for staff of the motel and commercial uses and residents of the motel. The staff and resident parking provision exceeds Council's DCP requirements.

TTM understands that the proposal would incorporate no public car parking for the proposed commercial development. TTM considers this to be suitable given the following:

- It is expected that a number of the patrons to the commercial food premises would be from the services apartments (ie there would be cross utilisation of within the site).
- On-site parking is provided for employees of the commercial use.
- TTM understands that as the development is within the commercial core, there would be a large cross utilisation of parking throughout the precinct (ie people are likely to drive into town, walk around and go to a number of destinations).
- Coupled with the point above, it is unlikely that the proposed commercial use would be a sole destination for patrons.
- There is ample on-street parking available throughout the Commercial Core precinct.

Based on the above, TTM considers that the proposed parking allocation and provision is suitable to cater for the proposed development. TTM expects that providing no public visitor car parking for the commercial use would not have a significant adverse impact on the local street network.

3.3.5 Car Parking Provision – Dual Occupancy Sensitivity Assessment

TTM understands that a number of the proposed motel units / serviced apartments are dual occupancy (ie one unit with two separate liveable areas and room keys). The development plans indicate that of the 47 units, 32 are dual occupancy. This equates for a potential of 79 separate units.

TTM has estimated the car parking demand for the development based on a yield of 79 units. TTM assumptions are outlined below:

- 80% occupancy (ie design scenario)
- 20% of guests arrive via taxi, ridesharing services, public transport (ie not with a personal / hire vehicle)

Based on the assumptions outlined above, TTM estimates that the car parking demand for the 79 units (residents) would be approximately 50-51 car parking spaces. As outlined in Section 3.3.1, there would be effectively 50 separate spaces available for car parking. Therefore, the proposed car parking capacity is sufficient to cater for the expected daily demand of the proposed development.

TTM understands that during periods of high occupancy (ie peak holiday periods) that the car parking demand may be higher. TTM recommends that a parking booking system be implemented to manage the available car parking spaces.

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



3.3.6 Ground Floor – Car Parking Space 17

TTM understands that Ground Floor car parking space 17 is 2,700mm wide, which includes a 2,400mm wide space and a 300mm wide wall clearance. TTM understands that this is 100mm narrower than that required by AS2890.1. TTM recommends that this space be designated as a small car bay (ie 5,000mm long by 2,300mm wide).

3.3.7 Ramp Design

TTM understands that the ramp has not been designed in detail at this stage. TTM undertaken a preliminary assessment of the ramp design (ie length, grades, transitions etc) and confirms that there is sufficient ramp length available for suitable transitions and grades to achieve the proposed Reduced Level.

3.3.8 On-Street Parking

TTM understands that Clarence Street currently incorporates indented angled parking, parallel parking and parking between the eastbound and westbound carriageways. Along the westbound carriageway there are currently 2 parallel parking bays and 3 indented angled parking spaces, as shown in Figure 3.3.



Figure 3.3: Clarence Street On-Street Parking

The proposed development would allow for 4 parallel parking bays and landscaping road blisters in accordance with the Town Centre Master Plan.

TTM understands that the proposal would reduce the on-street parking capacity by one car parking space. TTM considers this to be appropriate as the development incorporates 3 landscaped kerb blisters along Clarence Street, which are in accordance with the Town Centre Master Plan.

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



4 Traffic Operations

4.1 Existing Site Traffic

The existing site used to consist of 3 residential detached dwellings. For the purposes of the Impact Assessment, it has been assumed that the existing site traffic is negligible.

4.2 Estimated Development Traffic Generation

The Roads and Maritime Services (RMS, formly RTA) 'Guide to Traffic Generating Development' recommends using specific generation rates, for planning purposes, for different development types. Application of these rates to the proposed development, results in the estimate of development site traffic generation, as shown in Table 4.1.

Based on industry practice, TTM has assumed that the peak hour trip generation rate would be 10% of the daily rate.

Table 4.1: Daily Trip Generation

Land Use	RTA Rate	Extent	Trip Generation – Daily Rate	Peak Hour Rate
Motel	3 trips per unit	47 Units	141	14.1
Restaurants	60 trips per 100m²	205.3m²	123	12.3
Total			264	27

From Table 4.1, it is expected that the development would generate approximately 264 daily trips and 27 trips during the peak hour periods.

TTM expects that the motel and restaurant uses would generate traffic with a 50 : 50 in : out split. Therefore, this would equate to a peak hour traffic generation of approximately 14 vehicles in and 14 vehicles out.

The expected development traffic volumes equate to an increase of one car every two minutes entering and exiting the development during the peak hour periods. This level of traffic generation is not expected to have a significant impact on the operations of the local road network.



5 Site Access Arrangements

The proposed Clarence Street access driveway requirements are specified in Table 5.1.

Table 5.1: Typical Driveway Requirements for the Clarence Street Access

Design Aspect	AS2890.1 Requirement	Proposed Provision	Compliance
Distance from a minor intersection	6m (min) from tangent point.	50m	Compliant
Distance from another driveway	3m (min)	40m	Compliant
Sight Distance	60km/h - Desirable 83m, minimum 65m	Clear sight distance to the 4-way intersections on Clarence Street to the east and west	Performance Solution
Driveway Design Type	Category 2	Category 2	Compliant
Driveway Width / Entry and Exit Widths	Combined entry and exit: 6.0 - 9.0m width	6.0m	Compliant
Pedestrian Sight Triangle	2.5m by 2.0m	Column intrusion, extended sight triangle	Performance Solution

5.1 Proposed Access Arrangements and Their Adequacy

The proposed access arrangements generally comply with AS2890.1's requirements. The following issues are discussed in further detail.

5.1.1 Driveway Design

The development proposes to provide vehicular access via a 6.0m Category 2 driveway, as shown in Figure 5.1. The driveway design is suitable to cater for two-way vehicle movements and can provide access to the largest vehicle expected to access the site, as discussed in Section 6.

55, 1840 SECURITY OAR PARK NOCESS DOOP 20.83 m² sales office 11.70 m² STORE 12.03 m 18.31 m STAIR ۵ RECEPTION 28.23 m² 6.06 m MAN LOBBY TENANCY 2 5.40 m -BUSINESS LOUNGE 27.81 m² comms re 8.96 m ENTRY / EXIT R. 6,000 4,557 ,400 6,200 G KERB & LAYBACKS TO BE ED AND REPLACED TO DES NEW LANDSCAPED ROAD BLISTERS WITH PLANTING IN ACCORDANCE WITH TOWN CENTRE MASTER PLAN ------

ttm

Figure 5.1: Driveway Design

5.1.2 Sight Distance

There is clear vision from the proposed access driveway to the Clarence St / Munster St intersection (to the east) and the Clarence St / Murray St (to the west). TTM estimates that a minimum of 65m of sight distance would be available in both the east and west directions. TTM estimates that the available sight distance is in accordance with AS2890.1's minimum requirements. Therefore, the proposed access is considered suitable to cater for the proposed development.

Furthermore, TTM expects that vehicle speed along Clarence Street would be substantially slower than the design speed (ie 60kph), given the following:

- Vehicles would slow down in order to negotiate the 4-way raised intersections
- Vehicles generally travel slowly through town centres as there a large amount of pedestrian traffic and vehicle movements (ie on-street parking movements)

5.1.3 Pedestrian Sight Lines

AS2890.1 requires pedestrian sight triangles, for exiting vehicles, with a dimension of 2.5m into the site a 2.0m along the property boundary.

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



The AS2890.1 pedestrian sight triangle would be marginally obstructed by a 450mm x 450mm structural column.

As a performance solution, it is proposed that a larger pedestrian sight triangle be incorporated into the design of the access. This is typified by being 4.5m long across the property boundary and 3.5m into the site, as shown in Figure 5.1. TTM considers this to be suitable due to the following:

- A motorist would be able to see a walking pedestrian approaching the column and access driveway, given the extended sight triangle.
- The column would not fully obstruct a pedestrian walking along the footpath (refer note below), as the pedestrian would be visible on their approach to the column
- Motorists would have adequate time (if not more than what would be provided with the AS2890.1 sight triangle) to react and allow a pedestrian the cross.

Therefore, based on the above TTM considers the proposed access arrangement to provide a suitable pedestrian sight distance and it is expected that the proposal would not have a significant impact on the local street environment.

Note: the standard body ellipse is 0.6m x 0.45m as outlined in Transport for London's Guidance Document 'Pedestrian Comfort Level Guidance' and shown in Figure 5.2.



Figure 5.2: Standard Body Ellipse

5.1.4 Queuing

The secure line is located approximately 15m from the property boundary, which would provide queuing for 2 vehicles. In addition to this, there is a drop-off / set-down area as discussed in Section 3.3.3. Therefore, there would effectively be space for 4 vehicles queuing to access the site.

AS2890.1 outlines that queuing should be provided at a rate of a minimum of 2 cars or 3% of capacity (for car parks up to 100 spaces). Therefore, the proposal would require a queuing provision of 2 cars.

The queuing provision exceeds the Australian Standards requirements. Therefore, TTM consider the proposed queuing arrangements suitable to cater for the development.



6 Service Vehicle Arrangements

To assess the required number of service bays for the development, TTM has referred to the Port Macquarie-Hastings Council's requirements for service vehicles. Other service vehicle provisions are generally in accordance with AS2890.2.

6.1 Council Requirements

The proposed development includes a Commercial use and a Motel/Serviced Apartment use. The DCP service vehicle requirements are shown in Table 6.1.

Table 6.1: Mir	nimum Service	Vehicle	Requirements
----------------	---------------	---------	--------------

Use	Requirement
Commercial	Floor space of less than 500m ² need not provide a loading bay
Motel	Not specified, performance solution discussed below

6.2 Proposed Service Vehicle Arrangements and Their Adequacy

The development is proposing an on-site loading area, which is suitably designed to accommodate a VAN vehicle.

TTM expects that a VAN would be the largest vehicle that would require access to the site (ie to access the main linen area for the motel).

TTM has undertaken a swept path assessment demonstrating that a VAN would be able to access the site in a forward gear, servicing area and egress the site in a forward gear, as shown in Figure 3.1 and attached. The swept paths demonstrate that a VAN would obstruct the parking aisle whilst servicing the site. TTM considers this to be suitable as the VAN would marginally obstruct the staff parking area only.

As outlined in the Port Macquarie-Hastings Council DCP, commercial uses with a GFA of less than 500m² are not required to provide a loading bay. Therefore, the proposed commercial use would not require a loading area.

TTM considers that the proposed on-site servicing arrangement is suitable.

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166

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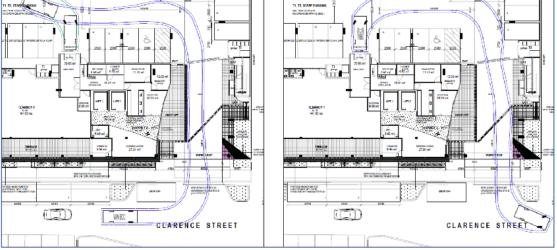


Figure 6.1: VAN Swept Path

Refuse Collection Servicing Arrangements 6.3

Refuse collection is proposed to occur from the kerb-side on Clarence Street. The bins will be stored in the refuse rooms located on the Ground Floor (as shown in Figure 6.2).

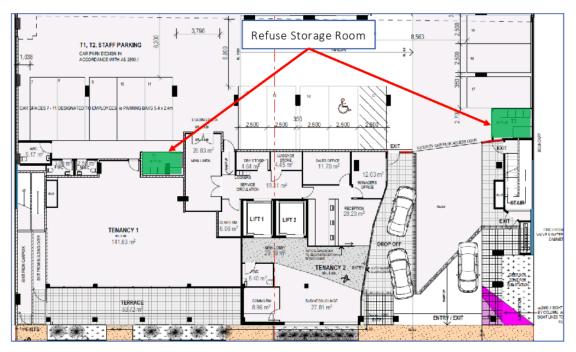


Figure 6.2: Refuse Storage Rooms

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166



7 Active Transport

7.1 Pedestrian Access

Pedestrian access to the site is achieved via footpath provided along the Clarence Street frontage.

7.2 Cyclist Requirements

The DCP does not specify that on-site bicycle parking is required for commercial food and drink uses and motel uses.

The proposed development provides no bicycle parking, which is in accordance with Council's DCP.

7.3 Public Transport Requirements

The proposed development does not require the provision of any additional public transport facilities. The development is well serviced by existing public transport facilities.

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166

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8 Summary and Conclusions

8.1 Development Summary

The access is proposed to be via a 6.0m wide Category 2 access crossover.

The development access will provide an effective queue provision of 4 vehicles between the property boundary and the security access door.

8.2 Car Parking Arrangements

The car parking provision generally exceeds Council's Development Control Plan's minimum parking requirements.

The ground level and basement car park layouts, as a minimum, comply with the Australian Standard requirements. Overall, TTM considers the proposed car parking arrangements for this development are adequate.

8.3 Impact on Surrounding Road Network

Assessment of the proposed development indicates that the development will not have a significant impact on the future road network. As such, no further mitigating road works are required.

8.4 Service Vehicle Arrangements

Servicing for this development will be facilitated in the designated loading area on the ground level, accessed from Clarence Street. The largest design vehicle, a VAN, can enter, manoeuvre, service and exit the site in a forward gear. Overall, the proposed service vehicle arrangements are considered adequate to meet the needs of the proposed development.

8.5 Active Transport Facilities

The current public transport infrastructure and proposed site provisions for pedestrian/bicycle facilities is considered adequate for the development.

8.6 Conclusion

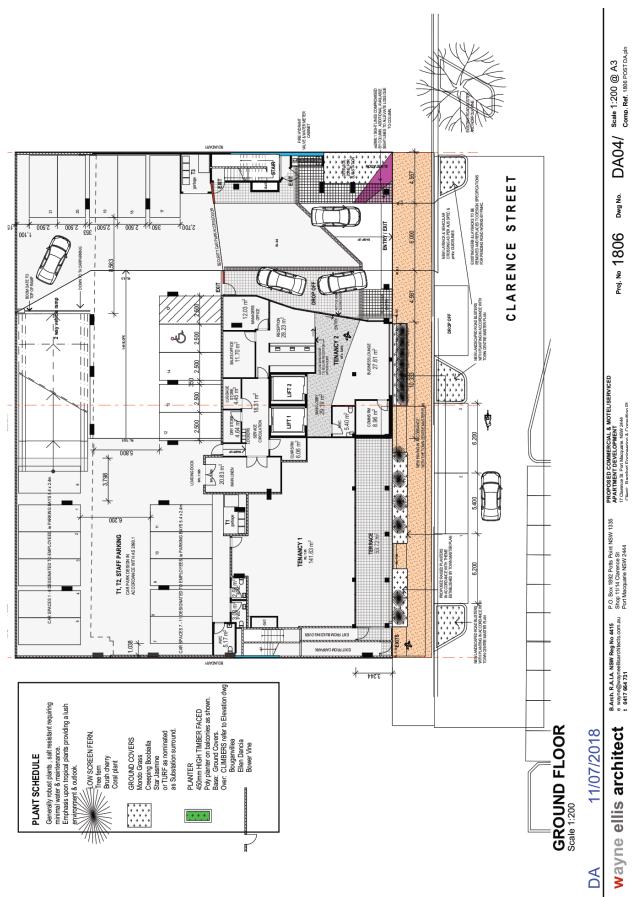
Based on the assessment contained within this report, TTM see no traffic engineering reason why the relevant approvals should not be granted.



Appendix A Proposed Site Plan

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166

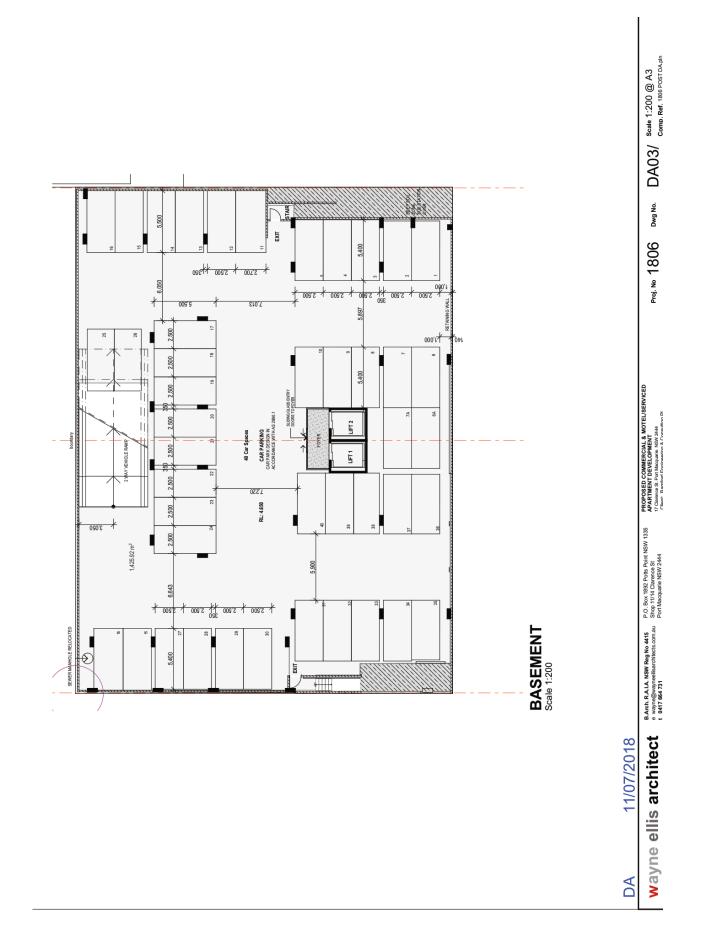
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DEVELOPMENT ASSESSMENT PANEL 13/02/2019

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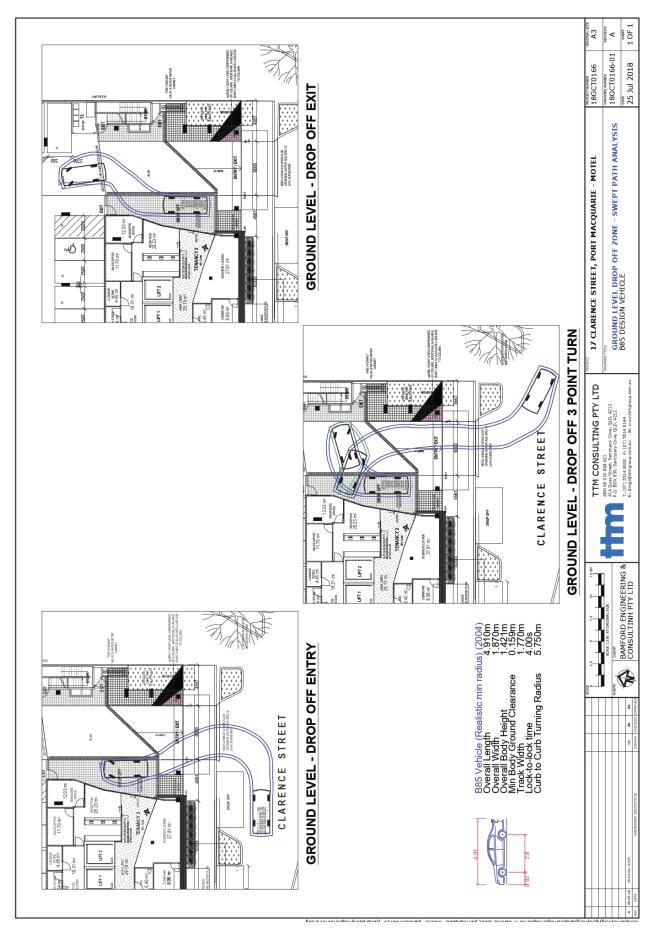


Appendix B Service Vehicle Swept Paths

Site: 17 Clarence Street, Port Macquarie - Motel Reference: 18GCT0166

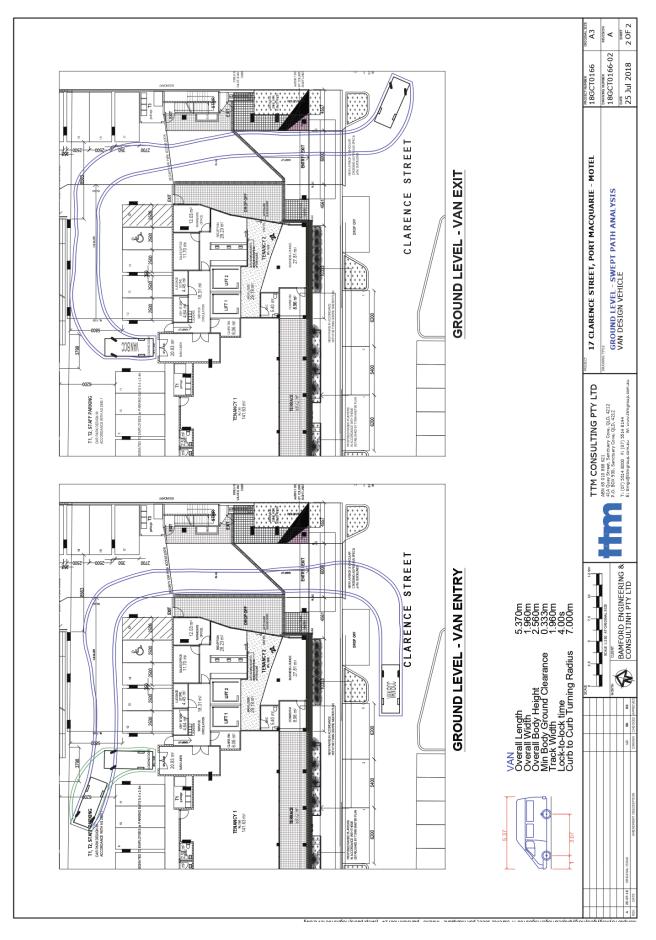
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Item 06 Attachment 6



Manning-Great Lakes

Port Macquarie

Coffs Harbour

RGS20193.1-AC

25 June 2013

Belinda Rodger c -/ David Pensini Via email: <u>kdoensini@bigoond.com</u>

Dear David,

RE: Proposed Development, 19 Clarence Street, Port Macquarie

Geotechnical Investigation

As requested, RGS has undertaken a geotechnical investigation at the site of a proposed development at 19 Clarence Street, Port Macquarie.

The purpose of the work described herein was to undertake a limited geotechnical investigation at the property to provide an indication of subsurface conditions present and the depth to the groundwater.

Field work was undertaken on 17 June 2013 and comprised one barehole undertaken by a trailer mounted drilling rig equipped with solid flyte augers, logged by a Seniar Engineering Geologist. Standard Penetration Testing (SPT) was undertaken at regular intervals. The engineering log for the barehole is attached.

The location of the borehole is shown on Figure 1 and was obtained on site by measurement relative to existing site features. The reduced level at the borehole location was estimated from the supplied drawing and is shown on the borehole log.

The site is situated in an area underlain by deeply weathered geological units of the Port Macquarie Block which includes slate, basalt, serpentinite and dolerite. The subsurface conditions encountered in the borehole comprised 0.3m of topsoil overlying colluvial sands and clays which overlay alluvial clays and sands from 1.0m. Residual high plasticity clays were encountered from 2.7m and graded into extremely weathered serpentinite clay soils with depth.

Groundwater inflow was encountered in the alluvial sand horizon at 2.3m. It should be noted that fluctuations in groundwater levels can occur as a result of seasonal variations, temperature, rainfali and other similar factors, the influence of which may not have been apparent at the time of the assessment.

Regional Geotechnical Solutions Pty Ltd ABN 51141848820 5C/23 Clarence Street Port Macquarie NSW 2444 Ph. (02) 6553 5641

Email <u>tim.mortis@regionalgeotech.com.au</u> Web: <u>www.regionalgeotech.com.au</u>

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If materials encountered during construction vary significantly from those discussed in this report, Regional Geotechnical Solutions Pty Ltd should be contacted for further advice.

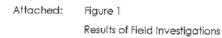
This report alone should not be used by contractors as the basis for preparation of tender documents or project estimates. Contractors using this report as a basis for preparation of tender documents should avail themselves of all relevant background information regarding the site before deciding on selection of construction materials and equipment.

If you have any questions regarding this project, or require any additional consultations, please contact the undersigned.

For and on behalf of

Regional Geotechnical Solutions Pty Ltd

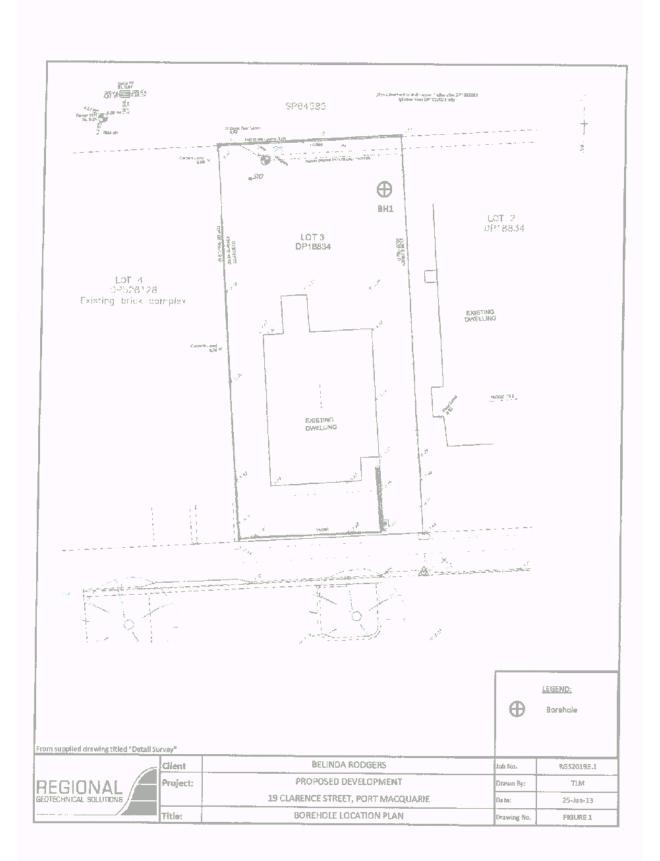
Tim Morris Senior Engineering Geologist



Regional Geotechnical Solutions RGS20193.1-AC 25 June 2013

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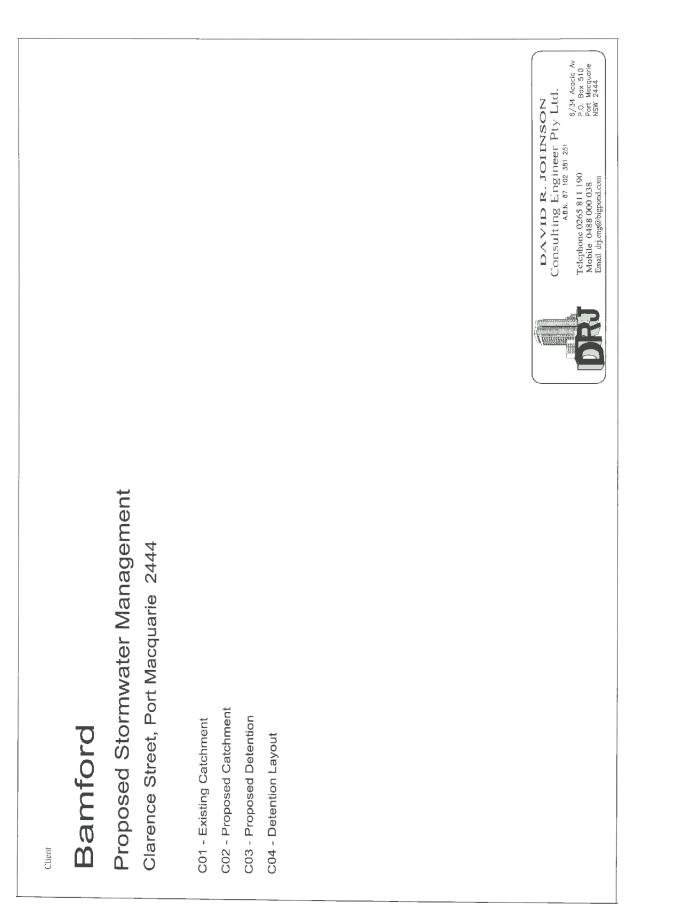


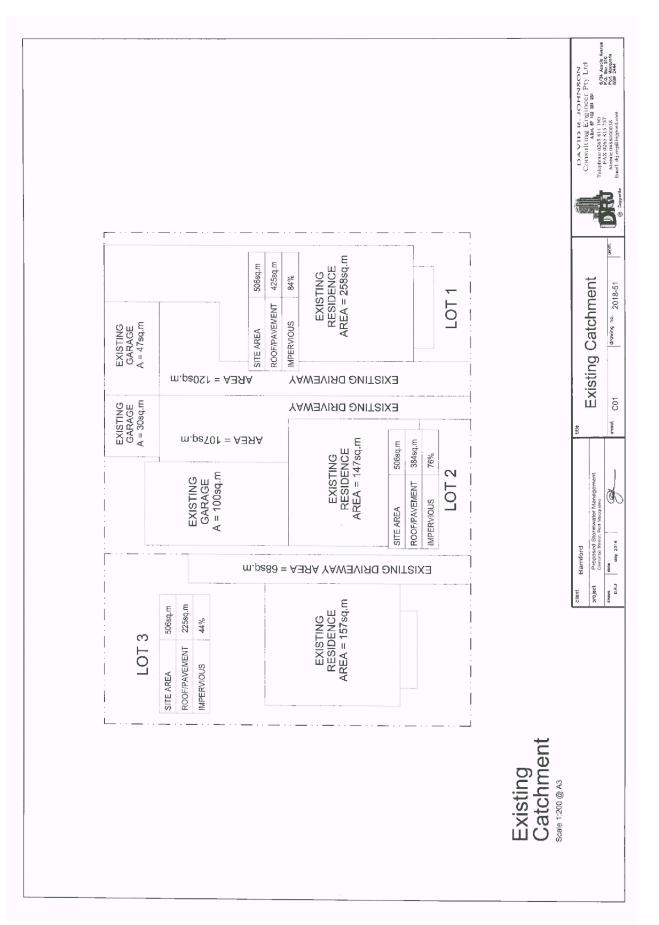
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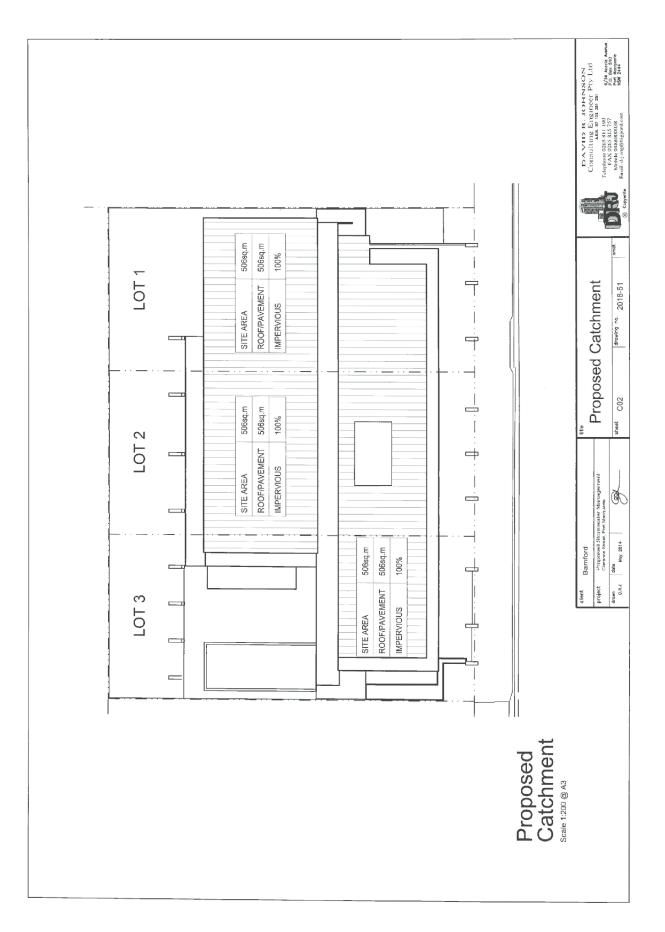
ATTACHMENT

DEVELOPMENT ASSESSMENT PANEL 13/02/2019

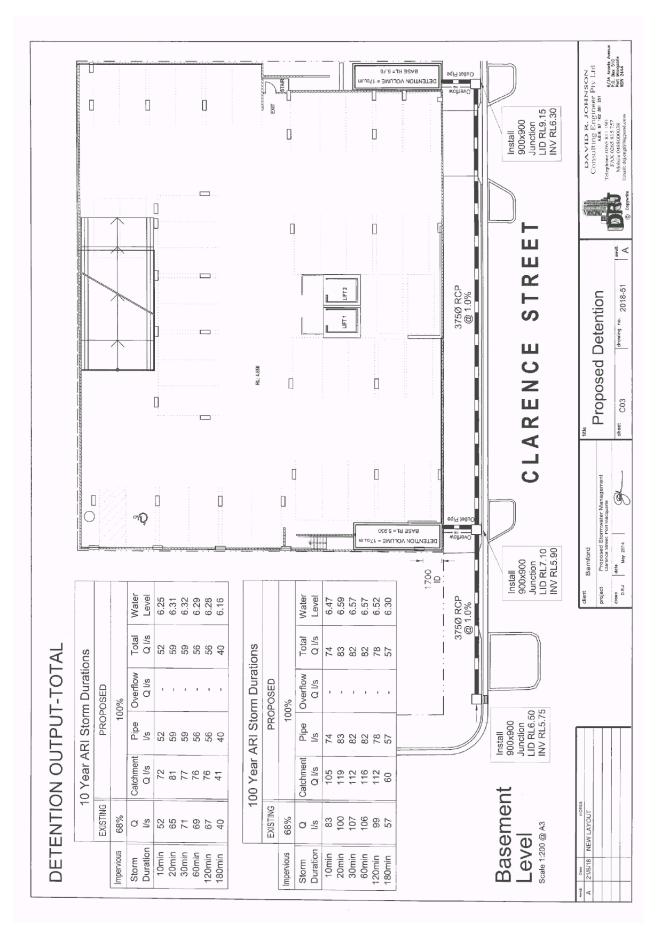
					ENGI	NEE	RING LOG - BOREHOLE	В	OREH	OLE	NO:	BH1
E	<u>}Ε</u> (EGIONAL CLIENT: Belinda Rodgers PAGE:							1 OF 1			
GE	OIECI	PROJECT NAME: 19 Clarence St Port Macquarie JOB NO:								RGS20193.1		
							LOGGED BY:			<i>(</i> :	TLM	
	LOCATION: Refer to figure 1 DATE:								17/6/13			
	DRILL TYPE: CMG Trailor Mounted SURFACE RL: 5.2 m BOREHOLE DIAMETER: 100 mm DATUM: AHD											
	Dr	lling and Sar	mpling		I	Material description and profile information				Fiel	d Test	
METHOD	WATER	SAMPLES	RL (m)	DEPTH (m)	GRAPHIC LOG	CLASSIFICATION SYMBOL	MATERIAL DESCRIPTION: Soil type, plasticity/panicle characteristics,colout,minor components	MOISTURE	CONSISTENCY	Test Type	Result	Structure and additional observations
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			3.0	<u> </u>		ŞP	\brown, some Clay low plasticity, grass roots // 0.30m, FILL: SAND, pale grey, trace brick fragments					FILL-SAND
			-	-		SM	Sifty SAND: fine to medium grained, brown/pale brown, some Clay low plasticity	M/W	1			COLLUVIAL
			-	-			Sandy CLAY: medium plasticity, brown, Sand, fine to medium grained	M > W.	F/St			
		1.00m SPT	-	1.0_			1.00m	N		HP	=100	
		3,2,3 N=5	4.0				Sandy CLAY: tow to medium plasticity, grey with orange/orange mottling with depth			HP HP	=150 =200	ALLUVIAL
		1.45m	_	_								
			_		HAD.	CL		M > Wp	St			
			_									
				2.0			2.00m					
			3.0		11		Clayey SAND: fine to medium grained, grey/pale grey, Clay low plasticity					MINOR WATER INFLOW
	-			1	14	sc		M/W				
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		4.3,5 N=8	1		11		CLAY: high plasticity, pale green with minor			ΗΡ	=250	RESIDUAL SOIL
ADA		2.95m	2.0 - - - - - - - - - - - - - - - - - - -	3.0		сн	orange/brown from bidde moldling associated with frace Gravel, fine grained, subangular	M > w ₂	VSt			
	55 × 5	5,10m SPT 5,14,23 N=35 5,55m	0.0	5.0			CLAY: high plasticity, pale grey/pale green, with thin bands of drange/brown Iron oxide gravel, fine to medium grained, subangular		H / Fb			GRADING TO EXTREMEL WEATHERED SERPENTINITE
	Later U ₂₆ CBR CBR (Date and time shown) E Water Inflow ASS				U _{sc} 5Cmm Diameter tube sample CBR Bulk sample for CBR testing E Environmental sample n) (Glass jar, sealed and chilled on site) ASS Acid Sulfate Solt Sample (Plastic bag, air expelled, chilled)			istance LCS://HPai Very Soft <25			Moisture Condition D Dry M Moist W Wot W, Plastic Limit W, Liquid Limit	
	Internalizational strata PID Photolonisation detector reading (ppm) L L Definitive or distict DCP(x-y) Dynamic penetrometer test (lest depth interval shown) MD MD strata change HP Hand Penetrometer test (UCS kPa) D D						Lo Me De	oose (ledium Dense (ense (Density Index <15% Density Index 15 - 35% Density Index 35 - 65% Density Index 65 - 65% Density Index 65 - 100%		



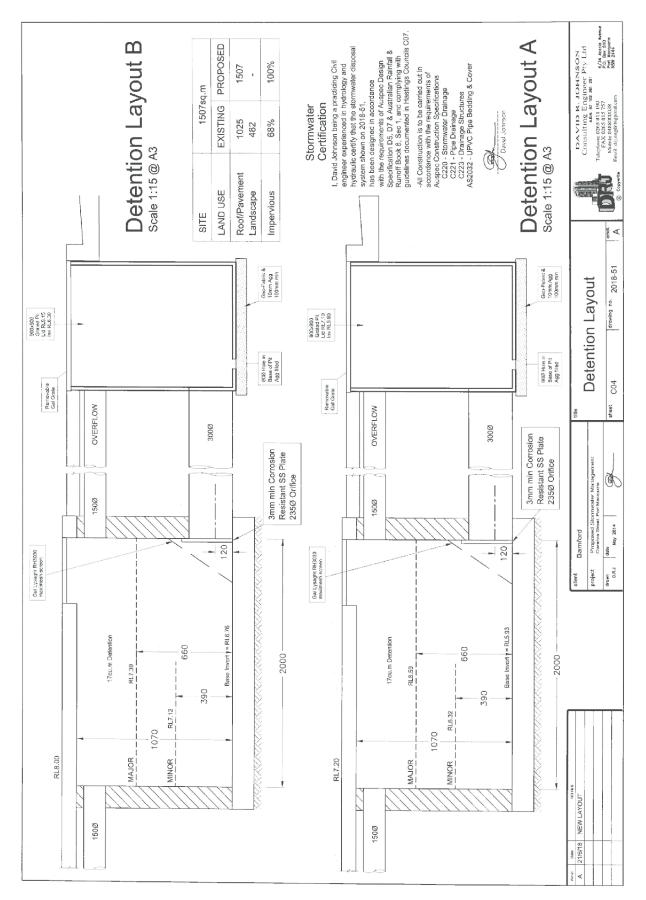




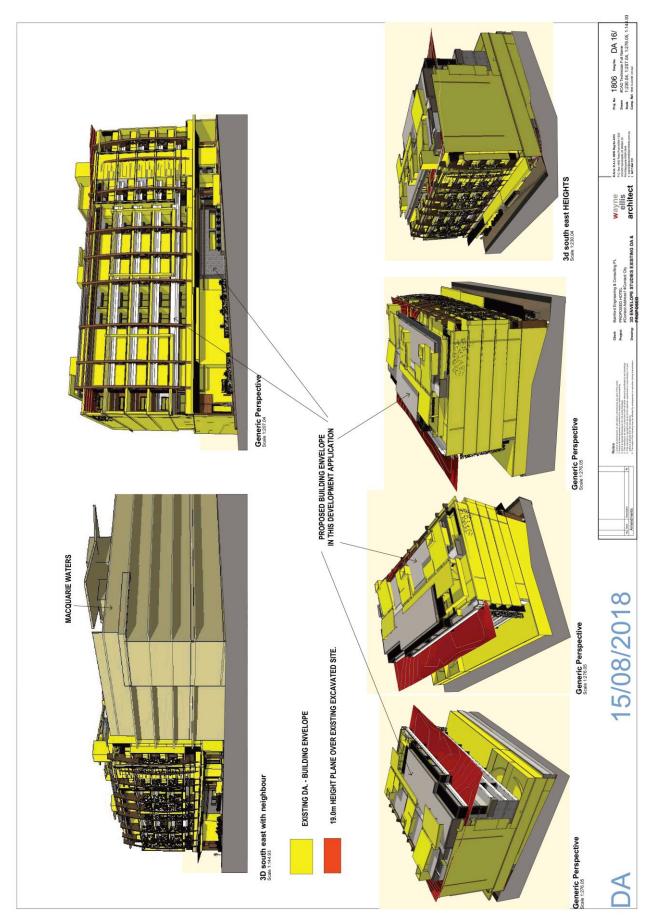
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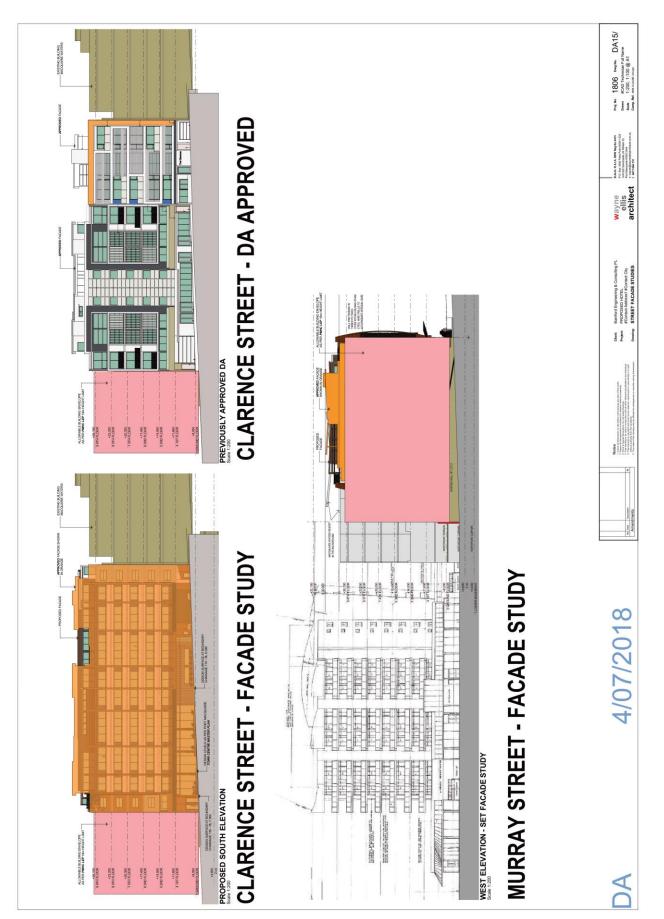




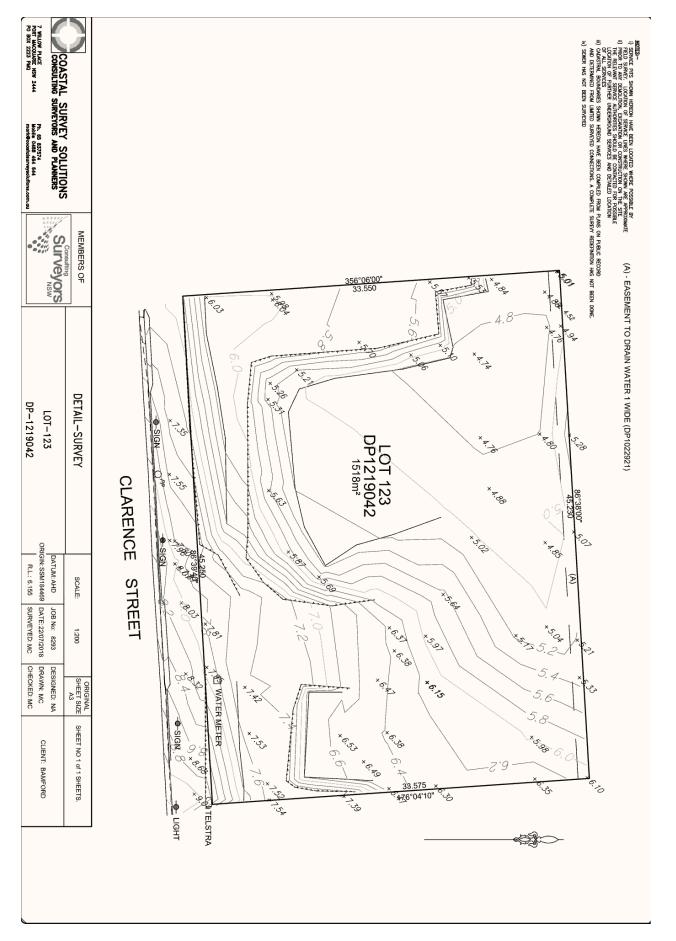
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ATTACHMENT

DEVELOPMENT ASSESSMENT PANEL 13/02/2019





Level 6, 10 Valentine Avenue Parramatta NSW 2150 Locked Bag 5020 Parramatta NSW 2124 DX 8225 PARRAMATTA Telephone: 61 2 9873 8500 Facsimile: 61 2 9873 8599 heritacemellox@environment.nsw.gov.au www.heritage.nsw.gov.au

Our File No: SF18/54553 Our Ref: DOC18/453914 Your ref: DA2018/353

Mr Ben Roberts Development Assessment Planner Port Macquarie-Hastings Council PO Box 84 PORT MACQUARIE NSW 2444 Email: Ben.Roberts@pmhc.nsw.gov.au

Dear Mr Roberts

DEVELOPMENT APPLICATION REFERRAL Commercial premises and tourist accommodation, 15-19 Clarence Street, Port Macquarie, (Port Macquarie Hastings Council DAR 2018/353)

I refer to your letter received by Heritage Division on 5 July referring the above named development application for comment under the terms of the Port Macquarie Hastings Local Environmental Plan 2011 (LEP). This site falls within Item A111, 'Archaeology of early European settlement' in the LEP and was the subject of two previous applications under the *Heritage Act 1977* to undertake archaeological investigation and potential salvage of relics. This excavation has been undertaken and a final report has recently been received by Heritage Division and reviewed to assist this response.

The current development application is for construction of a seven storey mixed tourist accomodation and commercial development, including a basement level to provide carparking.

The works are addressed in the following documents:

- A. DA 2018/353 Commercial Premises and Tourist Accomodation with Clause 4.3 (Height of Building) of Port Macquarie- Hastings Local Environment Plan 2011 LOT:123 DP:12109042 17 Clarence Street PORT MACQUARIE application describing the works; and
- B. Final Archaeological Report 15-19 Clarence Street, Port Macquarie prepared by I Vetta and J Baloh, dated August 2018.

Review of the information supplied has been undertaken to advise Council whether it is likely that additional relics may be impacted through the proposed works required for this DA. The Final Archaeological Report prepared to document that investigation found no archaeological evidence of 1820s structures or occupation in the nineteenth century other than a channel, which could not be dated but which may be an early agricultural drain. It is therefore considered that the proposed works do not involve excavation that will impact archaeological relics. No further investigation or approval under the *Heritage Act 1977* is needed to manage the archaeological resources on the site. However it is recommended that the following standard condition be retained in the DA conditions for approval:

D - DURING WORK (8)

(D046) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW is to be informed in accordance with Section 146 of the *Heritage Act 1977*.

If you have any questions regarding the above matter please contact Pamela Forbes, Archaeologist, at the Heritage Division, Office of Environment and Heritage, on (02) 9995 6914 or by email at pamela.forbes@environment.nsw.gov.au.

Yours sincerely Felicity barry 21 August 2018

Felicity Barry Acting Senior Team Leader, Specialist Services Heritage Division Office of Environment and Heritage AS DELEGATE OF THE NSW HERITAGE COUNCIL OF NSW

Helping the community conserve our heritage

Item 06 Attachment 12 Page 264

DAVID PENSINI Building Certification and Environmental Services

25th September 2018

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

Attention: Ben Roberts

Dear Ben,

Re: DA2018 - 353.1 Motel/Serviced Apartment Building - 17 Clarence St, Port Macquarie

I refer to Councils request for additional information and wish to provide the following information in response;

1. Justification of Building Heights

COMMENT

Please find attached an amended development standard variation report pursuant to Clause 4.6 of Port Macquarie Hastings LEP 2011 with respect to the buildings proposed height.

Also attached are the following additional plans;

- 19m building height plane plan
- Building context plan
- 2. The building height and variation sought appears to have been be taken from preexisting (i.e. prior to cut) levels on the site. The site has obviously been cut and the proposed building height needs to be measured from ground level (existing) as it is now. Please provide plans that accurately reflect ground level (existing).

COMMENT

Please find attached amended plans which reflect existing ground conditions.

3. Provide a new survey plan of the site (as it exists now).

COMMENT

Please find attached a current survey plan for the subject site.

4. The proposed height variation and subsequent clause 4.6 report will also need to reflect ground level (existing).

COMMENT

Please find attached an amended development standard variation report pursuant to Clause 4.6 of Port Macquarie Hastings LEP 2011 with respect to the buildings proposed height.

Also attached are the following additional plans;

- 19m building height plane plan
- Building context plan
- 5. A written request seeking justification for the proposed Floor Space Ratio (FSR) variation (Clause 4.6 report).

COMMENT

Please find attached a development standard variation report pursuant to Clause 4.6 of Port Macquarie Hastings LEP 2011 with respect to the buildings proposed floor space ratio.

6. Provide height plane plans through the building which provide for an appreciation of the building height variation sought.

Please find attached the following plans which provide context for the proposed buildings height;

- 19m building height plane plan
- Building context plan
- 7. Nominate proposed building height on the plans.

COMMENT

Please find attached amended plans which reflect the proposed buildings height.

8. The proposed dual key arrangement is noted. In terms of parking demand (and consistent with DCP 2013) please provide a parking demand study/report from a suitably qualified person that assesses the peak parking demands for the overall development. It is suggested the layout of the parking be reviewed by this person to ensure capability of AS2890 compliance.

COMMENT

Please find attached a Traffic Impact Assessment Report prepared by consultants, TTM.

3 Blair Street, Port Macquarie NSW 2444 – PO Box 5581, Port Macquarie NSW 2444 – Phone 0434 166 150 – Email kdpensini@bigpond.com ABN 55 183 050 741 9. Concern is expressed surrounding the lack of an onsite manager given the short-term nature of stays. Provide details measures/arrangements for issues that short term stays can present.

COMMENT

It is noted that the operating model for the motel operators (Quest) is such that onsite management is not typically present between 9pm and 6am. The design and construction of the proposed development therefore does not contemplate onsite accommodation for managers.

In this regard the following management strategies are in place to manage activities onsite to ensure that noise and amenity impacts continue to be consistent with that which would be expected within a Central Business District setting;

- The target market for visitors are corporate travelers and family groups with inappropriate behaviors not generally associated with either of these market sectors.
- The direct booking of accommodation with Quest provides for an opportunity to actively vet potential occupants of the accommodation facility.
- Booking of the property is subject to strict terms and conditions which includes prohibitions on activities which maybe the cause of noise generation which would not be consistent with the locality.
- The use of facilities within the development, (i.e. conference room, swimming pool, gymnasium), will be subject to time restrictions and conditions of behavioral use which will manage the times of use and standards of behavior in accordance with expectations which are applicable to residential areas.
- Notwithstanding the availability of an onsite manager at all times, facility
 management will be available at all times to respond to complaints regarding
 inappropriate behavior. This will be provided for through the provision of an on-call
 arrangement whereby management can be contacted afterhours and will be
 available to respond to issues.
- The security arrangements for the proposed development are such that entry to the accommodation and other use areas of the building will be strictly controlled during all hours with access only available to visitors who have been the subject of a 'booking in process' and provided with details of conditions of use of the building and its facilities.
- As with other forms of accommodation, (e.g. dwellings), inappropriate behavior can be addressed through other regulatory mechanisms e.g. Police/local council.

10. Revise site plan to show easement to drain water at rear.

COMMENT

Please find attached a revised site plan showing the easement to drain water.

It is however noted that action is proposed to have the easement extinguished as the proposed development of the subject site will render the easement, (and associated infrastructure), redundant as the development of the subject site will not rely upon the easement as part of the stormwater management strategy for the site and the land to the east of the subject site, (Macquarie Waters Development), does not currently rely upon the easement or its associated infrastructure as part of the stormwater management strategy for the existing development.

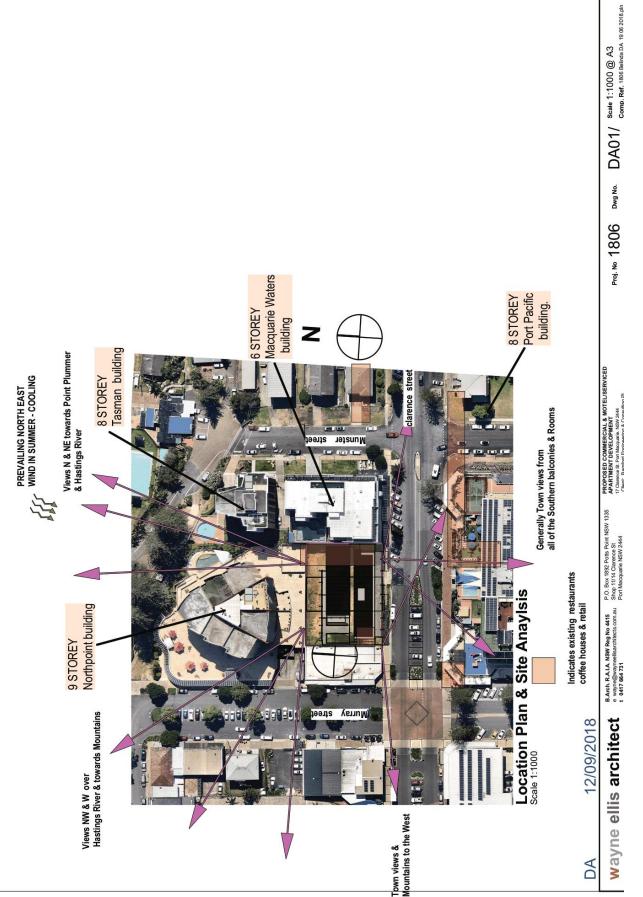
Should I be able to provide any further assistance please do not hesitate to contact me on 0434 166150.

Yours Faithfully,

David Pensini David Pensini – Building Certification and Environmental Services

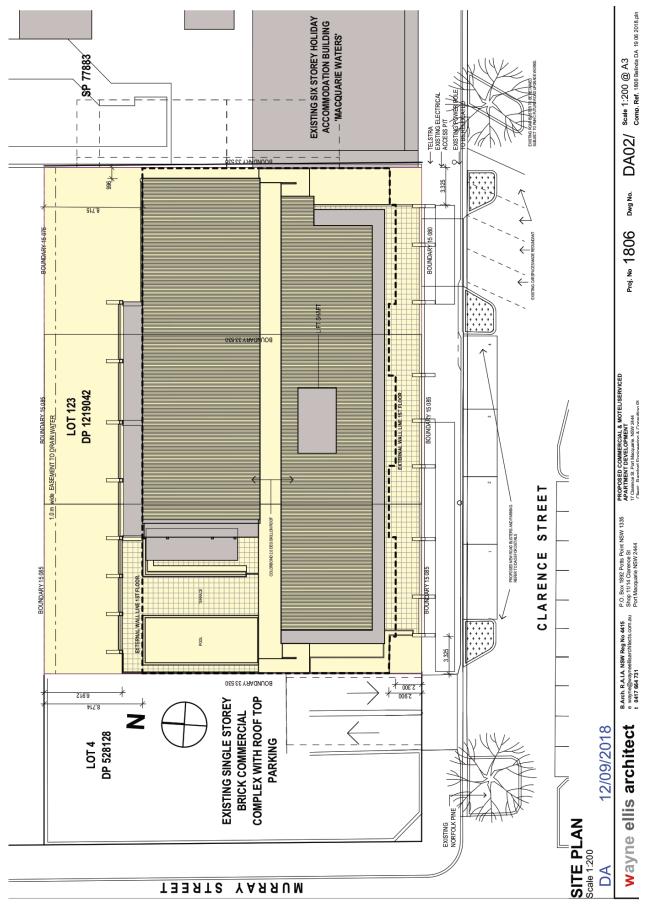
3 Blair Street, Port Macquarie NSW 2444 – PO Box 5581, Port Macquarie NSW 2444 – Phone 0434 166 150 – Email <u>kdpensini@bigpond.com</u> ABN 55 183 050 741

	PROPOSED COMMERCIAL & MOTEL/SERVICED APARTMENT DEVELOPMENT: 2 COMMERCIAL TENANCIES ON GROUND FLOOR HOTEL ENTRY ON GROUND FLOOR AREA SCHEDULE: TENANCY TENANCY 2 HOTEL TENANCY 1 TENANCY 2 HOTEL	DESCRIPTION: LOT 123 DP 1219042 CLARENCE STREET. PORT MACQUARE	NOTE: 3d Images & Rendered Elevations are 'Artists Impression' only. For details of finishes, mode of construction and general arrangement refer to Architectural & Engineering drawings & Specifications.	Proj. No. 1806 Dwg No. DA00/ Scale 1:367.43, 1:416.67 @ A5 Comp. Ref. 1906 Belinda DA 19 02 2018 pm
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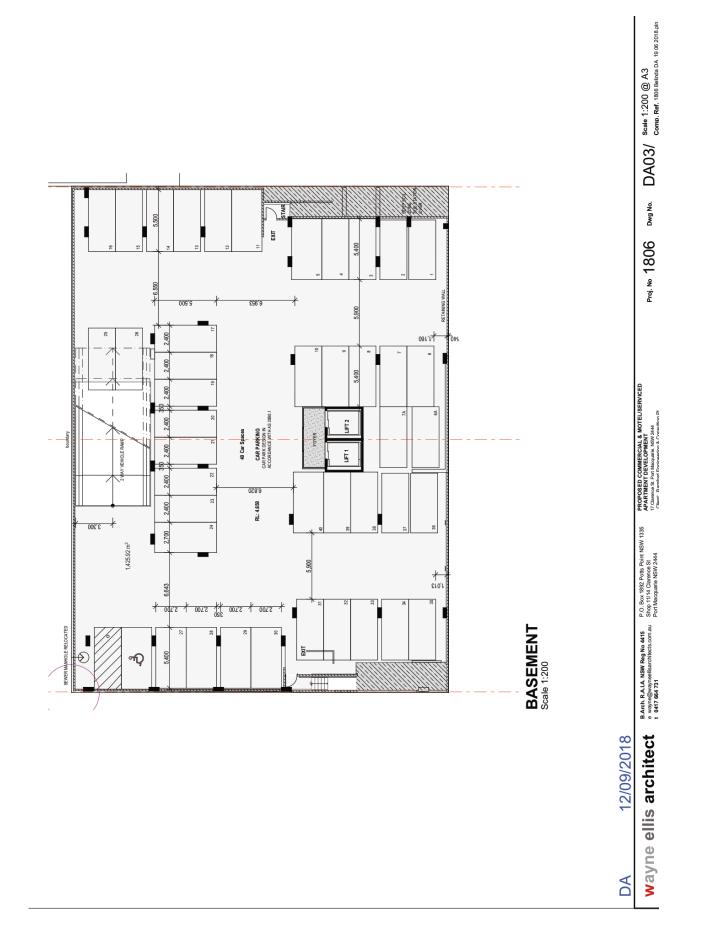
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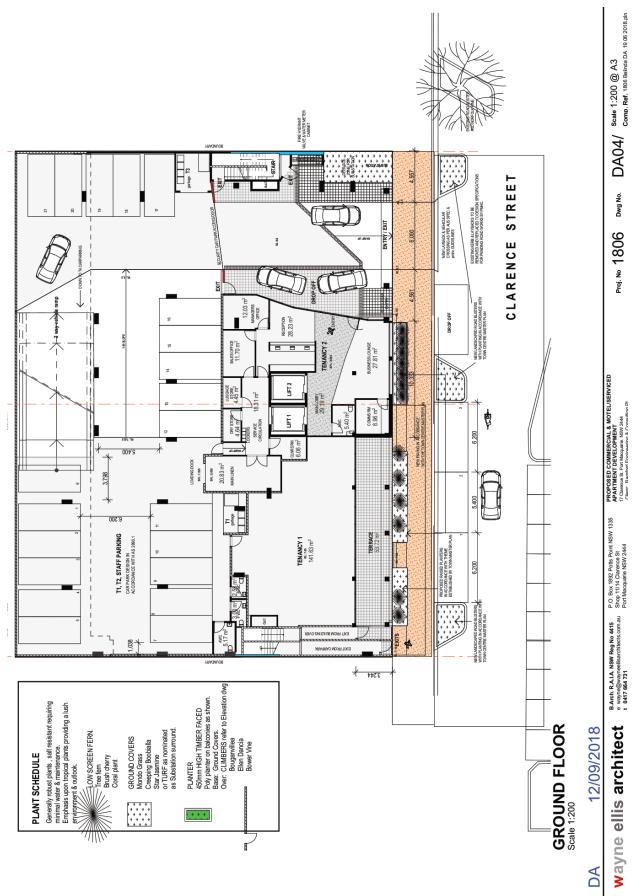
DEVELOPMENT ASSESSMENT PANEL



Item 06 Attachment 14

DEVELOPMENT ASSESSMENT PANEL 13/02/2019





Item 06

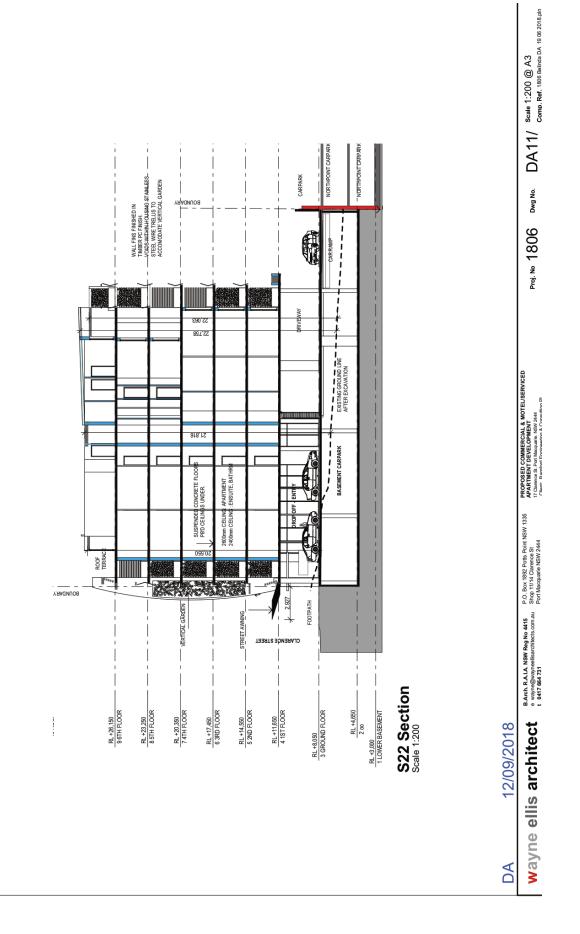
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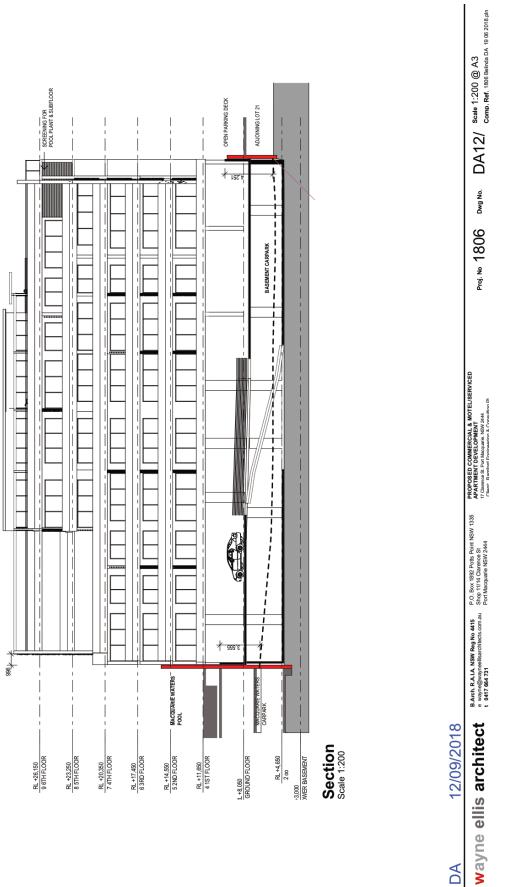
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ATTACHMENT

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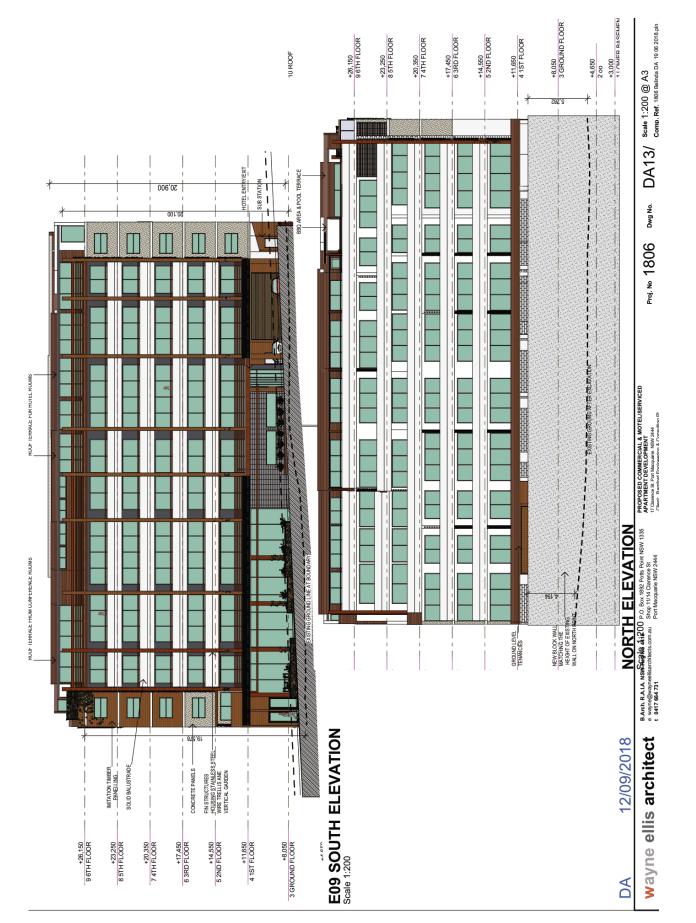


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DEVELOPMENT ASSESSMENT PANEL

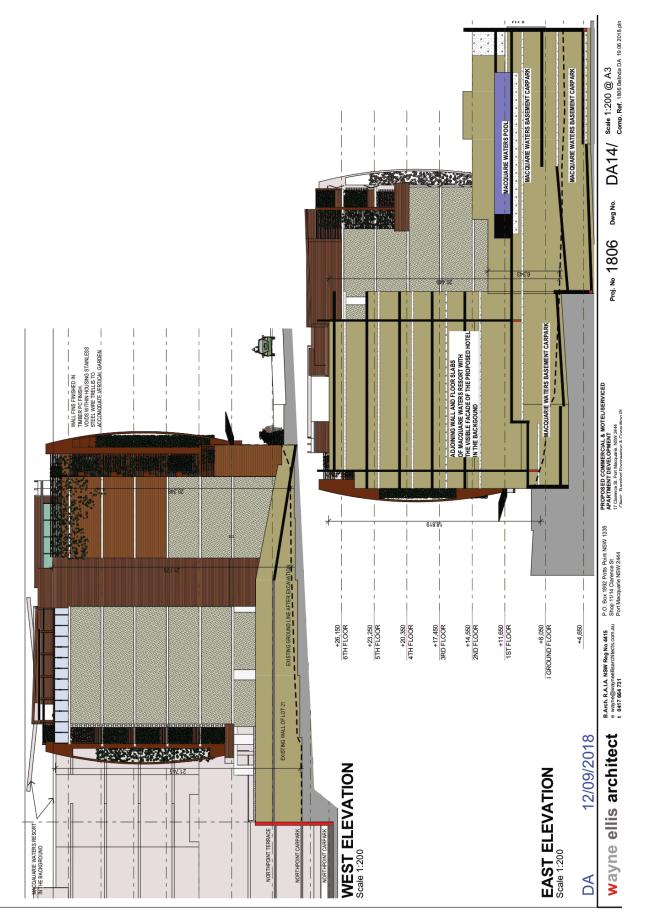
Item 06 Attachment 14

DA

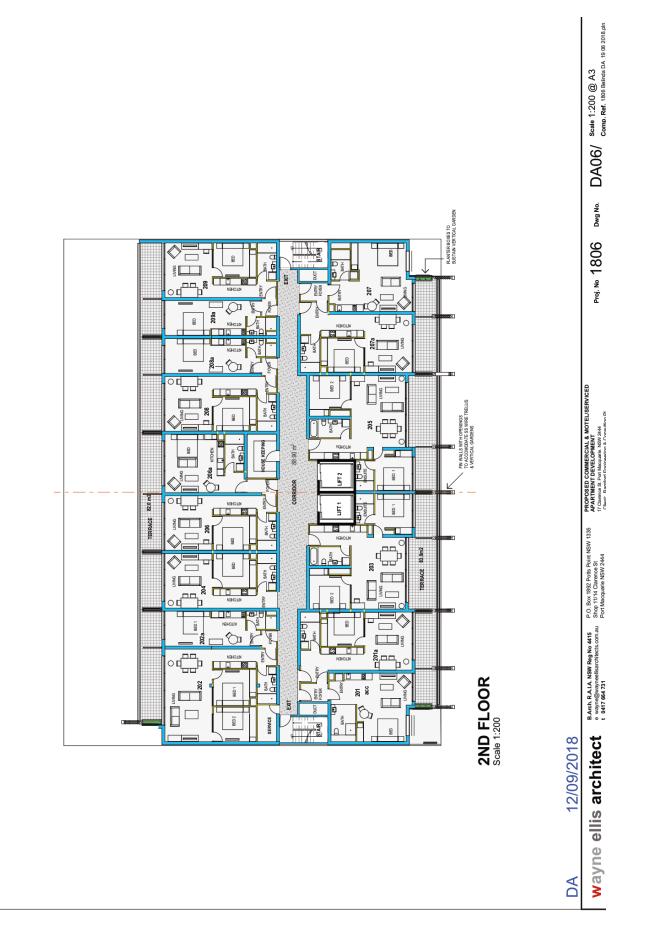


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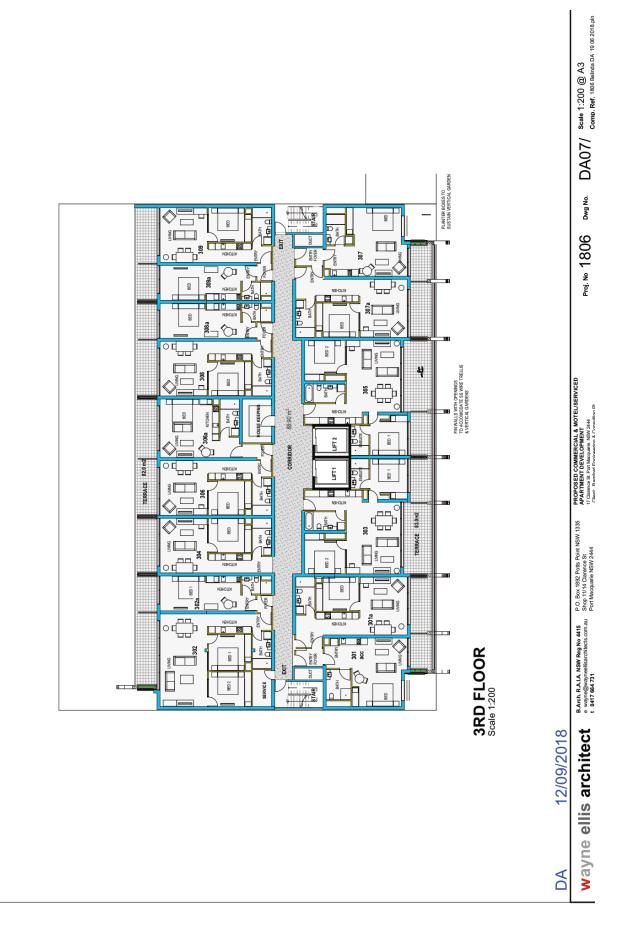
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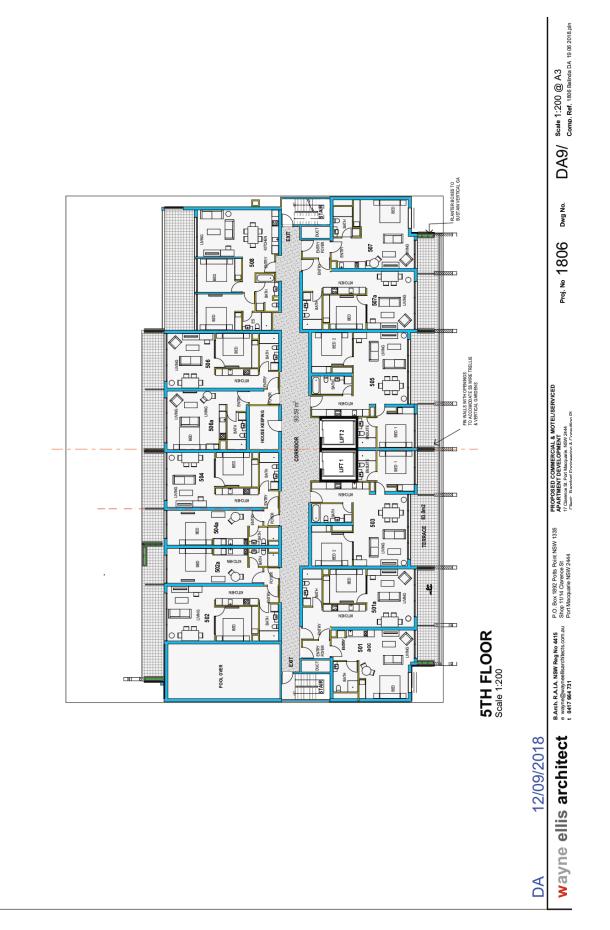




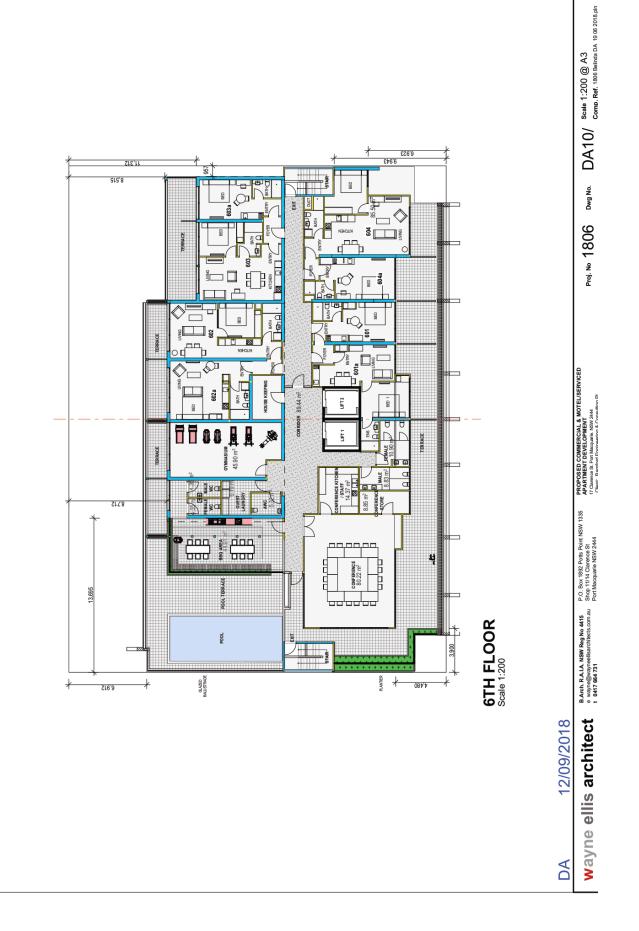
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Item: 07

Subject: DA2018 - 519.1 ANCILLARY BUILDING - PERGOLA LOT 33 DP 1069338, 76 THE ANCHORAGE PORT MACQUARIE

Report Author: Robert Slater

Applicant:	Wayne Ellis Architect
Owner:	R R & K M Falzon
Estimated Cost:	\$6000
Parcel no:	45332

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2018 – 519.1 for an ancillary building - pergola at Lot 33, DP 1069338, No. 76 The Anchorage, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

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

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

1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 833.9m².

The site is zoned R1 General Residential in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:







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

The Anchorage precinct comprises predominately of single dwellings situated on narrow blocks of land constrained by long diagonals in conjunction with partial walls subject to zero lot lines; the lots are characterised by expansive open space areas overlooking The Broadwater, South Harbour and the Hastings River. The majority of the dwellings have access to The Broadwater via jetties and boat mooring facilities. This open space area is subject to no- build restrictions, easements for maintenance and in some cases footway.



AGENDA

DEVELOPMENT ASSESSMENT PANEL 13/02/2019

2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- 550mm high timber privacy screen structure
- Vogue Pergola PVC fire retardant and impervious roof material (shade cloth)
- Metal roof support members Pitch approx. 24 degrees with a maximum arch height 3.613m above existing ground level
- 120x120mm RHS Metal support posts attached to existing brick wall
- Stormwater gutter

Refer to attachments at the end of this report.

Application Chronology

- Application lodged 16/07/2018
- Notification letters sent to adjoining neighbours 17/07/2018
- Submission received 01/08/2018
- Assessment Officer Site visit 15/08/2018
- Amended Plans received 21/11/2018
- Copy of amended plans provided to neighbour 21/11/2018

3. STATUTORY ASSESSMENT

Section 4.15(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. 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 No.55 – Remediation of Land

Following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated and is suitable for the intended use. The requirements of this SEPP are therefore satisfied.

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

In accordance with clause 15C, given the nature of the proposed development, the existing proposed stormwater controls and its location, the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries situated in the Hastings River.





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State Environmental Planning Policy (Coastal Management) 2018 and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011

The site is located within a coastal use area and coastal environment area.

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 13 and 14 of the SEPP and clause 5.5 of the Port Macquarie-Hastings LEP 2011 the proposed development is not considered likely to result in any of the following:

- a) any adverse impact on integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;
- b) any adverse impacts coastal environmental values and natural coastal processes;
- c) any adverse impacts on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- d) any adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- e) any adverse impact on Aboriginal cultural heritage, practices and places;
- f) any adverse impacts on the cultural and built environment heritage;
- g) any adverse impacts the use of the surf zone;
- h) any adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands;
- i) overshadowing, wind funnelling and the loss of views from public places to foreshores;

The bulk, scale and size of the proposed development is compatible with the surrounding built environment. The site is in an existing developed area zoned for residential purposes.

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

The proposed development is for a non-habitable pergola structure and as such it is not a requirement to submit a BASIX certificate and therefore the Policy does not apply.

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:

- 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 provides facilities or services to meet the day to day needs of residents.



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In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives as it is a permissible landuse, being ancillary to a dwelling. The proposal is considered to be compatible with the established residential locality.

In accordance with Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.

In accordance with Clause 7.1 – Acid Sulphate Soils. the site is mapped as potentially containing class 3 acid sulphate soils. The proposed development includes a pergola structure with privacy screen attached to an existing brick wall which requires no excavation and therefore no adverse impacts are expected to occur.

(a)(ii) Any proposed instrument that is or has been placed on exhibition

No draft instruments apply to the site.

(a)(iii) Any DCP in force Port Macquarie-Hastings Development Control Plan 2013:

DCP	2013:	Dwellings,	Dual	occupancies,	Dwelling	houses,	Multi	dwelling
hous	es & Al	ncillary deve	elopm	ent	_			_

	Requirements	Proposed	Complies
3.2.2.1	Ancillary development:		
	• 4.8m max. height	Pergola - max arch height 3.613m	Yes
	Single storey	Single storey	Yes
	• 60m2 max. area	22.27sq.m	Yes
	• 24 degree max. roof pitch	Approx. 24 degrees	Yes
	•Not located in front setback	Located in the rear/side yard area	Yes
3.2.2.5	Side setbacks: Ground floor = min. 0.9m	120x120 pergola posts attached to existing 230mm brick wall which is off-set 50mm from the western boundary.	No * See comments below
		The applicant proposes a	
		280mm side boundary setback.	
	First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min.	All development situated at ground level and considered to be single storey development.	N/A

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r			1
	Building wall set in and out every 12m by 0.5m	No change to the buildings existing level of articulation	N/A
3.2.2.10	Privacy:		N/A
	 Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. i.e. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed 	The proposed development makes minimal changes to the existing level of visual and acoustic privacy afforded to the adjoining property (74) adjacent to the south western boundary.	
	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	Single storey development	N/A
	Privacy screens provided to balconies/verandahs etc. which have <3m side/rear setback and floor level height >1m	The 500mm x 10.5m privacy screen situated parallel to the top of the existing wall and to the underside of the roof sheeting is not considered to be essential as it does not improve the level of privacy at ground level and from the first floor of No. 74. Additionally it is considered that due to the proposed reduced setback the privacy screen should be removed thus making the structure more open and reducing the perception of building bulk.	N/A

The proposal seeks to vary Development Provision 3.2.2.4 (a) which provides that a minimum side boundary setback of 900mm applies to the proposed pergola structure subject to achieving minimum required open space area.

The applicant proposes to erect a pergola structure having a reduced side boundary setback of approximately 280mm by attaching 120x120 steel posts to the existing 230mm wide and 2.0m high brick wall to support the metal roof trusses which in turn provide structural support to the pergola's roof. The existing masonry wall is situated on the applicant's property having a 50mm offset to western boundary.

The maximum height of the pergola support posts is 2.480m which is 480mm above the existing 2.0m masonry wall.



The pitch of the roof trusses is at an approximate angle of 24⁰ which is compliant with the numerical standard.

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The overall length and width of the pergola roof structures is:

- 1. Upper roof section $6.5m \times 2.56m$ wide = $16.64m^2$
- 2. Lower roof section 4.0m x 1.65m wide = 6.60m2

Resulting in an overall roof catchment area of 23.20m²

The maximum arch height of the roof trusses when measured above the existing ground level to the outer edge of the roof projection is 3.613m to the upper roof and 3.29m to the lower roof.

The relevant objectives are

- to reduce overbearing and perceptions of building bulk on adjoining properties and to maintain privacy and
- to provide for visual and acoustic privacy between dwellings

Having regard for the development provisions the variation is supported for the following reasons:

The proposed reduced boundary setback (280mm) of the pergola structure including the 500mm privacy screen adjacent to the western boundary have an influence on the overall perception of building bulk. To reduce the impact it is recommended that the 500mm privacy screen be removed.

It is considered that the existing 2.0m high brick wall provides adequate visual and acoustic privacy to the pool area (76) and the adjoining property (74).

The overall design of the proposed pergola structure is predominately open (with the screen removed) with differing roof heights somewhat mitigating the perceptions of building bulk.

Based on the above assessment, the variation proposed to the provisions of the DCP is considered acceptable and the relevant objectives have been satisfied. The variations does 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 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:

No agreements have been entered into

iv) any matters prescribed by the Regulations:

New South Wales Coastal Policy:

No matters prescribed by the Regulations are applicable to the proposal

Demolition of buildings AS 2601:

No demolition is required and therefore the Standard does not apply to the proposed development.



(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 development site has an area of 824m2. The allotments in the Anchorage precinct are characterised as having narrow street frontages (approx.15m) with elongated side boundaries (approx. 74m) and having zero-lot line building wall elements.

The site has a rear building line with a no-build area having the approximate dimensions of $15m \times 19.4m$ leading down to the boat mooring and pontoon/ramp facilities on the Broadwater.

The applicant has advised the purpose the proposed pergola structure is to improve the levels of privacy to their ground floor primary living areas and their swimming pool area by trying to build out the first floor living area windows of the adjoining property (74).

The proposal is considered to be compatible with the context and setting of the area.

View Sharing

During the public exhibition period concern surrounding view loss was raised by adjoining residents at (74) and a number of photographs were submitted.

An inspection of the subject site revealed that the proposed development had the potential to affect the adjoining properties existing view corridors albeit across a side boundary. Council staff subsequently met with the owners/occupiers of (74) The Anchorage and assessed views from key areas within the subject properties. Photos from the site visit are included at the end of this report.

The overall 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 all the view away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.

Using the principles of NSW Land and Environment Court case law - *Tenacity Consulting v Warringah 2004 NSW LEC 140,* the following comments are provided in regards 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: (74) The existing view *corridors* are enjoyed via The Broadwater to the weir situated to the north east and to South Harbour to the south and to the Hastings River situated to the south west of the subject site. Whilst not considered iconic, the views are desirable. The views are considered to be whole views as there is a visible interface between land and water. The existing 2.0m high masonry wall interrupts the majority of this view via the kitchen window.

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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: (74) The views are enjoyed from the property across its adjoining north eastern side boundary. The views are enjoyed from standing position and seated position depending on the room location. The existing 2.0m high brick wall interrupts much of the view from the kitchen window.

Step 3

Assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comments: (74) The views are obtained from the Kitchen/living room window while extensive views can be obtained from the alfresco room which is situated at the rear of the dwelling which has extensive views across The Broadwater to South Harbour and the Hasting River to the west and the weir situated to the east.

Furthermore the views are available in the seated and standing position from the alfresco room. The existing masonry wall to 2.0m and the pitch and additional height of the pergola roof would have an impact on the current views from the kitchen and the alfresco area. However, extensive views would be retained from the alfresco room and living rooms on the ground floor and first floor to the south and southwest with partial views to the north east. The overall impact on the existing extensive views is considered to be minor and reasonable in the context.

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: (74) The proposed privacy screen and pergola has been the subject of a merit based assessment and it is considered that the proposed development to be appropriate in a low density residential situation.

However, it is acknowledged that while the proposed development has the potential to impact on existing view corridors across the adjoining side boundary, extensive views would be retained if the proposed structure was lowered. It is therefore





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considered that view loss alone is not considered to be sufficient grounds for refusal of the application.

It should be noted that views across side boundaries are more difficult to protect and the expectation to retain side views is often unrealistic. Given the particular context the view loss is considered to be acceptable given the above assessment of the view loss against the well-established view sharing planning principles.

Access, transport and 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.

Water Supply

Existing Service available – details required with S.68 application.

Sewer

Service available - details required with S.68 application.

Stormwater

Existing Service available - details required with S.68 application

Other Utilities

Telecommunication and electricity services are available to the site.

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 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 restricting construction to standard construction hours.

Bushfire

The site is not identified as being bushfire prone therefore no further investigation or comment is 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. As detailed in the report above, the precinct contains a unique mixture of development. In particular, the rear building line in conjunction with the no-build area to the rear of the properties maintains the unique character of the area and affords extensive views of The Broadwater, South Harbour and the Hastings River. The proposal is not considered to give rise to an adverse cumulative impact.





(c) The suitability of the site for the development

The site is considered suitable for the proposed development. Relevant merit-based issues are discussed throughout the report to support this position.

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

One (1) written submission has been received following public exhibition of the application.

One (1) written submission has been received following public exhibition of the amended application.

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

Submission Issue/Summary	Planning Comment/Response
Excessive height and length along the property	The proposed pergola structure is permissible in the zone with consent.
boundary	The existing 2.0m high brick wall is19.6m in length and the overall length of the boundary is approximately 74m.
	The length of the proposed pergola structure is 10.5m
	The length of the proposed pergola is not considered to be excessive in the context given that a privacy screen may have a length of 10.5m and a side boundary setback of 900mm under the provisions of SEPP Exempt and Complying Development 2008.
	The Vogue pergola structure, has a curved roof structure which is engineered to a maximum arch height of 3.613m which allows for flexibility in contemporary roof design.

Submission Issue/Summary	Planning Comment/Response
How will the proposed privacy screen be finished and the what will be the overall look	The 550mm high privacy screen is proposed constructed of timber.
Privacy Screen has not been withdrawn from the plans, as we were previously advised the privacy screen would be removed. We would like the privacy screen removed from plans.	It is recommended that the privacy screen does not form part of this application and further if the proposal is approved that a condition be placed on the DA requiring that prior to the release of the Construction Certificate amended plans are submitted showing the removal of the privacy screen.
Most of the sky and light	The reduced variable height of the pergola's roof



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Submission Issue/Summary	Planning Comment/Response
will be blocked out.	support members and the removal of the 500mm high privacy screen would improve the visual impact on the adjoining neighbour while increasing the openness of the structure.
	Additionally refer to section in the report on view sharing and the attached shadow diagram.
Fire separation between properties	The proposal is capable of complying with the BCA. Details will be required with the required construction certificate.
The privacy screen and roof structure is attached to the boundary wall and does not have a 900mm setback	The DCP allows a merit based assessment to reduce this distance where the applicant can clearly demonstrate that the adjoining property's primary open space area is not adversely overshadowed for more than 3 hours between 9am and 3pm on 21 June.
	The submitted shadow diagram demonstrates that the private open space area of the adjoining property (74) is not adversely impacted by overshadowing.
	The peroposal is additionally capable of complying with the BCA.
How is the roof water to be managed	After discussions with the applicant in relation to a roof water disposal system as roof sheets are made from impervious PVC (shade cloth) the applicant has submitted amended plans showing a gutter detail.
	However it is recommended that if an approval is issued that a condition be placed on the DA requiring that a S.68 application is submitted and approved prior to the release of the Construction Certificate.
	The applicant will be required employ an appropriate qualified professional to design a roof water disposal system to a 1 in 20 year rain fall event.
	Council must be satisfied that all roof water (including water from cleaning activities) can be managed wholly within the boundary of property (76).
Shading of yard area	The shadow diagram as submitted by the applicant demonstrates that the proposed pergola structure will not adversely overshadow the primary open space area of the adjoining property between the hours of 9am and 3pm 21 June.
View Sharing	Refer to the body of the report in relation to view sharing, again, notwithstanding the reduced side boundary setback, views across boundaries are difficult to maintain.
Quality of materials and cost of same	Materials and cost are not matters for consideration under section 4.15. The proposal is permissible with consent in the zone.
Is the structure engineer	The pergola structure is site specifically designed by a

PORT MACQUARIE HASTINGS c o u n c i l

Submission Issue/Summary	Planning Comment/Response
certified to withstand wind forces	structural engineer in relation anchoring of the structure and wind loading requirements and generally this level of detail is submitted with the Construction Certificate application.
Drainage	Refer to the body of the report in relation to stormwater management system.
Height and Degree of Arch	The height and degree of the arch are compliant with the numerical standards contained in the DCP. The structure is not considered to give rise to any adverse privacy or overshadowing impact. The bulk and scale of the development is acceptable in the residential context.
What colour will the structure be	The applicant has provided details on the colour of the roof material. The colour of the roof cover is Opaque (refer cover specifications). Given that the roofing material is shade cloth like material it can be expected to weather over time to reducing any potential visual impacts. The colour of the metal posts and roof trusses has not been provided by the applicant. These details can be provided at the Construction Certificate stage.
Bird droppings on roof	This is a maintenance issue and not a determinative factor in assessing the application.
Roof cleaning water	Again, the applicant will be required to submit a S68 application demonstrating that all roof waters generated from the proposed pergola structure can be satisfactorily managed wholly within the boundaries of the property.

(e) The Public Interest:

The applicant has demonstrated that the proposed development to be consistent with the relevant planning controls, and adequate measures have been proposed to protect the amenity of the adjoining neighbour. Approval of the proposal is therefore not considered contrary to the public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE (a) N/A

5. CONCLUSION AND STATEMENT OF REASON

The application has been assessed in accordance with Section 4.15 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 considered suitable for the proposed development and the proposal as adequately addresses relevant planning controls. The development is not considered



DEVELOPMENT ASSESSMENT PANEL 13/02/2019

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

Attachments

1<u>View</u>. DA2018 - 519.1 Recommended Conditions 2<u>View</u>. DA2018 - 519.1 Plans

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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2018/519 DATE: 1/02/2019

PRESCRIBED CONDITIONS

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

A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Pergola Plans	1808 - A01/A04/C	Wayne Elfis Architect	31/01/2019
Vogue Pergola	PC - 18 - 192	Vogue Pergola	18/04/2018

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 hotified 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:
 - 1. Building equipment and materials shall be contained wholly within the site;
 - 2. Building waste is to be managed via an appropriate receptacle;
 - Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidays

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

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

(1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out stormwater works is to be obtained from Port Macquarie-Hastings Council.

The roof water management system shall be capable of handling a 1 in 20 rainfall event and be designed by an appropriate person to the satisfaction of Council.

(2) (B035) Prior to release of the Construction Certificate, amended plans shall be provided to the Principal Certifying Authority (PCA) demonstrating the removal of the 500mm high timber privacy screen.

C - PRIOR TO ANY WORK COMMENCING ON SITE

nil

D – DURING WORK

nil

E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E028) Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (e.g. the builder), stating that the stormwater disposal system has been designed and installed in accordance with the 1 in 20 year rainfall design specifications.

F - OCCUPATION OF THE SITE

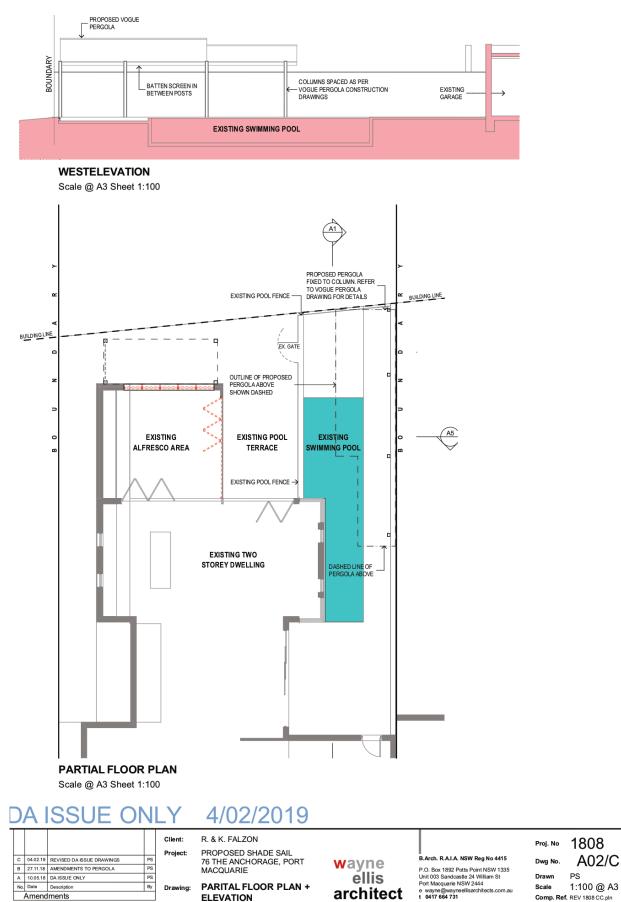
(1) (F002) The pergola structure is not to be further enclosed with the written consent of Port Macquarie Hastings Council.



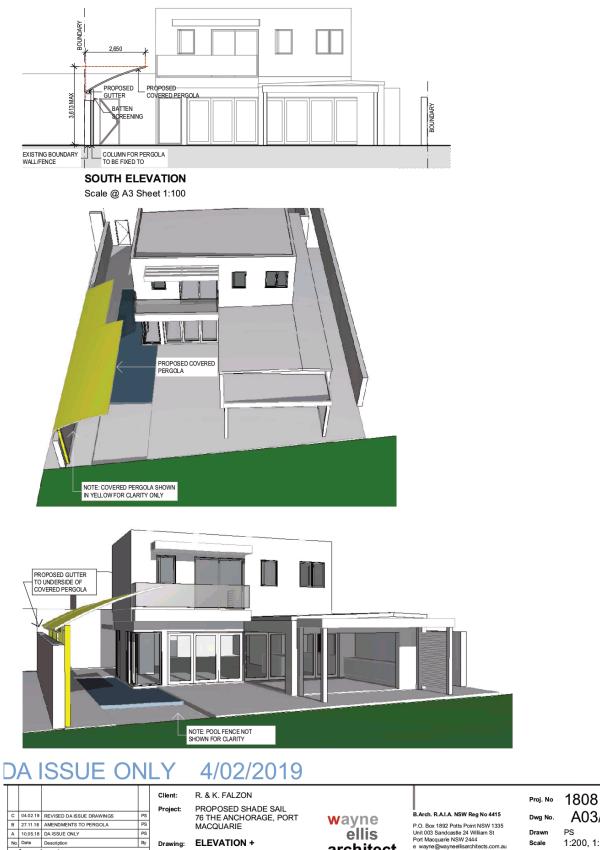
AERIAL SITE PLAN

DA ISSUE ONLY 4/02/2019

C 04.02.19 REVISED DA		5	76 THE ANCHORAGE, PORT	11101100	B.Arch. R.A.I.A. NSW Reg No 4415	Dwg No.	A01/C
3 27.11.18 AMENDMEN	TS TO PERGOLA	5	MACQUARIE	wayne	P.O. Box 1892 Potts Point NSW 1335	Dwg No.	AUTIC
A 10.05.18 DA ISSUE OF	NLY P	6	IN AGGOARTE	ellis	Unit 003 Sandcastle 24 William St	Drawn	PS
No. Date Description	Bj	Drawing:	SITE PLAN		Port Macquarie NSW 2444 e wavne@wavneellisarchitects.com.au	Scale	@ A3
Amendments				architect	t 0417 664 731	Comp. Re	f. REV 1808 CC.pln



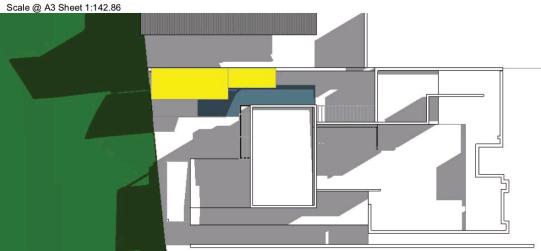
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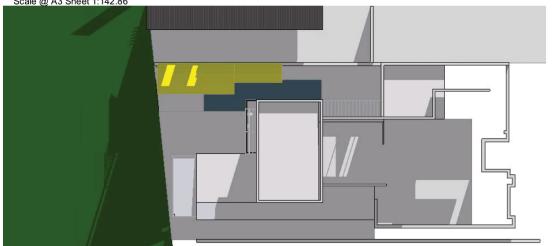
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у	Drawing:	ELEVATION +	architect	Port Macquarie NSW 2444 e wayne@wayneellisarchitects.com.au	Scale	1:200, 1:100 @ A
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s		MACQUARIE	wayne	P.O. Box 1892 Potts Point NSW 1335	-	100/0
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	Project:	PROPOSED SHADE SAIL		1	,	1000



JUNE 21st 9AM SUN SHADOW DIAGRAM



JUNE 21st 12 NOON SUN SHADOW DIAGRAM Scale @ A3 Sheet 1:142.86

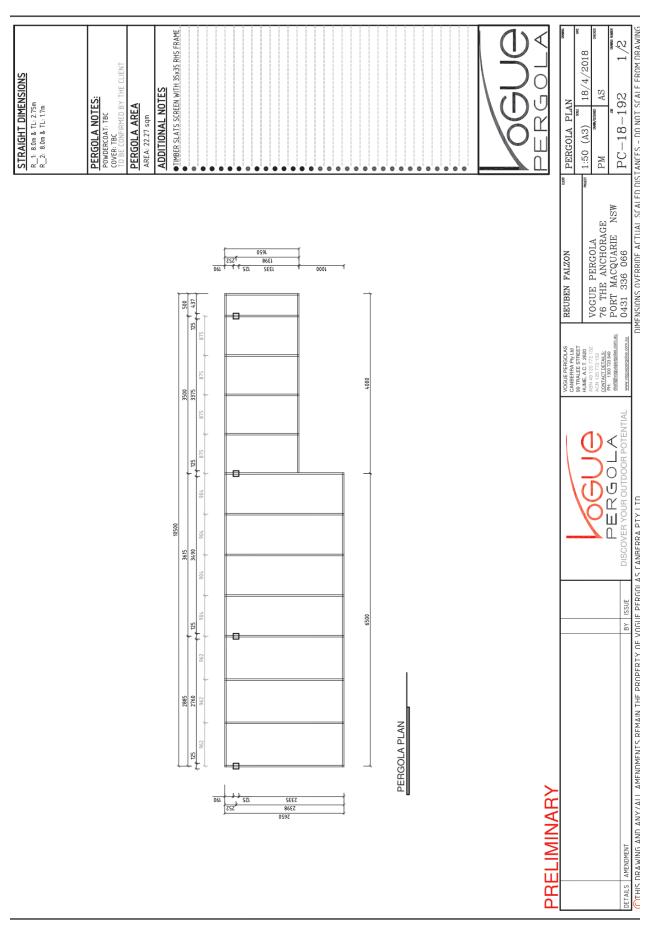


JUNE 21st 3PM SUN SHADOW DIAGRAM



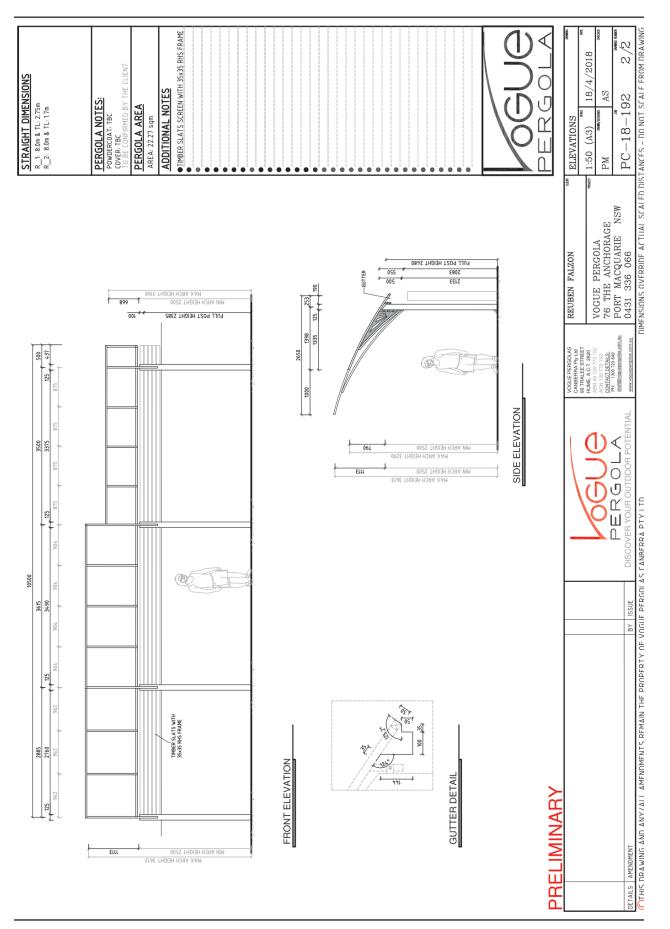
DEVELOPMENT ASSESSMENT PANEL 13/02/2019





ATTACHMENT

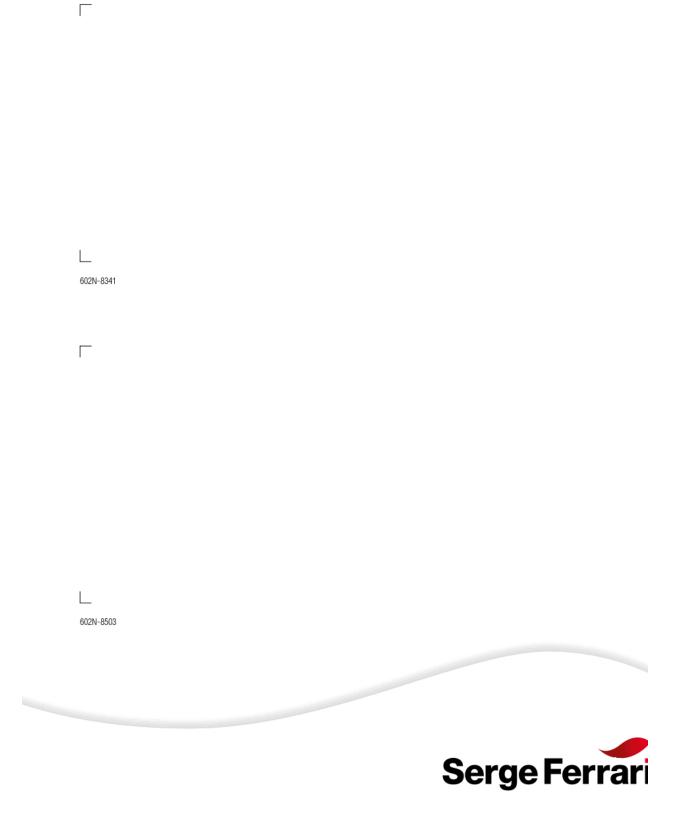
DEVELOPMENT ASSESSMENT PANEL 13/02/2019



ATTACHMENT

DEVELOPMENT ASSESSMENT PANEL 13/02/2019





PRECONTRAINT 602



MAJOR **ADVANTAGES**

- Exceptional dimensional stability
- Excellent weldability
- Very good UV resistance
- Optimum weight/capacity ratio (PRECONTRAINT 602 opaque)

Serge Ferrari

TECHNICAL SPECIFICATIONS

Précontraint 602 Translucent	Précontraint 602 Opaque	Standards
1100 dtex PES HT	1100 dtex PES HT	TERSUISSE
620 g/m²	750 g/m²	EN ISO 2286-2
250** / 267 cm	250** / 267 cm	
± 50 lm/± 350 lm	± 50 lm/± 300 lm	
230/220 daN/5 cm	230/220 da N/5 cm	EN ISO 1421
20/20 da N	20/20 daN	DIN 53.363
<1% / <1%	<1% / <1%	NF EN 15619
9/9 daN/5 cm	9/9 daN/5 cm	EN ISO 2411
Varnish both sides	Varnish both sides	
M2/NFP 92-507 • B1/DIN 410	2-1 • M2/UNE 23.727-90 • BS 7837 • 1	530.3/ASNZS •
		A 3800 (except 602 Opaque) -
- 30°C	- 30°C	ISO 4675
+ 70°C	+ 70°C	
		ISO 9001
	Translucent 1100 dtex PES HT 620 g/m² 250** / 267 cm ± 50 lm/± 350 lm 230/220 daN/5 cm 20/20 daN <1% / <1%	Translucent Opaque 1100 dtex PES HT 1100 dtex PES HT 620 g/m² 750 g/m² 250** / 267 cm 250** / 267 cm ± 50 lm/± 350 lm ± 50 lm/± 300 lm 230/220 daN/5 cm 230/220 daN/5 cm 20/20 daN 20/20 daN <1% / <1%

COLOURS & REFERENCES

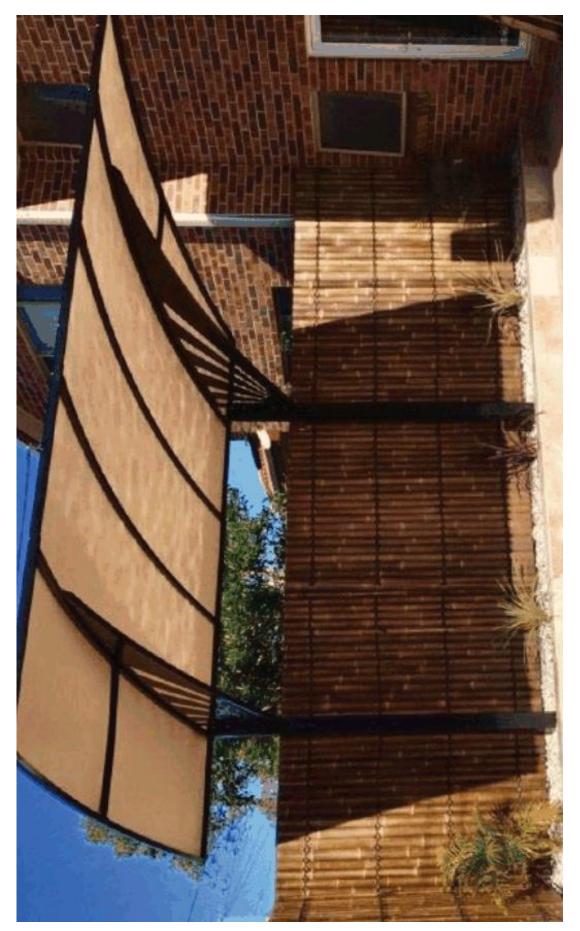


The technical characteristics shown here are average values, given for information only and may be modified (±10%). 'Our packaging data are given for information only and may vary as a function of manufacturing conditions.

Précontraint is a Serge Ferrari registered trade mark. ref 7414 • 11111 ET 2011 k/ V2 01 GB

Item 07 Attachment 2





Item: 08

Subject: DA2018 - 863 PART CHANGE OF USE TO BED AND BREAKFAST ESTABLISHMENT, LOT 3 DP 805503, NO. 14 WARRIGAL RIDGE SANCROX

Report Author: Steven Ford

Applicant:	R A France and T L Hughes
Owner:	R A France and T L Hughes
Estimated Cost:	\$0
Parcel no:	24713

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2018/863.1 for a Part Change of Use to Bed and Breakfast Establishment at Lot 3, DP 805503, No. 14 Warrigal Ridge, Sancrox, be determined by granting consent subject to the recommended.

Executive Summary

This report considers a development application for a the part change of use of a dwelling to a bed and breakfast establishment 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, 1 submission have been received.

1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 1.248 Hectares.

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

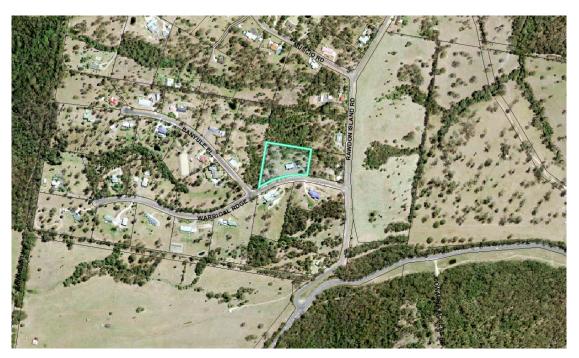




DEVELOPMENT ASSESSMENT PANEL 13/02/2019



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:

• Part change of use to bed and breakfast establishment

Refer to attachments at the end of this report.

Application Chronology

• 18/10/18 – Application Received



DEVELOPMENT ASSESSMENT PANEL 13/02/2019

- 29/10/18 to 12/11/18 Public Notification
- 7/11/18 Submission Received
- 5/12/18 Site Inspection
- 18/12/18 Rural Fire Service General Terms of Approval received

3. STATUTORY ASSESSMENT

Section 4.15(1) Matters for Consideration

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

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

State Environmental Planning Policy No. 55 – Remediation of Land

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

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposed development does not include advertising signage in the form of business/building identification and/or general advertising.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The proposal does not meet the Complying Development SEPP standards for Bed and Breakfast, as it is located within a bushfire prone land. See qualifying clause below;

Bed and breakfast accommodation is development specified for this code if it is:

- a) permissible with development consent under an environmental planning instrument applying to the land on which the development is carried out, and
- b) not constructed or installed on bush fire prone land.

The standards specified for that development are that the development must:

- (a) be in an existing dwelling house, and
- (b) consist of not more than 4 guest bedrooms or, if there is a local environmental plan applying to the land that was made under section 3.20 of the Act, the maximum number of bedrooms specified in clause 5.4 (1) of that plan, and
- (c) have at least 1 guest bathroom, and
- (d) have a fire extinguisher and fire blanket in the kitchen, and
- (e) have at least 1 off-road car parking space per guest bedroom, and
- (f) not display any advertisement on the premises (other than a notice or sign indicating the name and occupation of the resident), and
- (g) if the dwelling house is subject to the <u>Strata Schemes Management Act 1996</u> or the <u>Community Land Management Act 1989</u>—have the prior approval of the owners corporation, or the community, precinct or neighbourhood association.



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Note. The use of a dwelling as bed and breakfast accommodation will result in a change of building class for the dwelling under the Building Code of Australia. There will be new fire safety and access requirements.

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

A BASIX certificate not required as cost of works are under \$50,000 to an existing home.

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 R5. In accordance with clause 2.3(1) and the R5 zone landuse table, the proposed development for a bed and breakfast establishment is a permissible landuse with consent.

The objectives of the R5 zone are as follows:

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

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 does not create unreasonable demand existing services available.
- Clause 5.4 Controls relating to B&Bs The Bed and Breakfast provides 2 bedrooms for guests being less than the maximum of 4 prescribed in the LEP.

(a)(ii) Any proposed instrument that is or has been placed on exhibition

No draft instruments apply to the site.

(a)(iii) Any DCP in force

Port Macquarie-Hastings Development Control Plan 2013:

The built form of the existing dwelling remains unchanged. Therefore, only the General Provisions in the DCP are considered applicable.

It is noted that Chapter 3.3 of the DCP applies to tourist accommodation. The provisions are more directed at larger scale operations rather than bed and breakfasts. Bed and breakfast establishments by their nature are small scale and more conducive to standard residential areas/dwellings. Having an onsite manager





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also aids in management of the development, including potential check in, noise, waste etc (ie not holiday letting).

Nonetheless, the following comments are provided in relation to compliance with key provisions in Chapter 3.3:

- The development is consistent with the surrounding front setbacks of adjoining properties.
- Balconies and openings remain unchanged and generally face the front and rear boundaries.
- Guest bedrooms are setback greater than 10m from side boundaries.
- Rear setback backs onto a rural property and therefore the 6m setback requirement is not as relevant.
- Sunlight to key open spare areas provided and retained.
- Site contains suitable landscaping.
- Private open space areas acceptable in size and accessible from primary living areas.
- Busy/noisy areas generally face the rear yard/rural land.
- Privacy provisions remain unchanged.
- Accessibility is unchanged, the property has two existing driveways crossovers
- Design of the building and roof is unchanged
- Entrance is identifiable.
- Suitable laundry facility provided.
- Waste can be managed via standard kerb pick up.

DCP 20	DCP 2013: General Provisions				
	Requirements	Proposed	Complies		
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	The proposed development does not create any adverse concealment or entrapment areas onsite. The design also allows for surveillance of the property and adjoining areas.	Yes		
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Noted		
2.5.3.2	New accesses not permitted from arterial or distributor roads	The development does not front an arterial or distributor road.	N/A		
	Driveway crossing/s minimal in number and width including maximising street parking	Driveway acceptable.	Yes		
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	The rate for bed and breakfast developments is 1 space per bedroom and 1 space for manager. The development provides for 2 bedroom for guests. Therefore, 3 spaces required.	Yes		
		The development provides 4+			



DEVELOPMENT ASSESSMENT PANEL 13/02/2019

DCP 201	CP 2013: General Provisions				
	Requirements	Proposed	Complies		
		spaces for off street parking behind the front building line			
2.5.3.11	Section 94 contributions	Contributions do not apply to a dwelling, including a dwelling that includes a bed and breakfast.	N/A		
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	Already existing and accepted with the house.	Yes		
2.5.3.14	Sealed driveway surfaces unless justified	Existing and accepted with the house.	Yes		
2.5.3.15 and 2.5.3.16	Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length	Already existing and accepted with the house.	Yes		
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Already existing and accepted with the house.	Yes		
	Vehicle washing facilities – grassed area etc available.	Already existing and accepted with the house.	Yes		

Based on the above assessment, the provisions of the DCP and the relevant objectives have been satisfied. .

(a)(iii)(a) Any planning agreement or draft planning agreement

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

(a)(iv) The regulations

NSW Coastal Policy 1997

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)

Fire Safety and other considerations – Clause 93

Consent authority may require buildings to be upgraded – Clause 94

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

The site has a general frontage orientation to Warrigal Ridge.

Adjoining the site is generally residential dwelling consist with the land zoning

The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.



DEVELOPMENT ASSESSMENT PANEL 13/02/2019

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

The proposal does not have a significant adverse impact on existing view sharing.

The proposal does not have significant adverse lighting impacts.

There are no significant adverse privacy impacts. Adequate building separation exists.

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 and 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.

Services and Utilities

Existing and satisfactory.

Heritage

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

Other land resources

The site is within an established rural residential 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.

Air and microclimate

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

Flora and fauna

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. Part 7 of the Biodiversity Conservation 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. Standard precautionary site management condition recommended.

Noise and vibration

No adverse impacts anticipated. On-site management proposed considered capable of managing guest noise.



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DEVELOPMENT ASSESSMENT PANEL 13/02/2019

Bushfire

The site is identified as being bushfire prone.

The applicant has submitted a bushfire report prepared by a Certified Consultant. The report is to demonstrate that bushfire risk is manageable and has carried out an assessment under Section 100B requirements. See Bushfire Hazard Assessment attached to this report for recommendations.

Notably, the report identified, reticulated water is available to the site but if it is not possible for Council to guarantee water supply then a Water Supply for Fire Fighting of 20,000 litres in accordance with Fast Fact 3/08 and Planning for Bushfire Protection, 2006 is to be provided. It has been confirmed that water supply pressure cannot be guaranteed and as identified a 20,000 water tank will be required for the purposes of firefighting.

The Application was also referred to the Rural Fire Service (RFS) and attached to this report are the RFS general terms of approval.

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.

Site design and internal design

The proposed development satisfactorily responds to the site attributes and will be compatible with 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.

Natural Hazards

See comments earlier in this report

(c) The suitability of the site for the development

The proposal will be compatible with the locality and the site attributes are conducive to the proposed development.

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



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

Following exhibition of the application in accordance with DCP 2013, one submissions were received.

Submission issue/Summary	Planning Comment/Response
The proposed development consists of the proprietors living on the upper story and the tenants occupying the lower story. This constitutes the upper story to be a Class 2 building and the lower story Class 3, i.e. the construction has to comply with the requirements of a Type B Fire Resisting construction. For this, the Environmental Planning and Assessment Regulation 2000, clause 93 requires a fire safety report to be considered by PMHC. Spec C1.1–4 of the 2016 Building Code of Australia outlines the Fire Resisting Construction requirements. Please provide evidence of this consideration.	In consideration of the objections, requirements of the BCA will be resolved in recommended conditions and during the Building Certificate stage. i.e. removal of cooking facility of the downstairs, removal of internal locking door separating the lower and first floor, restricting that the premises are not to be made adaptable as two separate self-contained units. The development is capable of complying.
Section D3 of the BCA requires disabled access per AS1428 to and within the accommodation. Please provide evidence indicating that the proposed development meets this requirement.	Access and mobility of the lower floor is capable of complying and will be resolved during the building certificate stage.
Part F5 of the BCA outlines the provisions regarding Sound Transmission and Insulation. Please provide evidence indicating that the proposed development meets this requirement.	The application is not approving a separate occupancy, and only seeks a part change of use of the existing downstairs area. Noise transmission between the lower and first floors is not required to be upgraded. In considering the submissions comments, consent conditions have been carefully implemented to make it clear that the building is not to be adapted to two separate occupancies.
Proposed development not Harmonious with Existing Environment	The proposed use is permissible with consent. The house is not to be entirely leased for the purposes of tourist accommodation. In addition, as the owner of the property will be present, it can be assumed that visitors will be respectful or noise levels controlled.

(e) The public interest

The proposed development will be in the wider public interest with provision of appropriate short term tourist accommodation.

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



4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

N/A

5. CONCLUSION AND STATEMENT OF REASON

The application has been assessed in accordance with Section 4.15 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 considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.

Attachments

1<u>View</u>. DA 2018 - 863.1 Recommended conditions 2<u>View</u>. DA2018 - 863.1 RFS General terms of approval 3<u>View</u>. DA2018 - 863.1 SOEE 4<u>View</u>. DA2018 - 863.1 Plans



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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2018/863 DATE: 31/01/2019

PRESCRIBED CONDITIONS

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

A - GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Plans		Roger Fance	15/07/18
Floor Plan		Roger Fance	15/07/18
Statement of Environmental Effects		Michelle Chapman	October 2018
Bushfire Assessment Report		Tim Mecham	October 2018
Rural Fire Service Terms of Approval	D18/8077	Alan Bawden	18/12/18

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) (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 Rural Fire Service The General Terms of Approval, Reference D18/8077 and dated 18 December 2018, are attached and form part of this consent.
- (3) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (4) (A017) A separate development application for any proposed advertising signs (other than signs which are exempt development) must be submitted to and approved by council prior to the erection or display of any such signs.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

nil

C - PRIOR TO ANY WORK COMMENCING ON SITE

nil

D - DURING WORK

nil

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE/ BUILDING CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E015) Prior to occupation or issue of the Occupation/Building Certificate, details of compliance with the bushfire risk assessment is to be provided to the Principal Certifying Authority.
- (3) (E195) Removal of Cooking Facilities The kitchenette located at lower ground floor is to be made adaptable for the use of guests for tea making purposes only and is not to be used for the preparation or cooking of meals. Food or meals prepared for guests, is to be prepared within the existing kitchen located at ground floor level of the existing dwelling. In this regard the stove located at lower ground floor level is to be removed and existing service connections to the stove capped off. The existing cupboards, sink and refrigerator located at lower ground floor level may be retained.
- (4) (E196) Premises to be used as a Single Dwelling The premises are to be used as a single dwelling only, with portion of the dwelling at lower ground floor level being used for ancillary purposes as a bed and breakfast accommodation within the existing dwelling. The premises are not to be made adaptable as two separate self-contained units.
- (5) (E197) Installation of Smoke Alarms Smoke alarms are to be installed on or near the ceiling of each bedroom used for purposes as a Bed and Breakfast accommodation and in the corridor or hallway between these bedrooms and the remainder of the dwelling. To assist evacuation of guests in the event of fire, smoke alarms are to be interconnected and a lighting system is to be installed in the hallway outside the bedroom that is activated by the smoke alarm system.

Smoke alarms are to be installed within the remainder of the dwelling in accordance with the requirements of Parts 3.7.2.2 & 3.7.2.3 of the National Construction Code (BCA).

- (6) (E198) Installation of fire extinguisher and fire blanket A fire blanket and a portable fire extinguisher, selected and located in accordance with AS 2444, is to be installed in the kitchenette at lower ground floor level.
- (7) (E199) Recommendations as outlined in the Bush Fire Assessment Report by Tim Mecham, dated October 2018, are to be implemented.

F – OCCUPATION OF THE SITE

- (1) (F195) Use of the lower area is permitted to be used as a Bed and Breakfast accommodation when not being used as part of the existing single dwelling no self-contained leasing is permitted or kitchen facilities to be installed.
- (2) (F196) Accommodation associated with the Bed and Breakfast use is limited to the two (2) bedrooms shown on the approved Ground Floor Plan.
- (3) (F197) All new and existing essential fire safety measures shall be maintained in working condition at all times

All communications to be addressed to:

Headquarters 4 Murray Rose Ave Sydney Olympic Park NSW 2127

Telephone: 1300 NSW RFS e-mail: records@rfs.nsw.gov.au Headquarters Locked Bag 17 Granville NSW 2142

Facsimile: 8741 5433



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

Your Ref. 2018/863 Our Ref. D18/8077 DA18111616088 PC

ATTENTION: Steven Ford

18 December 2018

Dear Mr Ford

Integrated Development Application - 3//805503 - 14 Warrigal Ridge Sancrox

I refer to your correspondence dated 6 November 2018 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

Asset Protection Zones

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

- At the commencement of the development and in perpetuity, the property around the dwelling for the following distances shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
 - north for 35 metres; and
 - east, south and west to the property boundary.

Water and Utilities

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

ID:116088/109895/5

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 Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

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

3. The property access shall maintain a minimum 4 metre vertical and horizontal clearance to any obstructions, including tree branches.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

4. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006', including the preparation of an emergency / evacuation plan consistent with the NSW RFS document titled 'A guide to developing a bush fire emergency management and evacuation plan'. A copy of the plan shall be provided to the consent authority and the local Bush Fire Management Committee prior to commencement of the development.

Design and Construction

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

5. The existing dwelling is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

Landscaping

6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

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Should you wish to discuss this matter please contact Paul Creenaune on 1300 NSW RFS.

Yours sincerely

Alan Bawden Team Leader - Development Assessment & Planning

For general information on bush fire protection please visit www.rfs.nsw.gov.au

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STATEMENT OF ENVIRONMENTAL EFFECTS

Ground Floor Part Continued Use – Bed and Breakfast Accommodation

Lot 3 DP 805503, 14 Warrigal Ridge, SANCROX

For and on behalf of: Roger Fance

October 2018 ALL ABOUT PLANNING

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STATEMENT OF ENVIRONMENTAL EFFECTS

Ground Floor Part Continued Use – Bed and Breakfast Accommodation

14 Warrigal Ridge, SANCROX Lot 3 DP 805503

October 2018 AAP Reference: 2018-019 2018 © All About Planning Pty Ltd

ALL ABOUT PLANNING PO BOX 2196 PORT MACQUARIE

PO BOX 2196 PORT MACQUARIE NSW 2444 PH 02 6583 1305 FAX 02 6583 1368

This report has been prepared in accordance with an agreement between All About Planning Pty Ltd and Roger Fance.

In preparing this report, All About Planning Pty Ltd has used and relied on the following plans and information provided by Roger Fance and other parties as detailed below. Except as otherwise stated, the accuracy and completeness of the information provided to All About Planning Pty Ltd for this assessment has not been independently verified.

This report by All About Planning Pty Ltd should be read in conjunction with the following documents:

- Floor Plans prepared by All About Planning dated 15/07/2018
- Bushfire assessment Report prepared by Tim Mecham dated October 2018
- Concurrent application to PMHC for a Building Certificate for building works undertaken (with accompanying Engineers Certification)

For, and, on behalf of All About Planning Pty Ltd. Michelle Chapman

Michelle Chapman Master Town Planning Bachelor Urban & Regional Planning (Hons) Fellow, Registered Planner & Member (PIA) Director ALL ABOUT PLANNING

Planning Institute Australia

www.allaboutplanning.com.au

Item 08 Attachment 3

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1.0 INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared in support of an application to Port Macquarie – Hastings Council for the ground floor part continued use of an existing 2 storey detached dwelling as Bed and Breakfast Accommodation at Lot 3 DP 805503, No. 14 Warrigal Ridge, Sancrox.

The proposed development is permissible in the R5 Large Lot Residential zone and is compatible with the adopted zone objectives. All relevant design issues have been adequately addressed in this SEE.

This report addresses the proposed development, the characteristics of the site and surrounding area and the impacts of the proposal. It also provides an assessment of the proposed development under the provisions of Section 4.15 of the NSW Environmental Planning and Assessment Act 1979.

Consideration has also been given to the Council's DCP 2013, which the proposed bed and breakfast development also complies with.

2.0 DESCRIPTION OF LOCALITY AND SITE

The Port Macquarie Hastings Council Profile.id site (<u>https://profile.id.com.au/port-macquarie-hastings/about</u>) provides the following historical background on Port Macquarie:

The Port Macquarie-Hastings Council area is located on the Mid North Coast of New South Wales, about 420 kilometres north of the Sydney CBD, and 510 kilometres south of the Brisbane CBD. The Port Macquarie-Hastings Council area is bounded by Kempsey Shire in the north, the Tasman Sea in the east, the Mid Coast Council area in the south, and Walcha Shire in the west.

Port Macquarie is named after New South Wales Governor Lachlan Macquarie (1810-1821), while Hastings is named after the Governor of Bengal, Francis Rawdon Hastings.

European settlement dates from 1818 when the area was first explored and 1821 when a penal settlement was established at Port Macquarie.

The PMQ LGA has (based on 2016 census figures) a population of 79,905, with a population density of 0.22 persons per hectare.

The original inhabitants of the Port Macquarie-Hastings Council area were the Birpai Aboriginal people.

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DEVELOPMENT ASSESSMENT PANEL 13/02/2019

Statement of Environmental Effects Ground Floor Part Continued use as B&B – 14 Warrigal Ridge



Figure 1: Locality Plan for subject site

Regarding the Sancrox locality, profile.id states: "Development of the area dates primarily from the 1950s and 1960s, as a westerly expansion of Port Macquarie. Rapid growth has taken place since the early 1990s, with the population increasing six-fold between 1991 and 2011, a result of large numbers of new dwellings being added to the locality." Population increase has resulted from development particularly within the Lake Innes Peninsula, Thrumster and John Oxley Drive Precinct.

The site is located at No. 14 Warrigal Ridge Road, Sancrox, on land currently described as Lot 3, DP 805503. The site is situated within the Sancrox area approximately 15 km to the west of the Port Macquarie CBD within a scenic rural-residential style subdivision. There are five adjoining neighbours with similar large lot residential sites, nestled amongst scattered vegetation providing visual screening between neighbours.

The site has a roughly rectangular shape, with a curved southern frontage, along Warrigal Ridge and is located approximately 70m off Rawdon Island Road. The site has a total area of approx. 1.25 hectares. There is an existing two storey residential dwelling, ancillary buildings, semi-circular driveway, and established gardens located within an attractive elevated area of the site. The land slopes downwards and north toward surrounding scattered bushland. The site has existing on-site sewerage system and reticulated water. There is a fire hydrant within proximity of the site for fire-fighting purposes.

2 JALL ABOUT PLANNING

DEVELOPMENT ASSESSMENT PANEL 13/02/2019



Figure 2: Aerial plan showing subject site and surrounding development $\, \textcircled{} \, 0.2018 \, \, Six \, Maps$

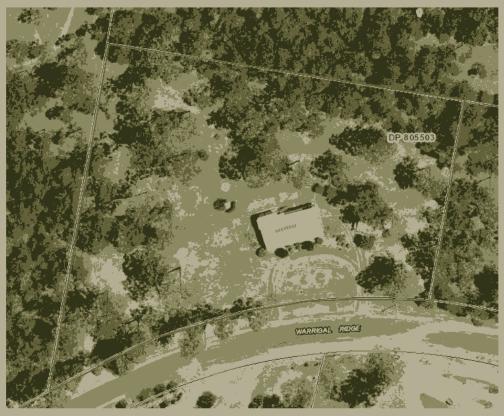
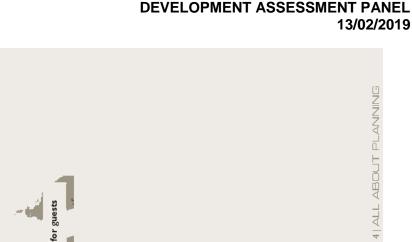


Figure 3: Detailed Aerial plan showing subject site IC Source: Six Maps

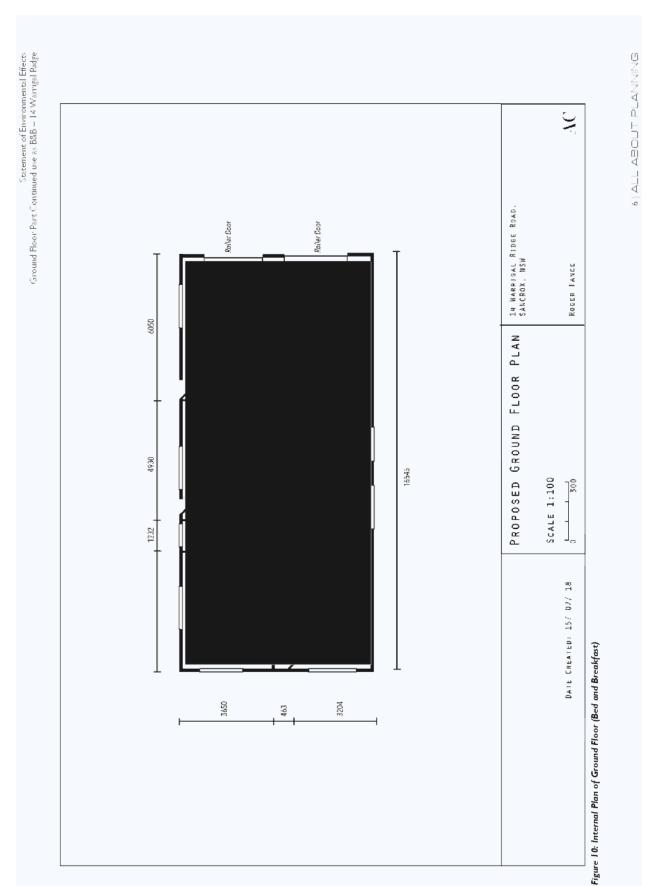






DEVELOPMENT ASSESSMENT PANEL 13/02/2019





DEVELOPMENT ASSESSMENT PANEL 13/02/2019

3.0 DESCRIPTION OF PROPOSAL

3.1 General Description

The development proposed in this application is a ground floor part continued use of an existing two storey dwelling as bed and breakfast accommodation. The existing Council approved dwelling (Application No. 6.1998.423.1 approved 20/4/1998) consists of a two-storey residence with the lower level constructed in cement block and includes an internal double garage, external light weight cladding, wrap-around verandah, and colorbond roof. The site has a semi-circular driveway, visitor parking area and ancillary approved work shed (Application No. 6.1998.620.1 approved 24/6/1998). The dwelling has landscaped gardens and is located on a large lot residential property.

As outlined in the submitted plans, the bed and breakfast is located on the part ground level, with access via an external door on the northern side of the building. A secondary access is also available from the double garage.

The Bed and Breakfast comprises two bedrooms, a lounge room, bathroom, kitchenette/eating area, and an outside seating/relaxation area. The second storey of the dwelling remains un-changed and continues to be utilised as a dwelling for the residents. There is an existing internal and separate external stair-ways connecting the ground and second storey levels. Existing satisfactory arrangements are in place for stormwater drainage, on-site sewage/waste-water disposal, and reticulated water provision.

Council sent a letter to the applicants on 20 April 2018, (Council Reference CRM 9469/17) to indicate that a Development Application was required for use of the ground floor area as a Bed and Breakfast, and a Building Certificate was required for a new external door opening and bearer spanning the kitchenet also on the ground floor.

A concurrent application for a Building Certificate also accompanies the subject development application. The Building Certificate covers building alterations already undertaken to improve the internal floor plan and functionality for use as a Bed and breakfast as follows:

- An existing internal door positioned in front of the ground level stairs was removed and the wall opening closed.
- 2. A door was added adjacent to the ground floor stairs to provide improved separation between the internal garage, ground floor mudroom/storage area and access to the second storey via the existing internal stairway. The internal door provides connection into the proposed Bed and Breakfast area on the ground floor, and when closed ensures privacy between the permanent residents and B&B guests.

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- 3. A widened structural wall opening was created in place of an existing internal door at ground level to create a more open internal floor plan that provides better amenity and internal room connection for bed and breakfast guests. This structural opening has been inspected by a practicing Structural Engineer, who has confirmed the structural adequacy of the widened opening.
- 4. A new external door was created on the ground level northern façade of the building opening to the kitchenette. This door provides direct external access to the downstairs area (proposed bed and breakfast) and connects with the outside seating/relaxation area downstairs. This structural opening has been inspected by a practicing Structural Engineer, who has confirmed the structural adequacy of the widened opening.
- 5. The conversion of a downstairs laundry to a kitchenette comprising storage cupboards, sink and dishwasher facilities.

A structural engineers report prepared by Beukers & Ritter Consulting, dated 24 May 2018, accompanies the Building Certificate to relevantly review the structural adequacy of the approved works.

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4.0 PLANNING CONTROLS

The statutory and strategic planning instruments which guide this proposal are:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy No. 55 Remediation of Land
- State Environmental Planning Policy (Exempt and Complying Codes) 2008
- Planning for Bushfire Protection 2006
- Port Macquarie Hastings Local Environmental Plan 2011
- Port Macquarie Hastings Development Control Plan 2013

4.1 Environmental Planning and Assessment Act 1979

This application is made under Part 4 of the Environmental Planning and Assessment Act 1979 (the Act).

The proposal does not come under any of the following classifications of the Act:

- exempt or complying development
- integrated development
- designated development

The proposal fully satisfies those matters raised under Section 4.15 of the Act as detailed later in this report in Section 5.

4.2 Environmental Planning and Assessment Regulation 2000

Clause 50 (How must a development application be made), of the Environmental Planning and Assessment Regulation 2000 (the Regulations) includes the following provisions:

- (1) A development application:
 - (a) Must contain the information, and be accompanied by the documents, specified in Part 1 of Schedule 1, and
 - (b) If the consent authority so requires, must be in the form approved by that authority, and
 - (c) Must be accompanied by the fee, not exceeding the fee prescribed by Part 15, determined by the consent authority, and
 - (d) Must be delivered by hand, sent by post or transmitted electronically to the principal office of the consent authority, but may not be sent by facsimile transmission.

3 ALL ABOUT PLANNING

The subject development application complies with the above provisions of the Environmental Planning and Assessment Act Regulation 2000.

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

Clause 7 (1) (A) of this planning instrument requires Council to consider whether land is contaminated in its assessment of a development application.

Based on the available information regarding the sites history and its approved use as a permanent dwelling, it is concluded that the subject site is unlikely to include any contaminated soil (or other contaminating agents). The site is suitable for the proposed B&B use.

4.4 State Environmental Planning Policy (Exempt and Complying Codes) 2008

The aim of this Policy is to determine exempt and complying development. The subject proposal does not meet the Complying Development SEPP standards as the development is located within bushfire prone land (ref clause 4A.I Codes SEPP 2008).

4.5 Planning for Bushfire Protection 2006

The NSW Rural Fire Service has classified the subject site as partly Vegetation Category 1, 2 and 3, being bushfire prone land. As a consequence, the NSW Rural Fire Service's "Guidelines - Planning for Bushfire Protection 2006" (PfBP) applies, and as a Bed and Breakfast proposal the application is Integrated development (ref EPA Act s4.46) requiring referral to the NSW Rural Fire Service.

Planning for Bushfire Protection 2006 notes:

 "When an application is made for a change of use for the establishment of B&Bs and holidays lets, these fall within the 'special fire protection purpose development' (SFPP) definition. Access and water are critical for such developments and where these do not provide suitable access away from the fire hazard, these developments should not be allowed.

Where conversion to a B&B or holiday let is proposed in an area with reticulated water, it does not back onto public reserves, and the setback and construction requirements of AS 3959-1999 can be applied (or are shielded by other forms of development) they should be treated as an infill arrangement."

4 ALL ABOUT PLANNING

Statement of Environmental Effects Ground Floor Part Continued use as B&B – 14 Warrigal Ridge

- "For the purposes of section 100B (5)(a1) of the Rural Fires Act, the following development is excluded from the operation of that section.
 - a. Development for the purposes of bed and breakfast accommodation using an existing building, but only if the building is more than **30** metres from native vegetation."

A Bushfire Assessment report (refer Appendix 2) has been undertaken by Midcoast Building and Environmental. The following is an extract from this report:

4.0 RECOMMENDATIONS

The following requirements are considered to be integral to this bushfire risk assessment:

- 1. An Asset Protection Zones as detailed in Section 3.1.1 of this report are provided.
- 2. Access and Egress is to be provided as detailed in Section 3.1.2 of this report is to be provided.
- 3. A water supply (including gas bottle supply) as detailed in Section 3.1.3 of this report is to be provided.
- 4. Adopt landscaping principals in accordance with Section 3.1.4 of this report.
- 5. Adopt the principals in accordance with Section 3.1.5 of this report.
- 1. The buildings are upgraded in accordance with the minimum requirements of the Rural Fire Services: Best Practice Guide to Bushfire Protection-Upgrading of Existing Buildings and to comply with Section 3.2 of this report.
- 6. In addition to the requirements of this report it is recommended that a bushfire survival plan be developed and implemented for the subject site. In this regard your attention is drawn to the Rural Fire Service website.

The report relevantly notes in section 3.1.1 of the Bushfire Assessment report "that with respect to the vegetation to the north there is tree canopy connection within the minimum APZ nominated above. A disconnection of canopy will be required in accordance with PfBP 2006 to achieve a complaint APZ to the north."

The report also states at 3.1.5 that "before occupation of the proposed development, an Emergency Evacuation Plan incorporating bushfire evacuation will be required to be produced". The report provides acceptable solutions for emergency and evacuation plans requirements.

The report recommends at 3.3.3 that the existing dwelling be upgraded for ember protection in accordance with the minimum requirements of the Rural Fire Services: Best Practice Guide to Bushfire Protection Upgrading of Existing Buildings' to comply with requirements of AS 3959-2209 Construction of Buildings in Bushfire Prone Areas for the siting, design and construction.

This Bushfire Assessment report has concluded that "with the implementation of this report, and its recommendations, that the bushfire risk is manageable and will be consistent with the acceptable bushfire protection measure solutions, provided for in Section 4.3.5 of the NSW Rural Fire Service PfBP, 2006."

4.6 Port Macquarie Hastings Local Environmental Plan 2011

As indicated by the following map extract from the Port Macquarie Hastings Local Environmental Plan 2011 (PMH LEP 2011) the subject site is zoned R5 Large Lot Residential. The continued use of Bed and Breakfast Accommodation within the ground floor of the existing dwelling is permissible with consent in the R5 Large Lot Residential zone.

The objectives of the R5 Large Lot Residential Zone from the PMH LEP 2011 are as follows:

"Zone R5 Large Lot Residential

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

Comment: The subject proposal satisfies the objectives of the zone. The subject Bed and Breakfast will be undertaken within the existing approved dwelling and will not create an unreasonable increase in the demand for public services or public facilities.



Figure 4: Zoning Plan extract from the PMH LEP 2011 with subject site highlighted

Clause 4.3 – Height of Buildings of the PMH LEP 2011 controls the allowable building height measured from natural ground level to the roof on land subject to the LEP. The subject change of use does not propose any modification to the approved height of building.

Clause 4.4 – Floor Space Ratio of the PMH LEP 2011 controls the allowable floor space ratio (FSR) on land subject to the LEP. This development does not propose any change to the floor space of the existing approved dwelling.

Clause 5.4 - Controls relating to miscellaneous permissible uses of the PMH LEP 2011 indicates additional controls for 'Bed and breakfast accommodation'. Development for the purposes of Bed and Breakfast accommodation is permitted under the LEP but only where the accommodation that is provided to guests does not consist of more than 4 bedrooms.

It is noted that the dictionary of the PMH LEP 2011 defines bed and breakfast as meaning:

"an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided."

The permanent residents will provide temporary and short-term accommodation for guests on a commercial basis at 14 Warrigal Ridge, Sancrox. This proposal for use of the ground floor space a Bed and Breakfast accommodation is permissible as it only includes 2 bedrooms in the downstairs/ ground floor area of the existing dwelling. The residents will be provided meals with no meal preparation within Guest rooms. Dormitory style accommodation is not proposed as part of this development.

Clause 7.1 - Acid Sulfate Soils, of the PMH LEP 2011 seeks to "to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage". "Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the (PMH LEP 2011) <u>Acid</u> <u>Sulfate Soils Map</u> as being of the class specified for those works". The land is not identified as being affected by acid sulfate soils.

Clause 7.3 Flood Planning of the PMH LEP 2011 seeks to "minimise flood risk to life and property associated with the use of land". The land is not flood affected as identified on the PMH LEP 2011 Flood Planning Map.

7 JALL ABOUT PLANNING

Clause 7.13 Essential services of the PMH LEP 2011 seeks to ensure that "services that are essential for the proposed development are available or that adequate arrangements have been made to make them available". There are existing essential services provided on the site for supply of water, electricity, disposal and management of sewage, stormwater drainage and road access, as required by this clause.

4.7 Port Macquarie – Hastings Development Control Plan 2013

Chapter 3.3 (Tourist and Visitor Accommodation Development) of the Port Macquarie – Hastings Development Control Plan 2013 (PMH DCP 2013) applies to the subject application.

The following table outlines the relevant DCP objectives and development provisions and an assessment of the amended proposal against each of these:

Chapter 3.3 Tou	Chapter 3.3 Tourist and Visitor Accommodation Development			
Objectives	Development Provisions	Complies Yes/No	Comment	
2.5.3.3 Transport, Traffic Management, Access and Car Parking	Adequate provision is made for off-street parking commensurate with volume and turnover of traffic likely to be generated by the development. To ensure no adverse impacts on traffic and road function. B&B accommodation – I parking space per bedroom + I manager's space	✓ ✓ ✓	The B&B has ample and convenient area for on-site parking. There are at least 2 x dedicated on-site parking spaces for visitors and a double garage, and parking can also be sited in front of garage, within driveway as may be required for use by residents and guests. The site has a sealed accessible driveway and a pathway around the house to the proposed ground floor B&B entry. Safe and functional access to the development is provided.	
3.2.2 Objectives and Development Provisions	Applicable objectives as identified in this section of the DCP. The DCP aims to provide good design that responds and contributes to its context. Responding to local context involves identifying the desirable elements of current and future key characteristics of the site. Analysis and design should assist in minimising issues relating to noise, overshadowing, community safety, access, views, privacy,	✓ ✓	The subject dwelling was Council approval in 1988. The B&B accommodation is provided within the ground level of the existing dwelling. There will be no change to the existing setbacks, fences, walls, deep soil requirements, and the site has landscaped gardens and an abundance of private open space. There is existing provision of essential services, with waste to be managed as per the existing residence.	

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DEVELOPMENT ASSESSMENT PANEL 13/02/2019

Objectives	Development Provisions	Complies Yes/No	Comment
	energy consumption and waste generation. To encourage identifiable, safe and functional accesses/entrances to the development.	1	There is parking and safe access to the B&B and residence. There are no overshadowing impacts and no adverse impacts or neighbour's visual or acoustic privacy, given the significant
	Appropriate design for site facilities and services. To encourage provision for essential services to residential development.	v	distance between existing dwellings
	Encourage safe and secure housing for residents and visitors.	~	
	To provide and integrate waste management facilities in a sensitive manner such as they relate to the development.	✓	

 $\label{eq:statement} Statement of Environmental Effects \\ Ground Floor Part Continued use as B\&B-14 Warrigal Ridge$

5.0 ENVIRONMENTAL PLANNING ASSESSMENT

5.1 s.4.15 (1)(a)(i) the provision of any Environmental Planning Instrument (EPI)

Consideration of the following EPI's has been included in this report in Section 4.0:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy No. 55 Remediation of Land
- State Environmental Planning Policy (Exempt and Complying Codes) 2008
- Port Macquarie Hastings Local Environmental Plan 2011

Planning for Bushfire Protection 2006 has also been considered in Section 4.0.

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5.2 s.4.15 (1)(a)(ii) the provision of any draft Environmental Planning Instruments

Not applicable.

5.3 s.4.15 (1)(a)(iii) any Development Control Plan

Consideration of the Port Macquarie Hastings DCP 2013 has been included in Section 4.0 of this report.

5.4 s.4.15 (1)(a)(iv) any matters prescribed by the regulations

Not applicable.

5.5 s.4.15 (1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Context and Setting

The subject proposal is in keeping with the established large lot residential setting and context of the site. As stated earlier in this report the proposed bed and breakfast accommodation will be located within the lower/ground floor of the existing dwelling. The applicants have provided required parking, safe and functional access to/from the site and entry to the bed and breakfast accommodation. There is adequate distance from neighbours to ensure no likely impacts on visual and acoustic privacy.

The bed and breakfast includes two bedrooms, bathroom, lounge, kitchenette/eating area and outside seating/recreational space. Guest meals will be provided by the permanent residents for guests. The proposal is appropriate within the R5 Large Lot Residential zone as it complies with the LEP zone objectives and the associated DCP development requirements.

Access, Transport and Traffic

The proposal is adequately serviced by the existing road network and it will not create any unreasonable impacts that exceed the capacity of the local road network or intersections.

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Statement of Environmental Effects Ground Floor Part Continued use as B&B – 14 Warrigal Ridge

Public Domain

The proposal does not have an adverse impact on the public domain.

<u>Utilities</u>

The subject development does not create any unreasonable impacts on the existing utility services available to the subject site.

<u>Heritage</u>

The proposal is not listed as a heritage item under the PMHC LEP 2011 nor is it located in the vicinity of any other listed item.

Flora and Fauna

No significant flora or fauna is affected by the proposal as no tree or other vegetation clearing is necessary.

Energy

No specific energy issues have been identified. A BASIX Certificate is not required.

Noise and Vibration

There is unlikely to be any adverse neighbour noise impacts attributable the subject development.

<u>Contaminated Land</u> Not applicable.

<u>Technological Hazards</u> Not applicable.

Social Impact in the Locality

The continued use as a Bed and Breakfast accommodation can be satisfactorily undertaken and provides additional highly desirable tourist and visitor accommodation within the locality. Guests experience friendly family B&B accommodation, in a beautiful setting, and are provided the opportunity to experience the many attractions within the Port Macquarie – Hastings Local Government Area.

Given the significant distances between dwellings there are no detrimental impact on neighbour's amenity including acoustic and visual privacy.

Economic Impact in the Locality

The subject use results in a small positive sustainable economic impact to the Local Government area/locality generated by the new tourist and visitor accommodation (Bed and Breakfast) approval.

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Statement of Environmental Effects Ground Floor Part Continued use as B&B – 14 Warrigal Ridge

The proposed Bed and Breakfast will additionally provide important economic benefits for the applicants as a valuable secondary income derived from the underutilised ground floor portion of their dwelling.

Construction

The proposal is subject to a separate concurrent building certificate application for unauthorised structural works, as discussed in this SEE.

Cumulative Impacts

The development does not result in any significant cumulative impacts on the area. As outlined in the preceding environmental assessment, the impacts from the proposal will be minor and within the normal bounds of expectation without cumulative effects.

5.6 s.4.15 (1)(c) suitability of the site for development

Having regard to the location of the subject site, the existing approved and constructed dwelling, availability of suitable on-site parking, and the preceding assessment of the proposal, the site adequately accommodates the subject use.

The Bed and Breakfast accommodation complies with the LEP and DCP requirements and does not create any adverse impacts to the adjoining properties or public areas.

5.7 s.4.15 (1)(d) submissions made in accordance with the Act or the Regulations

Port Macquarie - Hastings Council, being the relevant Consent Authority, will need to consider any submissions received in response to the public exhibition of the proposed development. If it is helpful a review and response to any submissions made can be provided.

5.8 s.4.15 (1)(e) the public interest

Given the recent growth in short-term holiday letting, the NSW government is looking at the economic contribution of the industry while managing any potential social and environmental impacts. In 2016, the NSW Legislative Assembly Committee on Environment and Planning conducted an inquiry into the adequacy of the regulation of short term holiday letting in New South Wales. Three public hearings were held between March and May 2016 and 212 public submissions were received. The Committee's final report was published on 19th October 2016 and made 12 recommendations. The key relevant recommendations were that the NSW Government:

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Statement of Environmental Effects Ground Floor Part Continued use as B&B – 14 Warrigal Ridge

- allow home sharing, and letting a principal place of residence, as exempt development;
- allow empty houses to be let as exempt and complying development;

In response, the NSW Department of Planning and Environment prepared an Options Paper for public consultation providing a number of options including greater industry self-regulation, registration or licensing of short term holiday letting operators, changes to strata laws and regulation through the planning system. The submission period finished in October 2017, and feedback is presently under consideration by the NSW Department of Planning and Environment.

On 5 June 2018 an announcement indicated that the Minister for Planning, Minister for Housing and Minister for Innovation and Better Regulation were bringing to Parliament a Bill which would:

- a. Enable changes to the Strata Scheme Management Act which would allow owners corporations to adopt by-laws, with a 75% majority, preventing STHL in their block if the host does not live in the unit they are letting out.
- b. Require a mandatory Code of Conduct for online accommodation platforms, letting agents, hosts and guests would address impacts like noise levels, disruptive guests and effects on shared neighbourhood amenities.
- c. The Code would also provide dispute resolution processes to resolve complaints through NSW Fair Trading with powers to police etc and serious breaches including bans for 2, 5 years and an exclusion register.

On 14 August 2018 the Bill was passed by Parliament to enable the above processes.

The subject Bed and Breakfast Accommodation is consistent with broader state policy direction (as illustrated above), and has addressed all current statutory requirements and regulations. The development within the existing dwelling, does not create any adverse social or environmental impacts and is demonstrably in the public interest.

6.0 CONCLUSION

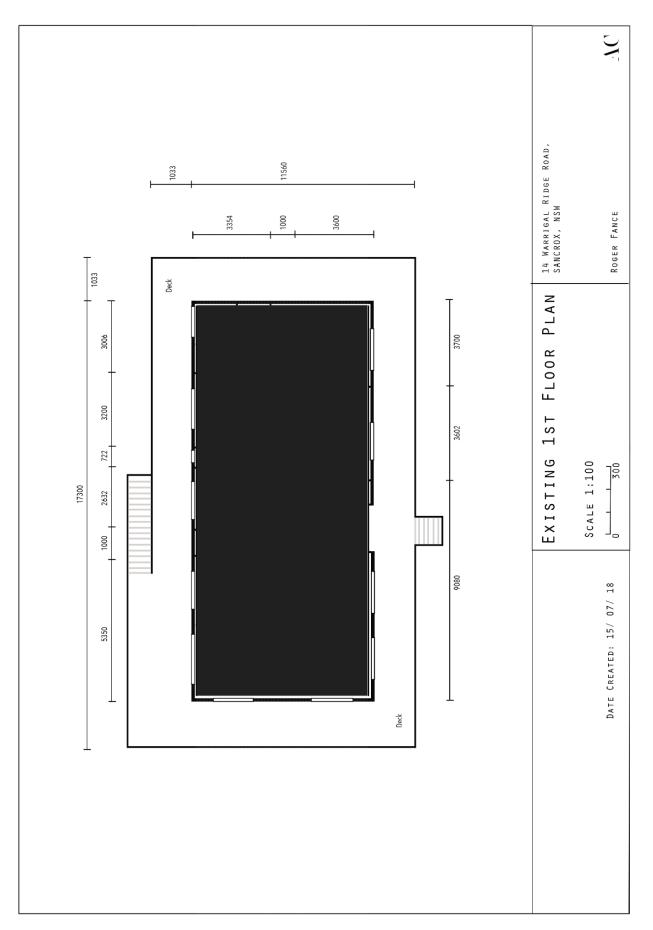
The ground floor part continued use of an existing 2 storey detached dwelling as Bed and Breakfast Accommodation is permissible in the zone, is consistent with zone objectives, has general planning merit and positive social and economic benefits. The proposal as outlined and assessed in this report is recommended to Council as a worthy response to the ongoing demand for alternative tourist and visitor accommodation (bed and breakfast accommodation) in the Port Macquarie LGA, whilst being compatible with and respectful of the existing surrounding context.

As noted earlier, the subject development is appropriate for its site and location, involves only minimal environmental impacts and fully complies with Council's applicable development standards.

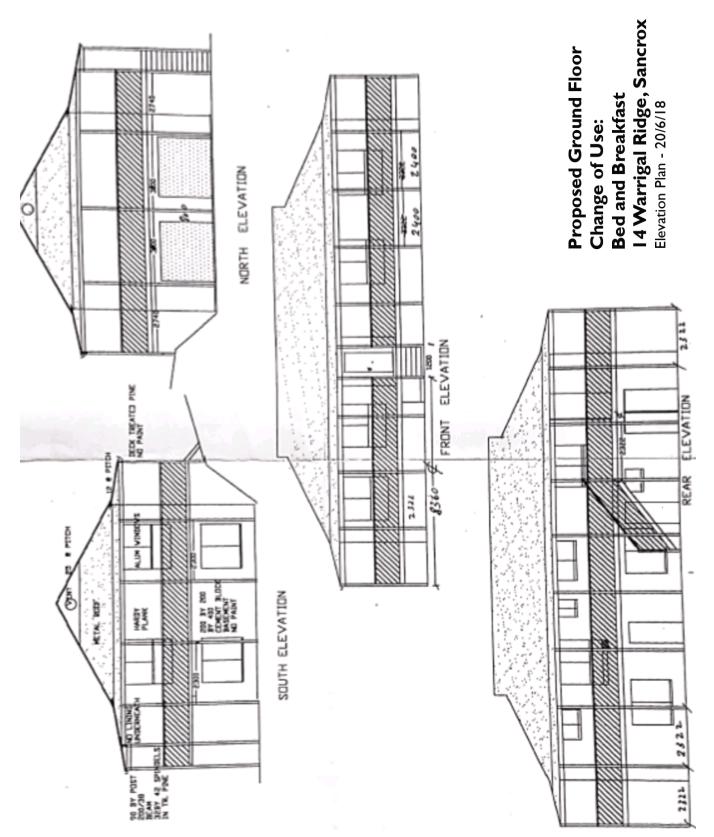
The proposal is unreservedly recommended for Council approval.

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Item 08 Attachment 4



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Item: 09

Subject: DA2018 - 933.1 ALTERATIONS AND ADDITIONS TO DWELLING -LOT 8 DP 844137, NO. 1A BANKSIA AVENUE, BONNY HILLS

Report Author: Ross Frazier

Applicant:	T McCudden
Owner:	W G Lawrence
Estimated Cost:	\$175,000
Parcel no:	27202

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2018 – 933.1 for alterations and additions to dwelling at Lot 8 DP844137, No.1A Banksia Avenue, Bonny Hills be determined by granting consent subject to the recommended conditions.

Executive Summary

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

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

1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 764.1 sq.m.

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:



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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:





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- Addition of rear deck with clear roof over to the lower ground floor of the dwelling.
- Addition to an existing deck on the upper level.

Refer to attachments at the end of this report.

Application Chronology

- Application lodged on 5 November 2018
- Application notified to adjoining owners from 16 November to 29 November 2018
- Site inspection undertaken on 5 December 2018
- Advice received from adjoining owner on 5 December 2018 of failure to receive notification.
- Advice provided to owner on 5 December 2018 that submission will be accepted as the development has not yet been approved.
- 1 submission received on 5 December 2018

3. STATUTORY ASSESSMENT

Section 4.15(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. 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 No. 55 – Remediation of Land

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

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

Given the nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries.

State Environmental Planning Policy (Coastal Management) 2018 and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011

The site is located within a coastal use area / coastal environment area.

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



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Having regard to clauses 13 and 14 of the SEPP and clause 5.5 of the Port Macquarie-Hastings LEP 2011 the proposed development is not considered likely to result in any of the following:

- a) any adverse impact on integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;
- b) any adverse impacts coastal environmental values and natural coastal processes;
- c) any adverse impacts on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- d) any adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- e) any adverse impact on Aboriginal cultural heritage, practices and places;
- f) any adverse impacts on the cultural and built environment heritage;
- g) any adverse impacts the use of the surf zone;
- h) any adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands;
- i) overshadowing, wind funnelling and the loss of views from public places to foreshores;

The bulk, scale and size of the proposed development is compatible with the surrounding coastal and built environment. 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 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:

- 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 2.7, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying Development Codes) 2008.
- Clause 4.3, the maximum overall height of the building above ground level (existing) is not altered.





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- Clause 4.4, the floor space ratio of the proposal is 0.40 :1 which complies with the maximum 0.65 :1 floor space ratio applying to the site.
- Clause 4.6 exceptions to development standards. Nil proposed
- Clause 5.5 Development within the coastal zone relevant objectives of this clause are addressed by SEPP (Coastal Management) 2018 section (see above).
- (ii) Any draft instruments that apply to the site or are on exhibition:

Nil

(iii) any Development Control Plan in force:

Port Macquarie-Hastings Development Control Plan 2013

	Requirements	Proposed	Complies
3.2.2.1	Ancillary development: • 4.8m max. height • Single storey • 60m2 max. area • 100m2 for lots >900m2 • 24 degree max. roof pitch • Not located in front setback	No outbuildings or ancillary development proposed.	N/A
3.2.2.2	 Articulation zone: Min. 3m front setback An entry feature or portico A balcony, deck, patio, pergola, terrace or verandah A window box treatment A bay window or similar feature An awning or other feature over a window A sun shading feature 	No elements within the articulation zone. The lot is considered to be a battle-axe style lot.	N/A
	Front setback (Residential not R5 zone): • Min. 6.0m classified road • Min. 4.5m local road • Min. 3.0m secondary road • Min. 2.0m Laneway	Front building line setback is compliant with the minimum 4.5m front setback requirements. Lot is considered to be a battle-axe style lot	Yes
3.2.2.3	Garage 5.5m min. and 1m	Garage door setback is	Yes



	Requirements	Proposed	Complies
	behind front façade. Garage door recessed behind building line or eaves/overhangs provided	compliant with the minimum front setback requirements. Garage door is existing and unaltered.	
	6m max. width of garage door/s and 50% max. width of building	Width of garage door/s are compliant with the maximum width requirements. Existing	Yes
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	Driveway crossing/s width are compliant with the maximum width requirements. Existing and unaltered	Yes
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	The lot is considered to be a battle-axe lot. The applicant has indicated that the Western elevation is considered to be the rear elevation. The rear setback proposed to the deck is 2.5m. The height of the floor of the proposed ground level deck should be less than 1m from GL. Open space requirements are provided on the Northern side elevation, however much of this land is under garden. The remaining open space to the east side is used for driveway and parking areas. The proposed deck could be considered to provide these requirements for private open space.	No – refer to comments below
3.2.2.5	 Side setbacks: Ground floor = min. 0.9m First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. Building wall set in and out every 12m by 0.5m 	The minimum side setback requirements are complied with. The building wall articulation is compliant and/or satisfactory to address the objective intent of the development provision.	Yes
3.2.2.6	35m2 min. private open space area including a useable 4x4m min. area which has 5% max. grade	The dwelling contains 35m ² open space in one area including a useable 4m x 4m space. This space is located	Yes

	Requirements	Proposed	Complies
		at the Northern side of the dwelling, however much of this area is presently under garden.	
3.2.2.10	 Privacy: Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 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 	No direct views between living areas of adjacent dwellings. Adjacent dwelling balconies are however visible from the upper level deck, and also some adjacent open spaces and recreation areas. There is an existing upper deck already constructed and this is to be enlarged slightly by an addition of 2.4m. The deck will be located in excess of 3m to the side and rear boundary. Due to the elevation of the deck and the ability to view adjacent balconies and yard areas to the West it is proposed that a privacy screen will be provided to this elevation. Existing vegetation additionally assists in providing privacy and it has been advised will remain in position.	Yes
3.2.2.11	Roof terraces	N/A	
3.2.2.13 onwards	Jetties and boat ramps	N/A	

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling

	Requirements	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	No concealment or entrapment areas proposed. Adequate casual surveillance available.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Cut and fill <1.0m change 1m outside the perimeter of the external building walls	Yes
2.3.3.2	1m max. height retaining	None proposed	N/A



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	Requirements	Proposed	Complies
	walls along road frontage		
	Any retaining wall >1.0 in height to be certified by structure engineer	No retaining wall likely >1m	Yes
	Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway	No retaining wall front fence combination proposed.	N/A
2.5.3.2	New accesses not permitted from arterial or distributor roads	No new access proposed to arterial or distribution road.	N/A
	Driveway crossing/s minimal in number and width including maximising street parking	Driveway crossing minimal in width including maximising street parking	Yes
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	1 or capacity for more than 1 parking space behind the building line has been provided for. Existing garage unaltered	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	Single dwelling only with 1 domestic driveway. No specific landscaping requirements recommended.	N/A
2.5.3.14	Sealed driveway surfaces unless justified	Sealed driveway proposed. Existing driveway	Yes
2.5.3.15 and 2.5.3.16	Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length	Driveway grades capable of satisfying Council standard driveway crossover requirements. Existing driveway	Yes
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Single dwelling only with 1 domestic driveway. Stormwater drainage is capable of being managed as part of plumbing construction.	Yes

The proposal seeks to vary Development Provision relating to Cl 3.2.2.4

The relevant objectives are:

• To allow adequate natural light and ventilation between dwellings and to private open space areas.



DEVELOPMENT ASSESSMENT PANEL 13/02/2019

• 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:

- The lot is considered to have similar constraints as a battle-axe style lot. Cl 3.2.2.4 (b) allows that open space areas adjacent to rear boundaries may be repositioned in preference to provision of open spaces in other locations on the lot. In this instance a minimum setback of 2.5m to the rear boundary will be maintained with private open space being nominated to the Northern elevation in compliance with this clause.
- The proposed encroachment to the rear boundary is by a clear roofed deck approx. 8.5m long with open sides less than 1m above GL. Air flow and ventilation will be maintained. Existing vegetation will be maintained to screen the minor encroachment to the rear boundary.

Based on the above assessment, the variation proposed to the provision of the DCP is considered acceptable and the relevant objectives have been satisfied. The variation does 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 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:

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.

Demolition of buildings AS 2601:

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

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

The proposal may have impacts to existing adjoining properties regarding privacy and the consent will be conditioned to mitigate the impact.

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

The proposal does not have a significant adverse impact on existing view sharing.



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The proposal does not have significant adverse lighting 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, Traffic and Transport

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.

Water Supply Connection

Service available – details required with S.68 application.

Sewer Connection

Service available – details required with S.68 application.

Stormwater

Service available – details required with S.68 application.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

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

Other land resources

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. Standard precautionary site management condition recommended.

Flora and fauna

Construction of the proposed development will not require any removal/clearing of any native vegetation and therefore does not trigger the biodiversity offsets scheme. Part 7 of the Biodiversity Conservation Act 2016 is considered to be satisfied.

Waste

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. No adverse impacts anticipated. Standard precautionary site management condition recommended.



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Energy

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

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 report prepared as a self-assessment.

An assessment of bushfire risk having regard to section 4.3.5 of Planning for Bushfire Protection 2006 including vegetation classification and slope concludes that a Bushfire Attack Level of Low is considered acceptable.

Management of bushfire risk is acceptable

Safety, security and crime prevention

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

Social impacts in the locality

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

Economic impact in the locality

No adverse impacts. A likely positive impact is that the development will maintain employment in the construction industry, which will lead to flow impacts such as 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.

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

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

One (1) written submissions have been received following public exhibition of the application.

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

Submission Issue/Summary	Planning Comment/Response
The height and location of the deck will visually impact the adjacent back yard and will "tower over" that space	The floor of the lower deck will be around 700mm above ground level at the highest point. Existing mature vegetation is proposed to remain in place which will assist in screening the deck. An existing deck is currently located on the upper level. It is proposed to be extended. The extension will be provided with a screen on the Western elevation to improve privacy. The existing vegetation on the boundary will remain
Anyone standing on the proposed deck will have a clear view over the rear fence and into the adjacent back yard and kitchen window impacting on privacy.	The lower deck will be screened by the existing rear fence and mature vegetation which will remain in place. A screen will be provided to the upper level deck to maintain privacy between properties.
Anyone standing on the deck will be clearly visible from the adjoining dwelling kitchen and or back yard which will impact their privacy	The lower deck will be screened by the existing rear fence and mature vegetation which will remain in place. A screen will be provided to the upper level deck to maintain privacy between properties.
The development requires removal of at least 2 established trees on the boundary between the properties	The applicant has provided information that minimal pruning of branches will be undertaken on the trees to retain as much as possible the current effective screening.

(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

N/A

5. CONCLUSION AND STATEMENT OF REASON

The application has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.





AGENDA

DEVELOPMENT ASSESSMENT PANEL 13/02/2019

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

Attachments

1<u>View</u>. DA2018 - 933.1 Recommended Conditions 2<u>View</u>. DA2018 - 933.1 Plans



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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2018/933 DATE: 1/02/2019

PRESCRIBED CONDITIONS

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

A - GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Plans	17/080	Davy Watt and Associates	2/11/2018
Floor Plans	17/080	Davy Watt and Associates	2/11/2018
BASIX Certificate	A294128	Davy Watt and Associates	30/10/2018

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:
 - 1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - 2. Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;
 - 4. Building waste is to be managed via an appropriate receptacle;

- 5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- 6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidays

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

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out 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
- (2) The additions to the upper deck shall incorporate a privacy screen 1.8m high with maximum 25% transparency constructed on the Western elevation edge. Details to be indicated on the construction plans prior to issue of a Construction Certificate.

C - PRIOR TO ANY WORK COMMENCING ON SITE

Nil

D – DURING WORK

- (1) (D003) The Port Macquarie-Hastings area is 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.
- (2) (D029) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601-1991: The Demolition of Structures. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

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

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

Safely disposing of asbestos waste from your home

Fibro & Asbestos - A Renovator and Homeowner's Guide

Asbestos Awareness

E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

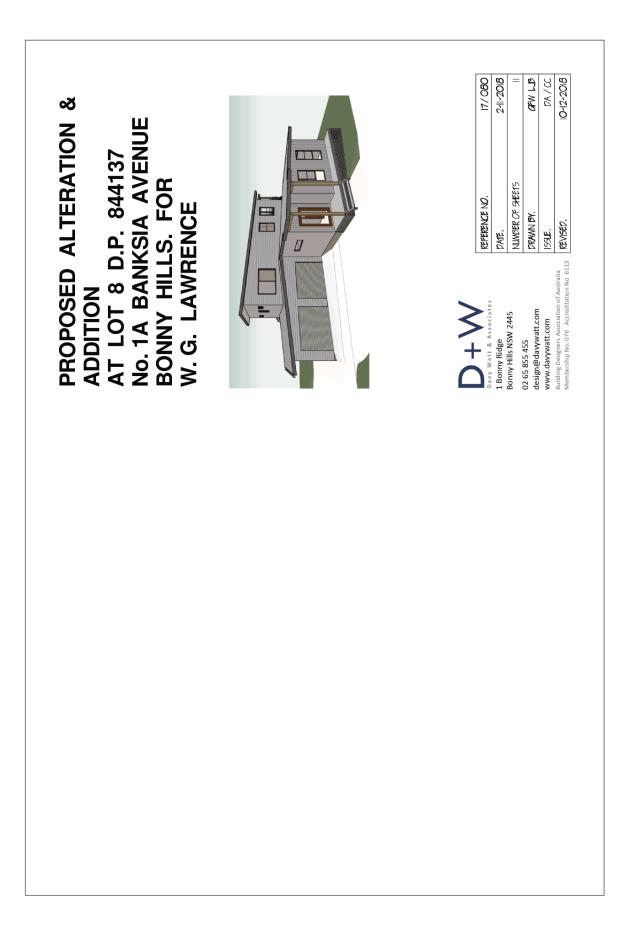
- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (eg the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (3) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.

F - OCCUPATION OF THE SITE

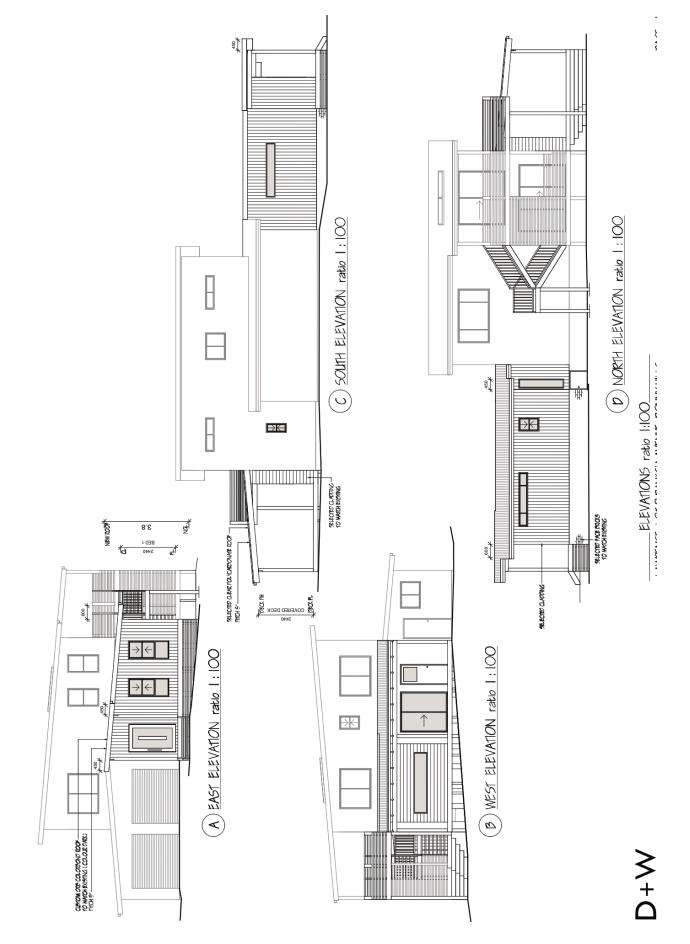
(1) (F035) The consent only permits the use of the building as a single dwelling and does not permit the adaption or use of the building so as to create a second occupancy.

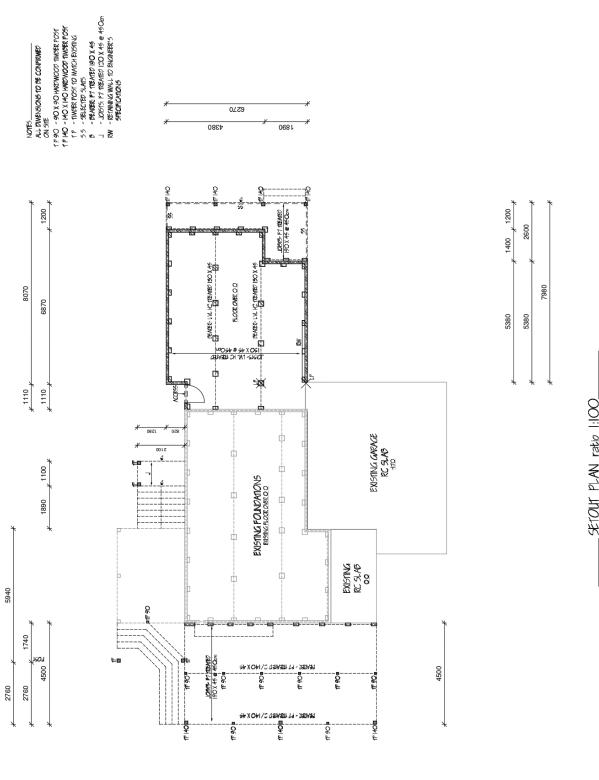
CONDITIONS APPLYING TO JETTIES AND BOAT RAMPS

Nil



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SETOUT PLAN ratio 1:100 1/11/07/11

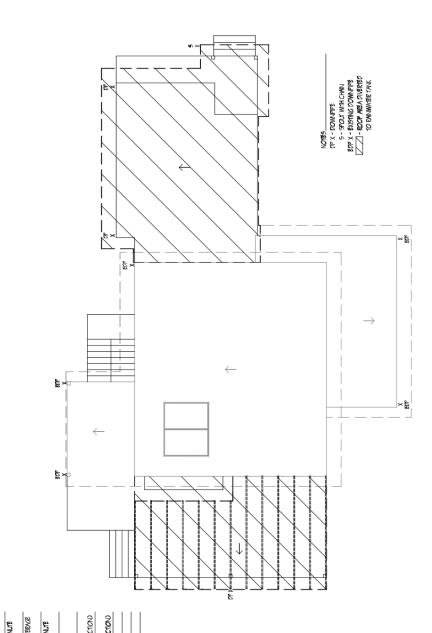
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SUMMARY OF MINIMUM BASIX COMMITMENTS SEE BASK CERTECATE FOR FLILL DEFINITIONS AND FEALLS

LIGHTING 40% OF NEW OR ALTERED LIGHT FIRTURES ARE FITTED WITH FLUORESCENT. COMPACT FLUORESCENT OR LIGHT- EMITING- DIODE (LED) LAWES

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	OR 5 STAR WATER RATING
RATING OF ALL NEW OR ALTERED TOILET SYSTEMS	MINIMUM FLOW RATE 4L PER AVER
	FLUISH OR 5 STAR WATER RATING
RATING OF ALL NEW OR ALTERED TAPS	MINIMUM FLOW RATE 91 PER MINU
	OR 5 STAR WATER RATING
THERMAL COMPORT COMMITMENTS	

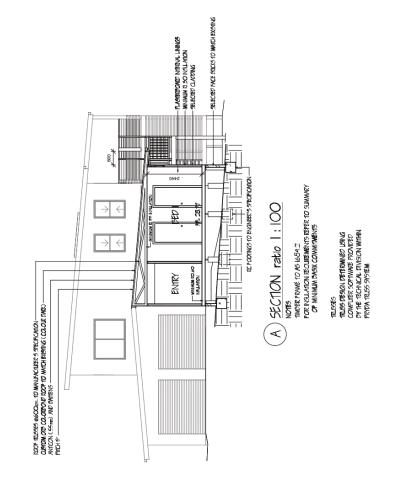
THERMAL COMPORT COMMITMENTS	
INSULATION TO NEW SUSPENDED FLOOR WITH ENCLOSED	(NMO(1) 09:02 WINININ
5uprilook	CORRESO INCLUTING CONSTRUCTIO
INSULATION TO NEW EXTERIVAL PRAMED WALLS	MINIMUM RISO
	COR RI. 70 INCLUDING CONSTRUCTIC
FLAT CEILING WITH PITCHED ROOF	(IL) 36'12 WINIMINIM
ROOF	COLOUR DARK
ANTICON (55mm) TO ROOF	

VIEWEDS ROOF LAYOUT PLAN ratio 1:100_

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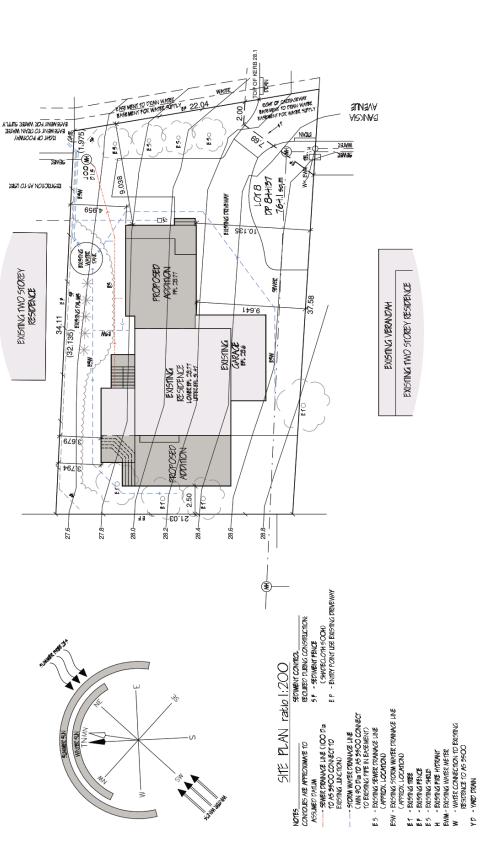
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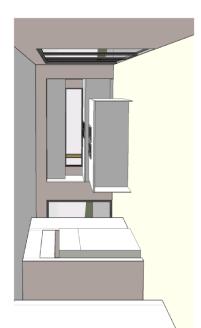


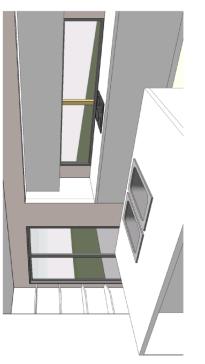
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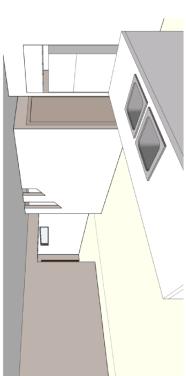
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ATTACHMENT

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