COUNCIL ASSESSMENT REPORT

Panel Reference	**2018NTH005**
DA Number	**2018 - 58**
LGA	**Port Macquarie-Hastings**
Proposed Development	**Demolition of existing motel and erection of 48 unit residential flat building including clause 4.6 variation to clause 4.3 (height of building) under Port Macquarie-Hastings Local Environmental Plan 2011**
Street Address	**4 Clarence Street, Port Macquarie**
Applicant/Owner	M Harvey
Date of DA lodgement	2 February 2018
Number of Submissions	**10**
Recommendation	**Consent subject to conditions**
Regional Development Criteria (Schedule 4A of the Environmental Planning and Assessment Act 1979	**General development over $20 million (legislation in force at the time of lodgement of DA)**
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy No.44 – Koala Habitat Protection • State Environmental Planning Policy No.55 – Remediation of Land • State Environmental Planning Policy No.62 – Sustainable Aquaculture • State Environmental Planning Policy No. 64 – Advertising and Signage • State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development • State Environmental Planning policy No.71 – Coastal Protection • State Environmental Planning Policy (Building Sustainability Index:BASIX) 2004 • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • Port Macquarie-Hastings Local Environmental Plan 2011 • Development Control Plan 2013
List all documents submitted with this report for the Panel's consideration	• Development plans (as amended) • Clause 4.6 variation request • Traffic report • Draft consent conditions
Report prepared by	**Pat Galbraith-Robertson**
Report date	**30 October 2018**

Summary of s79C matters Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	**Yes**
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? *e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*	**Yes**
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has	**Yes**

been received, has it been attached to the assessment report?	
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (S7.24)?	**Not**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions	**Applicable**
Conditions	
Have draft conditions been provided to the applicant for comment?	**Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report	

RECOMMENDATION

That DA2018 – 58 for a Demolition of existing motel and erection of 48 unit residential flat building including clause 4.6 variation to clause 4.3 (height of building) under Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 6, DP SEC 60A DP 758852 & Lot 1 DP 1083291, No. 4 Clarence Street, Port Macquarie, be determined by granting consent subject to the recommended conditions (Attachment 1).

Executive Summary

This report considers a Development Application for demolition of existing motel and erection of 48 unit residential flat building including clause 4.6 variation to clause 4.3 (height of building) under Port Macquarie-Hastings Local Environmental Plan 2011 at the subject site. The report provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979 (as in force at the time of the lodgment of the DA).

Following exhibition of the application, ten (10) submissions were received.

The proposal has been amended (post exhibition) during the assessment of the application inclusive of the following:

1. Electrical substation added in south-western corner of the site.
2. Additional stair access point from Munster Street to private open space areas.
3. Amendments to communal rooftop open space area including roof top management plan.
4. Amendments to the shadow diagrams.
5. New amended clause 4.6 variation request to building height variation.
6. Additional drawing – Clarence Street streetscape elevation.
7. Additional drawing – View impact analysis.
8. Additional drawings – section plans.
9. A specialist Traffic Impact Assessment.
10. Strata subdivision concept plan.
11. Reduction in parking from 60 to 59 parking spaces.

The application has been with Council for a considerable length of time to enable the Applicant to address issues relating to submissions, building height and traffic impacts.

This report provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979. The consent authority must be satisfied in relation to a number of provisions in relevant environmental planning instruments applicable to the proposal before granting consent to the development. A detailed assessment of the relevant clauses is noted within the report. A summary is also provided below:

- **Clauses 6 & 7 of SEPP No.44 – Koala Habitat Protection**.
- **Clause 7 of SEPP No.55 – Remediation of Land**.

- **Clause 15B of SEPP No.62 – Sustainable Aquaculture**
- **Clause 11 of SEPP No.64 - Advertising and Signage.**
- **Clauses 6A, 28 & 30 of SEPP No.65 - Design Quality of Residential Apartment Development**
- **Clauses 2, 5, 8, 12 & 16 of SEPP No.71 – Coastal Protection**
- **Clause 6 of SEPP (Building Sustainability Index:BASIX) 2004**
- **Clause 34 of SEPP (Infrastructure) 2007.**
- **Part 4 of Regional Development of SEPP (State and Regional Development) 2011.**
- **Clauses 1.9A, 2.2, 2.3, 2.7, 4.3, 4.4, 5.10 and 7.13 of Port Macquarie-Hastings Local Environmental Plan 2011**

In summary, the assessment of the proposed development has adequately addressed all consent considerations required by the above environmental planning instrument clauses. It is therefore considered that the Panel can proceed with determining the Development Application by granting consent, subject to the recommended conditions of consent.

1. BACKGROUND

Existing sites features and surrounding development

The combined site area of 1782.57m2, frontage to Clarence Street of 31.035m and Munster Street of 57.22m.

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

Existing buildings on the site include the four storey Waterview Units (motel), brick garages and pool.

The area is characterised by a mixture of high rise developments. A number of larger residential flat, tourist accommodation and shop top housing buildings exist in the immediate area.

The site has frontage to two(2) street frontages being Clarence Street and Munster Street, Port Macquarie.

Adjoining the site to the east is an existing residential flat building known as 'Focus'.

Adjoining the site to the south is an existing residential flat building known as 'Huxley Court'.
The existing subdivision pattern and location of existing development within the locality is shown in the following aerial photographs (2012 and nearmap July 2018):

2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal as shown in Attachment 2, as amended, include the following:

- demolish all existing buildings and structures on site including 9 x 2 bedroom units and 1 x 1 bedroom unit, brick garages and pool.
- construct 48 x 2 bedroom units comprising 8 storeys at Clarence Street frontage and 6 storeys at Munster Street frontage.
- provide ancillary recreation and open spaces elements including roof top pool and landscaping.
- provide two levels of basement car parking accessed from Munster Street and providing 59 car spaces, bicycle and motor cycle parking and including 5 accessible car spaces.
- strata subdivision

Refer to attachments to this report including a copy of the proposed amended clause 4.6 variation request to the building height standard.

An extract photo montage of the proposal is shown below:

1633 API PROPOSED NORTH WEST VIEW

PROPOSED 48x2 BEDROOM APARTMENTS

Application Chronology

- 2 February 2018 - DA lodged with Council.
- 8 February 2018 – DA initial acceptance additional information request – Applicant clarification, estimated cost, height clarification, view sharing and prelodgement minutes.
- 15 February 2018 – Additional information received – Applicant confirmation, construction cost estimate provided, 3D height plane and prelodgement feedback.
- 21 February to 6 March 2018 – neighbour notification of proposal.
- 21 March 2018 – Copy of submissions provided to Applicant. Assessing officer confirmed extension of time to complete initial assessment.
- 20 April 2018 – Referral to the NSW Heritage Council
- 22 April 2018 – Additional information request – issues raised with building height justification, shadowing detail to southern neighbour, view sharing, use of apartments, submission issues, mix of apartments, street access, traffic impact assessment required, substation location, rooftop use, strata subdivision plan, retaining walls and update on Heritage Council referral.
- 15 May 2018 – Advice received from the NSW Heritage Council – forwarded to Applicant.
- 15 June 2018 – Applicant questioned other clause 4.6 height variations in locality and how they were assessed.
- 19 June 2018 – Clarification provided to Applicant on other clause 4.6 height variations in locality.
- 9 August 2018 – Follow up to Applicant on status of additional information request.
- 10 August 2018 – Update provided from Applicant on status of additional information request – more time required.
- 29 August 2018 – Additional information received from Applicant – amended plans, new and updated clause 4.6 variation request, response to submissions, rooftop management plan, draft strata plan, specialist traffic report and advice from NSW Heritage Council.
- 26 September 2018 – Applicant requested to add a turning bay at end of north-east corner of Parking level 2 due to blind aisle length.
- 27 September 2018 – Applicant advised that north-east parking space in basement level 2 can be deleted which reduces parking to 59 spaces.

3. STATUTORY ASSESSMENT

Section 79C(1) Matters for Consideration

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

(a) The provisions (where applicable) of:

(i) Any Environmental Planning Instrument:

State Environmental Planning Policy No. 44 - Koala Habitat Protection

With reference to clauses 6 and 7, the subject land is less than 1 hectare (including any adjoining land under same ownership) and therefore the provisions of SEPP do not require consideration.

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 likely proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries within the nearby Hastings River approximately 280m from the site.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposed development includes a simple building number identification sign on the northern façade fronting Clarence Street which can be installed as exempt development.

A standard condition is recommended to require consent for any signage unless otherwise exempt development.

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

This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

(i) the erection of a new building,

(ii) the substantial redevelopment or the substantial refurbishment of an existing building,

(iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

Based on the above, the SEPP must be considered.

Clause 6A - This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:

(a) visual privacy,

(b) solar and daylight access,

(c) common circulation and spaces,

(d) apartment size and layout,

(e) ceiling heights,

(f) private open space and balconies,

(g) natural ventilation,

(h) storage.

If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.

This clause applies regardless of when the development control plan was made.

In terms of lodging the application under SEPP 65, it is noted that the proposal has provided the verification and detail required by Clause 50 and Schedule 1, Part 1(2)(5) of the *Environmental Planning and Assessment Regulation 2000*.

Clause 28(2)(b) - The proposal has addressed the design principles contained in the Apartment Design Guide.

Clause 30(2) - Development consent must not be granted if, in the opinion of the consent authority, the development does not demonstrate that adequate regard has been given to:

(a) The design quality principles, and

(b) The objectives specified in the Apartment Design Guide for the relevant design criteria.

The following table provides an assessment against the design quality principles:

Requirement	Proposed	Complies
Principle 1: Context and neighbourhood character Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	The proposal is for a part six (6) and part eight (8) storey residential flat building. The area is characterised by a mixture of high rise developments. A number of larger residential flat, tourist and shop top housing buildings exist in the immediate area. Encouraging higher density in areas with close proximity to the CBD or business zones is desirable. The proposed building design is considered to be sufficiently compatible with existing development and the desired future character of the area as stated in the relevant planning and design policies. It is considered the building will contribute to the identity of the area.	Yes
Principle 2: Built form and scale Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.	The proposal incorporates a variation to the LEP building height control. Refer to clause 4.6 of LEP 2011 comments later in this report for specific consideration of the proposed variations.	Yes

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	The height and bulk of the proposed building is considered to be acceptable in the streetscape and is adequately consistent with the future desired character of the area. The building is considered to achieve an appropriate built form and incorporates interesting building elements and treatments that will compliment the existing streetscapes. The proposed internal unit layouts provide for satisfactory internal amenity. The orientation of the block takes advantage of the northern and western outlook.	
Principle 3: Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	The proposal is for a floor space ratio (FSR) of approximately 2.38:1, which complies with the maximum 2.5:1 FSR adopted in the LEP. The adopted FSR for the site is consistent with the objectives of the R4 zone and the building height is appropriate as justified within the immediate context. The proposed density is also considered to be sustainable having regard to availability of infrastructure, and public transport, proximity to services and community facilities and the environmental quality of the area.	Yes
Principle 4: Sustainability Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	All units contain dual aspect and opportunities for natural cross ventilation. A BASIX certificate has been provided demonstrating that the design satisfies acceptable energy and water efficiency measures. Suitable landscaping areas are proposed on the ground floor level.	Yes
Principle 5: Landscape	Satisfactory landscaping is proposed. The soil	Yes

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.	depth and area available is consistent the Apartment Design Guide requirements.	
Principle 6: Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.	The building incorporates generous unit layouts and design which optimise the northern orientation, ventilation, privacy etc. Adequate storage and outdoor space is provided throughout the building. Accessibility is possible via ramps, stairs and lifts. The layout of the units have taken advantage of the northern orientation with an emphasis of natural sunlight and ventilation via extensive north facing windows and balconies. The design and layout will provide a good level of amenity. All units are accessible via lifts. Building depth is satisfactory. All units include a sufficient amount of private	Yes

	open space. Communal open space is satisfactory.	
Principle 7: Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.	The various array of windows, doors and balconies throughout the building provide surveillance of the site and also the public domain. Access to the site is controlled via a pedestrian entry point on Clarence Street and achieves good casual surveillance. The basement parking area is secured. The proposal adequately addresses the principles of Crime Prevention Through Environmental Design.	Yes
Principle 8: Housing diversity and social interaction Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	The proposal provides 2 bedroom apartments only. 2 bedroom units are capable of suiting a variety of budgets and housing needs within the subject locality. The proposal adequately addresses social mix and adds to the housing choice in the locality.	Yes
Principle 9: Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.	The plans provide examples of the colours, textures and finishes. The colours and materials provided on the plans indicate a contemporary high quality design and finish. It is considered that the aesthetics of the building will respond appropriately to the surrounding environment and context of the existing and desired	Yes

The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	character of the locality.	

Clause 28(2)(c), the proposal has adequately addressed the Apartment Design Guide requiring consideration. The following table provides an assessment against the Apartment Design Guide with assessment comments considering the design criteria and design objectives where applicable:

Apartment Design Guide (ADG) Objective	**Design Guidance/Design Criteria (Italics)**	**Proposed**	**Complies**
3A Site analysis			
3A - 1 Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	Each element in the Site Analysis Checklist should be addressed (Appendix 1 of ADG)	Satisfactory site analysis provided.	Yes
3B Orientation			
3B - 1 Building types and layouts respond to the streetscape and site while optimising solar access within the development.	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1). Where the street frontage is to the east or west, rear buildings should be orientated to the north. Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2).	The site is a corner site with its primary frontage to Clarence Street and secondary frontage to Munster Street. The proposed building satisfactorily presents to Clarence Street and Munster Street with its ground floor pedestrian and driveway entries. The building satisfactorily orientates to and responds to the two street frontages and incorporates satisfactory pedestrian and vehicle access arrangements.	Yes

		Potential for likely overshadowing of the southern neighbour in particular meets the minimum requirements of this Guide and it is noted that the southern-most part of the building is setback 6m from the southern side boundary and the building has an angle form on its south-west corner.	
3B - 2 Overshadowing of neighbouring properties is minimised during mid winter.	Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access. Solar access to living rooms, balconies and private open spaces of neighbours should be considered. Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%. If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy. Overshadowing should be minimised to the south or down hill by increased upper level setbacks. It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development. A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring	Overshadowing of the southern neighbour in meets the requirements of this Guide and it is noted that the southern-most part of the building is setback 6m from the southern side boundary. 70% of the southern neighbour units receive the minimum required minimum 3 hours of direct sunlight in mid winter. The proposal includes a blank wall at the southern end to protect visual and acoustic privacy of the neighbouring apartments. The wall is approximately 10m long before returning to significant open space areas behind the proposed building.	Yes

	buildings.		
3C Public domain interface			
3C - 1 Transition between private and public domain is achieved without compromising safety and security	Terraces, balconies and courtyard apartments should have direct street entry, where appropriate. Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings (see figure 3C.1). Upper level balconies and windows should overlook the public domain. Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m. Length of solid walls should be limited along street frontages. Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets. In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions: - architectural detailing - changes in materials - plant species - colours Opportunities for people to be concealed should be minimised	The ground level provides opportunity for direct access to the streets. The main entry to the building fronts Clarence Street and units 1, 2 & 3 provide street surveillance with physical entry via the foyer which is acceptable due to the level difference. Each of the upper levels contain a balcony overlooking the street (public domain). The design has been slightly modified to enable residents of units 01, 02 and 03 to directly access their units from Clarence Street in addition to the access via the main entrance. Similarly, units 04, 05, 06 and 07 have the option of direct access off Munster Street via a choice of 2 different steps.	Yes
3C - 2 Amenity of the public domain is retained and	Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking. Mail boxes should be located in	Satisfactory landscape planting provided to edge of terraces to street. Mailboxes capable of being provided within entrance	Yes

enhanced.	lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided. The visual prominence of underground car park vents should be minimised and located at a low level where possible. Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view. Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels. Durable, graffiti resistant and easily cleanable materials should be used. Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions: - street access, pedestrian paths and building entries which are clearly defined - paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space - minimal use of blank walls, fences and ground level parking. On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking	lobby. Visual prominence of basement carpark vents will be minimal due to stepped landscaping and levels proposed. Carparking entrance on secondary frontage – Munster Street. Substation located on south-western corner of site out of direct view in streetscapes. Direct access to main lobby provided from Clarence Street capable of meeting accessibility requirements and provision made for disabled parking spaces within basement parking area.	
3D Communal and public open space			
3D - 1 An adequate area of communal open space	<u>*Design Criteria*</u> *1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)*	Communal areas are approximately 36% of site area which is considered sufficient and accessible.	Yes

is provided to enhance residential amenity and to provide opportunities for landscaping	*2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter).* Communal open space should be consolidated into a well designed, easily identified and usable area. Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions. Communal open space should be co-located with deep soil areas. Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies. Where communal open space cannot be provided at ground level, it should be provided on a podium or roof. Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: - provide communal spaces elsewhere such as a landscaped roof top terrace or a common room - provide larger balconies or increased private open space for apartments - demonstrate good proximity to public open space and facilities and/or provide contributions to public open space		
3D - 2 Communal open space is designed to allow for a	Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces),	Ground level open space does not achieve the 50% direct sunlight target. However the Level 6 roof top recreation area	Yes

range of activities, respond to site conditions and be attractive and inviting	incorporating some of the following elements: - seating for individuals or groups - barbecue areas - play equipment or play areas - swimming pools, gyms, tennis courts or common rooms. The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts. Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks	achieves 100% direct sunlight. The ground level communal open space is consolidated in a well design and easily identified areas. See McNeil Architect plans and Landscape plans Level 6 communal open space is well designed and accessible from the building lifts. The level 6 communal open space is centred around the roof top pool with a special provision for the less mobile swimmers such as the access ramp, accessible pool side shower and direct access from both lifts.	
3D - 3 Communal open space is designed to maximise safety	Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include: - bay windows - corner windows - balconies. Communal open space should be well lit. Where communal open space/facilities are provided for children and young people they are safe and contained	The ground level communal open space would be supervised by the residents of the ground floor units who access directly onto that area and by residents coming down in the lifts into this area. The residents of units 61, 62 63 & the communal lounge area exit directly on to the same level as the pool and walk past the pool area to access lifts providing supervision.	Yes
3D - 4 Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood	The public open space should be well connected with public streets along at least one edge. The public open space should be connected with nearby parks and other landscape elements. Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid.	No public open space proposed.	N/A

	Solar access should be provided year round along with protection from strong winds. Opportunities for a range of recreational activities should be provided for people of all ages. A positive address and active frontages should be provided adjacent to public open space. Boundaries should be clearly defined between public open space and private areas		
3E Deep soil zones			
3E - 1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	<u>*Design Criteria*</u> *1. Deep soil zones are to meet the following minimum requirements:* *a) < 650m², no min dimension, 7% site area deep soil zone.* *b) 650-1500m², 3m dimension, 7% site area deep soil zone.* *c) >1500m², 6m dimension, 7% site area deep soil zone.* On some sites it may be possible to provide larger deep soil zones, depending on the site area and context: - 10% of the site as deep soil on sites with an area of 650m² - 1,500m² - 15% of the site as deep soil on sites greater than 1,500m². Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees. Design solutions may include: - basement and sub basement car park design that is consolidated beneath building footprints - use of increased front	More than 15% Deep soil zone provided.	Yes

	and side setbacks - adequate clearance around trees to ensure long term health - co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil. Achieving the design criteria may not be possible on some sites including where: - the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres) - there is 100% site coverage or non-residential uses at ground floor level. Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.		
3F Visual privacy			
3F - 1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy	<u>*Design Criteria*</u> *1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:* *a) Building height up to 12m (4 storey) need 6m setback to habitable and 3m to non habitable.* *b) Buildings up to 25m (5-8 storeys) need 9m to habitable and 4.5m to non habitable.* *c) Buildings over 25m (9+ storeys) need 12m to habitable and 6m to non*	East boundary (Focus building) - Blank wall to blank wall. East boundary beyond the front building: Setback to the east boundary increases significantly across the deep soil zone area to approximately 12.15 m to the closest habitable room opening. South boundary (Huxley Court) – Blank wall to habitable rooms. The south end of the building section fronting Munster Street (19m height) is proposed to be setback 6m from the	Yes

	habitable. *Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2).* *Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties* Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance. For residential buildings next to commercial buildings, separation distances should be measured as follows: - for retail, office spaces and commercial balconies use the habitable room distances - for service and plant areas use the non-habitable room distances. New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include: - site layout and building orientation to minimise privacy impacts (see also section 3B Orientation) - on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4). Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design	southern boundary and combined with the existing 5.3m – 6.8m wide driveway adjacent on the Huxley Court building, of between 11.3m to 12.8 m wide provides for visual privacy between the neighbouring sites. Beyond the blank wall at the front building, the setback increases significantly to over 38 m across the deep soil zone and landscape areas. The Munster Street section of building is positioned at right angles to neighbouring Huxley Court and does not propose any openings in the end wall to maximise visual privacy.	

	criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5). Direct lines of sight should be avoided for windows and balconies across corners. No separation is required between blank walls		
3F - 2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space	Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows. Design solutions may include: - setbacks - solid or partially solid balustrades to balconies at lower levels - fencing and/or trees and vegetation to separate spaces - screening devices - bay windows or pop out windows to provide privacy in one direction and outlook in another - raising apartments/private open space above the public domain or communal open space - planter boxes incorporated into walls and balustrades to increase visual separation - pergolas or shading devices to limit overlooking of lower apartments or private open space - on constrained sites where it can be demonstrated that building layout opportunities are limited,	Screening is proposed along the external access balcony for habitable windows The kitchen window and 2nd bedroom window of the units adjacent the lobby areas facing the deep soil zone area are screened to ensure privacy of those occupants.	Yes

	fixed louvres or screen panels to windows and/or balconies. Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas. Balconies and private terraces should be located in front of living rooms to increase internal privacy. Windows should be offset from the windows of adjacent buildings. Recessed balconies and/or vertical fins should be used between adjacent balconies		
3G Pedestrian access and entries			
3G - 1 Building entries and pedestrian access connects to and addresses the public domain	Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge. Entry locations relate to the street and subdivision pattern and the existing pedestrian network. Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries. Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries.	Multiple building entries are provided to ensure an activated street frontage is provided. Each access is clearly defined and articulated to the street.	Yes
3G - 2 Access, entries and pathways are accessible and easy to identify	Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces. The design of ground floors and underground car parks minimise level changes along pathways and entries. Steps and ramps should be integrated into the overall	The building access areas are clearly visible from the street and the ground floor is provided at grade and capable of compliance with the relevant accessibility standards.	Yes

	building and landscape design. For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3). For large developments electronic access and audio/video intercom should be provided to manage access		
3G - 3 Large sites provide pedestrian links for access to streets and connection to destinations	Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport. Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate	Pedestrian connections to the public footpath running along Clarence Street and Munster Street are proposed.	Yes
3H Vehicle access			
3H - 1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Car park access should be integrated with the building's overall facade. Design solutions may include: - the materials and colour palette to minimise visibility from the street - security doors or gates at entries that minimise voids in the facade - where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed. Car park entries should be located behind the building line. Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout. Car park entry and access should be located on secondary streets or lanes where available. Vehicle standing areas that increase driveway width and encroach into setbacks should be	The basement driveway entry is located in the secondary frontage to Munster Street. Car park access is limited and integrated with the buildings overall façade and partially recessed below footpath level.	Yes

	avoided. Access point locations should avoid headlight glare to habitable rooms. Adequate separation distances should be provided between vehicle entries and street intersections. The width and number of vehicle access points should be limited to the minimum. Visual impact of long driveways should be minimised through changing alignments and screen planting. The need for large vehicles to enter or turn around within the site should be avoided. Garbage collection, loading and servicing areas are screened. Clear sight lines should be provided at pedestrian and vehicle crossings. Traffic calming devices such as changes in paving material or textures should be used where appropriate. Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include: - changes in surface materials - level changes - the use of landscaping for separation		
3J Bicycle and car parking			
3J - 1 Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	<u>Design Criteria</u> *1. For development in the following locations:* *a) on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or* *b) on land zoned, and sites within 400 metres of land zoned, B3 Commercial*	Site is within 400m of commercial core zone in nominated regional centre. Car parking complies with Council's DCP and exceeds requirements under the Guide to Traffic Generating Development and AS2890.1 – 2004. Required 0.9 spaces per 2 bed unit (0.9 x 48 units) = 44 spaces	Yes

<u>Notes</u> Port Macquarie is a nominated regional centre. In terms of using Guide to Traffic Generating Developments, Port Macquarie is a "sub-regional centre" as by definition it does not have access to rail. Medium density is 2 - <20 dwellings. High Density is 20 or more dwellings	*Core, B4 Mixed Use or equivalent in a nominated regional centre* *the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less* *The car parking needs for a development must be provided off street.* Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces, when provided, should be on site. Where less car parking is provided in a development, council should not provide on street resident parking permits <u>Guide to Traffic Generating Developments</u> Medium density residential flat buildings require: - 1 space per unit + - 1 space for every 5 x 2 bedroom unit + - 1 space for every 2 x 3 bedroom unit + - 1 space for 5 units (visitor parking). High density residential flat buildings for metropolitan sub-regional centres require: - 0.6 spaces per 1 bedroom unit - 0.9 spaces per 2 bedroom unit - 1.40 spaces per 3 bedroom unit + - 1 space per 5 units (visitor parking)	Visitor parking 1 per 5 dwellings = 10 spaces. Total 54 spaces required Provided 59 spaces (as per amendment proposed by the Applicant) including 5 accessible spaces.	
3J - 2 Parking and facilities are provided	Conveniently located and sufficient numbers of parking spaces should be provided for	Multiple bicycle and motor bike parking areas in basement level.	Yes

for other modes of transport	motorbikes and scooters. Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas. Conveniently located charging stations are provided for electric vehicles, where desirable		
3J - 3 Car park design and access is safe and secure	Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas and car wash bays can be accessed without crossing car parking spaces. Direct, clearly visible and well lit access should be provided into common circulation areas. A clearly defined and visible lobby or waiting area should be provided to lifts and stairs. For larger car parks, safe pedestrian access should be clearly defined and circulation areas have good lighting, colour, line marking and/or bollards	Safe and secure parking proposed.	Yes
3J - 4 Visual and environmental impacts of underground car parking are minimised	Excavation should be minimised through efficient car park layouts and ramp design. Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles. Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites. Natural ventilation should be provided to basement and sub basement car parking areas. Ventilation grills or screening devices for car parking openings should be integrated into the facade and landscape design	Two levels of basement – excavation minimised where possible. The car parking areas are partly recessed and screened by the footpath levels and landscape treatments. The car park layout is efficient and natural ventilation can be provided.	Yes
3J - 5 Visual and environmental impacts of on-grade car	On-grade car parking should be avoided. Where on-grade car parking is unavoidable, the following design	N/A – basement parking only	N/A

parking are minimised	solutions are used: - parking is located on the side or rear of the lot away from the primary street frontage - cars are screened from view of streets, buildings, communal and private open space areas - safe and direct access to building entry points is provided - parking is incorporated into the landscape design of the site, by extending planting and materials into the car park space - stormwater run-off is managed appropriately from car parking surfaces • bio-swales, rain gardens or on site detention tanks are provided, where appropriate - light coloured paving materials or permeable paving systems are used and shade trees are planted between every 4-5 parking spaces to reduce increased surface temperatures from large areas of paving		
3J - 6 Visual and environmental impacts of above ground enclosed car parking are minimised	Exposed parking should not be located along primary street frontages Screening, landscaping and other design elements including public art should be used to integrate the above ground car parking with the facade. Design solutions may include: - car parking that is concealed behind the facade, with windows integrated into the overall facade design (approach should be limited to developments where a larger floor plate	Exposed parking not located along primary street frontage of Clarence Street. Screening, landscaping and other design elements used to integrate the above ground car parking with the facade.	Yes

	podium is suitable at lower levels) - car parking that is 'wrapped' with other uses, such as retail, commercial or two storey Small Office/Home Office (SOHO) units along the street frontage (see figure 3J.9). Positive street address and active frontages should be provided at ground level		
4A Solar and daylight access			
4A - 1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	<u>*Design Criteria*</u> *1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.* *2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter.* *3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter* The design maximises north aspect and the number of single aspect south facing apartments is minimised. Single aspect, single storey apartments should have a northerly or easterly aspect. Living areas are best located to the north and service areas to the south and west of apartments. To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: - dual aspect apartments	85% of proposed apartments receive 3 hours direct sunlight. The design maximises the north aspect of units. The Munster street frontage units all have living areas at the north west and east aspect for kitchen. Most units are dual aspect, other than the units on the corner of Munster and Clarence Streets.	Yes

	- shallow apartment layouts - two storey and mezzanine level apartments - bay windows To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes. Achieving the design criteria may not be possible on some sites. This includes: - where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source - on south facing sloping sites - where significant views are oriented away from the desired aspect for direct sunlight Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective.		
4A - 2 Daylight access is maximised where sunlight is limited	Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms. Where courtyards are used: - use is restricted to kitchens, bathrooms and service areas - building services are concealed with appropriate detailing and materials to visible walls - courtyards are fully open to the sky	It is considered that adequate daylight access is available to each of the proposed units due to their orientation.	Yes

	- access is provided to the light well from a communal area for cleaning and maintenance - acoustic privacy, fire safety and minimum privacy separation distances (see section 3F Visual privacy) are achieved. Opportunities for reflected light into apartments are optimised through: - reflective exterior surfaces on buildings opposite south facing windows - positioning windows to face other buildings or surfaces (on neighbouring sites or within the site) that will reflect light - integrating light shelves into the design - light coloured internal finishes		
4A - 3 Design incorporates shading and glare control, particularly for warmer months	A number of the following design features are used: - balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas - shading devices such as eaves, awnings, balconies, pergolas, external louvres and planting - horizontal shading to north facing windows - vertical shading to east and particularly west facing windows - operable shading to allow adjustment and choice - high performance glass that minimises external	Shading structures are proposed on the rear elevation to ensure a suitable level of glare control is provided as well as shade from the summer sun.	Yes

	glare off windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided)		
4B Natural ventilation			
4B - 1 All habitable rooms are naturally ventilated	The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms. Depths of habitable rooms support natural ventilation. The area of unobstructed window openings should be equal to at least 5% of the floor area served. Light wells are not the primary air source for habitable rooms. Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: - adjustable windows with large effective openable areas - a variety of window types that provide safety and flexibility such as awnings and louvres - windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors	The depths of the proposed unit's habitable rooms are considered to support natural ventilation. Each apartment has window openings in excess of 5% of the floor area.	Yes
4B - 2 The layout and design of single aspect apartments maximises natural ventilation	Apartment depths are limited to maximise ventilation and airflow (see also figure 4D.3) Natural ventilation to single aspect apartments is achieved with the following design solutions: - primary windows are augmented with plenums and light wells (generally not suitable for cross ventilation)	The majority of units are dual aspect. Corner units have north / north west aspect.	Yes

	- stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas or rooms such as bathrooms and laundries - courtyards or building indentations have a width to depth ratio of 2:1 or 3:1 to ensure effective air circulation and avoid trapped smells		
4B - 3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	<u>Design Criteria</u> *1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.* *2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.* The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths. In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment (outlet side) (see figure 4B.4). Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow. Apartment depths, combined with appropriate ceiling heights, maximise cross ventilation and airflow	The number of apartments with natural cross ventilation are maximized.	Yes
4C Ceiling heights			

4C - 1 Ceiling height achieves sufficient natural ventilation and daylight access	<u>Design Criteria</u> *1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:* *Minimum ceiling height for apartment and mixed use buildings* *Habitable rooms = 2.7m* *Non-habitable = 2.4m* *For 2 storey apartments = 2.7m for main living area floor and 2.4m for second floor, where its area does not exceed 50% of the apartment area* *Attic spaces = 1.8m at edge of room with a 30 degree minimum ceiling slope* *If located in mixed use areas = 3.3m for ground and first floor to promote future flexibility of use* *These minimums do not preclude higher ceilings if desired.* Ceiling height can accommodate use of ceiling fans for cooling and heat distribution.	Ceiling heights are 2.7m minimum.	Yes
4C - 2 Ceiling height increases the sense of space in apartments and provides for well proportioned rooms	A number of the following design solutions can be used: - the hierarchy of rooms in an apartment is defined using changes in ceiling heights and alternatives such as raked or curved ceilings, or double height spaces - well proportioned rooms are provided, for example, smaller rooms feel larger and more spacious with higher ceilings - ceiling heights are maximised in habitable rooms by ensuring that bulkheads do not intrude. The stacking of service rooms from floor to floor and coordination of bulkhead location above non-habitable	The design provides for well proportioned rooms.	Yes

	areas, such as robes or storage, can assist		
4C - 3 Ceiling heights contribute to the flexibility of building use over the life of the building	Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses (see figure 4C.1)	The Applicant has advised that Units 1 and 2 are capable of future adaptation for mixed use, such as restaurants and cafes or retail.	Yes – capable but not permissible in zone
4D Apartment size and layout			
4D - 1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	<u>*Design Criteria*</u> *1. Apartments are required to have the following minimum internal areas:* *Studio = 35m²* *1 bedroom = 50m²* *2 bedroom = 70m²* *3 bedroom = 90m²* *The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.* *A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.* *2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.* Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space). A window should be visible from any point in a habitable room. Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas.	Apartment size minimums comply. Windows provided and satisfactory size.	Yes

	These circumstances would be assessed on their merits		
4D - 2 Environmental performance of the apartment is maximised	<u>Design Criteria</u> *1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.* *2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.* Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths. All living areas and bedrooms should be located on the external face of the building. Where possible: - bathrooms and laundries should have an external openable window. - main living spaces should be oriented toward the primary outlook and aspect and away from noise sources	Bedrooms are located on the external face of the building so as to satisfy the required environmental performance.	Yes
4D - 3 Apartment layouts are designed to accommodate a variety of household activities and needs	<u>Design Criteria</u> *1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).* *2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space).* *3. Living rooms or combined living/dining rooms have a minimum width of:* *• 3.6m for studio and 1 bedroom apartments* *• 4m for 2 and 3 bedroom apartments* *4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.* Access to bedrooms, bathrooms and laundries is separated from	The apartment layouts allow for flexibility of use. Bedroom dimensions comply.	Yes

	living areas minimising direct openings between living and service areas. All bedrooms allow a minimum length of 1.5m for robes. The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high. Apartment layouts allow flexibility over time, design solutions may include: - dimensions that facilitate a variety of furniture arrangements and removal - spaces for a range of activities and privacy levels between different spaces within the apartment - dual master apartments - dual key apartments Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments - room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1)) - efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms		
4E Private open space and balconies			
4E - 1 Apartments provide	<u>*Design Criteria*</u> *1. All apartments are required to have primary balconies as*	All balconies sizes comply. Ground floor units' private open space areas comply.	Yes

appropriately sized private open space and balconies to enhance residential amenity	*follows:* *a) Studio apartments = 4m²* *b) 1 bedroom apartments = 8m² and 2m min depth.* *c) 2 bedroom apartments = 10m² and 2m min depth.* *d) 3+ bedroom apartments = 12m² and 2.4m min depth.* *The minimum balcony depth to be counted as contributing to the balcony area is 1m.* *2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.* Increased communal open space should be provided where the number or size of balconies are reduced. Storage areas on balconies is additional to the minimum balcony size. Balcony use may be limited in some proposals by: - consistently high wind speeds at 10 storeys and above - close proximity to road, rail or other noise sources - exposure to significant levels of aircraft noise - heritage and adaptive reuse of existing buildings In these situations, juliet balconies, operable walls, enclosed wintergardens or bay windows may be appropriate, and other amenity benefits for occupants should also be provided in the apartments or in the development or both. Natural ventilation also needs to be demonstrated		

4E - 2 Primary private open space and balconies are appropriatel y located to enhance liveability for residents	Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space. Private open spaces and balconies predominantly face north, east or west. Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms.	The north and north-west facing balconies for each of the proposed units are located off a living area in a manner compliant with the design criteria. The west facing balconies and private open space areas are orientated and screened to shield from the late western sun and capture the north west sun earlier in the day.	Yes
4E - 3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building	Solid, partially solid or transparent fences and balustrades are selected to respond to the location. They are designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Solid and partially solid balustrades are preferred. Full width full height glass balustrades alone are generally not desirable. Projecting balconies should be integrated into the building design and the design of soffits considered. Operable screens, shutters, hoods and pergolas are used to control sunlight and wind. Balustrades are set back from the building or balcony edge where overlooking or safety is an issue. Downpipes and balcony drainage are integrated with the overall facade and building design. Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design. Where clothes drying, storage or air conditioning units are located on balconies, they should be screened and integrated in the building design. Ceilings of apartments below	The balcony designs are considered to integrate into the architectural form of the building whilst providing views across the site, passive surveillance of the streets and maintaining visual privacy for occupants. Operable louvres and solid balustrades are considered to contribute to the provision of privacy whilst also ensuring a positive contribution to architectural form.	Yes

	terraces should be insulated to avoid heat loss. Water and gas outlets should be provided for primary balconies and private open space		
4E - 4 Private open space and balcony design maximises safety.	Changes in ground levels or landscaping are minimised. Design and detailing of balconies avoids opportunities for climbing and falls.	The operable louvres and solid balustrades are considered to provide a design compliant with the applicable requirements and are not considered to provide opportunities for climbing or falls.	Yes
4F Common circulation and spaces			
4F - 1 Common circulation spaces achieve good amenity and properly service the number of apartments	<u>*Design Criteria*</u> *1. The maximum number of apartments off a circulation core on a single level is eight.* *2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.* Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry doors. Daylight and natural ventilation should be provided to all common circulation spaces that are above ground. Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors. Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include: - a series of foyer areas with windows and spaces for seating - wider areas at apartment entry doors and varied ceiling heights	The maximum number of apartments of the circulation cores per level (2 lifts) is 7 apartments. Open access balconies are proposed to apartments	Yes

	Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments. Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including: - sunlight and natural cross ventilation in apartments - access to ample daylight and natural ventilation in common circulation spaces - common areas for seating and gathering - generous corridors with greater than minimum ceiling heights - other innovative design solutions that provide high levels of amenity Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level. Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled		
4F - 2 Common circulation spaces promote safety and provide for social interaction	Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines. Tight corners and spaces are avoided.	Direct and legible access is provided between vertical circulation points and apartment entries.	Yes

between residents	Circulation spaces should be well lit at night. Legible signage should be provided for apartment numbers, common areas and general wayfinding. Incidental spaces, for example space for seating in a corridor, at a stair landing, or near a window are provided. In larger developments, community rooms for activities such as owners corporation meetings or resident use should be provided and are ideally co-located with communal open space. Where external galleries are provided, they are more open than closed above the balustrade along their length.		
4G Storage			
4G - 1 Adequate, well designed storage is provided in each apartment	<u>*Design Criteria*</u> *1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:* *a) Studio apartments = 4m³.* *b) 1 bedroom apartments = 6m³.* *c) 2 bedroom apartments 8m³.* *d) 3+ bedroom apartments = 10m³.* *At least 50% of the required storage is to be located within the apartment.* Storage is accessible from either circulation or living areas. Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street. Left over space such as under stairs is used for storage	The amount and size of available storage complies.	Yes

4G - 2 Additional storage is conveniently located, accessible and nominated for individual apartments	Storage not located in apartments is secure and clearly allocated to specific apartments. Storage is provided for larger and less frequently accessed items. Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages so that allocated car parking remains accessible. If communal storage rooms are provided they should be accessible from common circulation areas of the building. Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain.	Storage complies. Additional storage is located at the end of individual car spaces.	Yes
4H Acoustic privacy			
4H - 1 Noise transfer is minimised through the siting of buildings and building layout	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy). Window and door openings are generally orientated away from noise sources. Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas. Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources. The number of party walls (walls shared with other apartments) are limited and are appropriately insulated. Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	A minimum of 11.3m separation from the blank wall end of the Munster Street wing across open space and driveway areas to the Huxley Court balconies. Approximately 9.4m separation from the external access balcony facing east to the eastern boundary of the site. The internal layout of the units has been designed so as to maximise acoustic privacy between apartments.	Yes

4H - 2 Noise impacts are mitigated within apartments through layout and acoustic treatments	Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions: - rooms with similar noise requirements are grouped together - doors separate different use zones - wardrobes in bedrooms are co-located to act as sound buffers Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions: - double or acoustic glazing - acoustic seals • use of materials with low noise penetration properties - continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements	Rooms with similar noise requirements are grouped together both internally within the apartments and between apartments. Internal walls between apartments shall be constructed so as to comply with the applicable noise and acoustic standards.	Yes
4J Noise and pollution			
4J - 1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings	To minimise impacts the following design solutions may be used: - physical separation between buildings and the noise or pollution source - residential uses are located perpendicular to the noise source and where possible buffered by other uses - non-residential buildings are sited to be parallel with the noise source to provide a continuous building that shields residential uses and communal open spaces - non-residential uses are located at lower levels vertically separating the	The subject site is not considered to be located within a noisy or hostile environment.	N/A

	residential component from the noise or pollution source. Setbacks to the underside of residential floor levels should increase relative to traffic volumes and other noise sources - buildings should respond to both solar access and noise. Where solar access is away from the noise source, nonhabitable rooms can provide a buffer - where solar access is in the same direction as the noise source, dual aspect apartments with shallow building depths are preferable (see figure 4J.4) - landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry. Achieving the design criteria in this Apartment Design Guide may not be possible in some situations due to noise and pollution. Where developments are unable to achieve the design criteria, alternatives may be considered in the following areas: - solar and daylight access - private open space and balconies - natural cross ventilation		
4J - 2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are	Design solutions to mitigate noise include: - limiting the number and size of openings facing noise sources - providing seals to prevent noise transfer through gaps - using double or acoustic glazing, acoustic louvres	The building is not considered to front a significant noise source that would necessitate the installation of noise mitigation solutions.	N/A

used to mitigate noise transmission	or enclosed balconies (wintergardens) - using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits		
4K Apartment mix			
4K - 1 A range of apartment types and sizes is provided to cater for different household types now and into the future	A variety of apartment types is provided The apartment mix is appropriate, taking into consideration: - the distance to public transport, employment and education centres - the current market demands and projected future demographic trends - the demand for social and affordable housing - different cultural and socioeconomic groups Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households.	The proposal is for 2 bedroom units only. When considered in conjunction the adjoining and nearby 3 bedroom units the mix is considered appropriate for the site and its' position considering the distances to public transport, employment and education.	Yes
4K - 2 The apartment mix is distributed to suitable locations within the building	Different apartment types are located to achieve successful facade composition and to optimise solar access (see figure 4K.3). Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available.	Refer to above.	Yes
4L Ground floor apartments			
4L - 1 Street frontage activity is maximised where	Direct street access should be provided to ground floor apartments. Activity is achieved through front gardens, terraces and the facade	Direct street access is provided to ground floor apartments in a practical manner given the level differences proposed	Yes

ground floor apartments are located	of the building. Design solutions may include: - both street, foyer and other common internal circulation entrances to ground floor apartments - private open space is next to the street - doors and windows face the street Retail or home office spaces should be located along street frontages. Ground floor apartment layouts support small office home office (SOHO) use to provide future opportunities for conversion into commercial or retail areas. In these cases provide higher floor to ceiling heights and ground floor amenities for easy conversion.	relating to the streets. The Applicant has stated that there is potential to adapt Units 1 and 2 for future mixed use.	
4L - 2 Design of ground floor apartments delivers amenity and safety for residents	Privacy and safety should be provided without obstructing casual surveillance. Design solutions may include: - elevation of private gardens and terraces above the street level by 1-1.5m (see figure 4L.4) - landscaping and private courtyards - window sill heights that minimise sight lines into apartments - integrating balustrades, safety bars or screens with the exterior design Solar access should be maximised through: - high ceilings and tall windows - trees and shrubs that allow solar access in winter and shade in summer	The design of ground floor apartments will provide satisfactory amenity and safety for residents.	Yes
4M Facades			
4M - 1 Building	Design solutions for front building facades may include:	The proposed design provides a composition of	Yes

facades provide visual interest along the street while respecting the character of the local area	- a composition of varied building elements - a defined base, middle and top of buildings - revealing and concealing certain elements - changes in texture, material, detail and colour to modify the prominence of elements Building services should be integrated within the overall façade. Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include: - well composed horizontal and vertical elements - variation in floor heights to enhance the human scale - elements that are proportional and arranged in patterns - public artwork or treatments to exterior blank walls - grouping of floors or elements such as balconies and windows on taller buildings Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights. Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals.	varied building elements to ensure that the building is provided with variations in texture, material and detail. The proposal is considered compliant with the design criteria.	
4M - 2 Building functions are expressed by the facade	Building entries should be clearly defined. Important corners are given visual prominence through a change in articulation, materials or colour, roof expression or changes in height.	The building entries are clearly defined from the street frontage via the provision of the access paths and variation of materials surrounding the entries. The proposal is	Yes

	The apartment layout should be expressed externally through facade features such as party walls and floor slabs	considered compliant with the design criteria.	
4N Roof design			
4N - 1 Roof treatments are integrated into the building design and positively respond to the street	Roof design relates to the street. Design solutions may include: - special roof features and strong corners - use of skillion or very low pitch hipped roofs - breaking down the massing of the roof by using smaller elements to avoid bulk - using materials or a pitched form complementary to adjacent buildings Roof treatments should be integrated with the building design. Design solutions may include: - roof design proportionate to the overall building size, scale and form - roof materials compliment the building - service elements are integrated	Although not visible from the street the roof design of the proposal is considered to be compliant with the design criteria.	Yes
4N - 2 Opportunities to use roof space for residential accommodation and open space are maximised	Habitable roof space should be provided with good levels of amenity. Design solutions may include: - penthouse apartments - dormer or clerestory windows - openable skylights Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations.	A suitable roof top communal terrace area is proposed.	Yes
4N - 3 Roof design incorporates sustainability features	Roof design maximises solar access to apartments during winter and provides shade during summer. Design solutions may include:	Solar panels proposed.	Yes

	- the roof lifts to the north - eaves and overhangs shade walls and windows from summer sun. Skylights and ventilation systems should be integrated into the roof design		
4O Landscape design			
4O - 1 Landscape design is viable and sustainable	Landscape design should be environmentally sustainable and can enhance environmental performance by incorporating: - diverse and appropriate planting - bio-filtration gardens - appropriately planted shading trees - areas for residents to plant vegetables and herbs - composting - green roofs or walls Ongoing maintenance plans should be prepared. Microclimate is enhanced by: - appropriately scaled trees near the eastern and western elevations for shade - a balance of evergreen and deciduous trees to provide shading in summer and sunlight access in winter - shade structures such as pergolas for balconies and courtyards Tree and shrub selection considers size at maturity and the potential for roots to compete (see Table 4) Table 4 requires - For site area up to 850m² = 1 medium tree per 50m² of deep soil zone - Between 850 - 1,500m² =	Landscape design is capable of being environmentally sustainable and can enhance environmental performance of building.	Yes

	1 large tree or 2 medium trees per 90m² of deep soil zone - Greater than 1,500m² = 1 large tree or 2 medium trees per 80m² of deep soil zone		
4O - 2 Landscape design contributes to the streetscape and amenity	Landscape design responds to the existing site conditions including: - changes of levels - views - significant landscape features including trees and rock outcrops Significant landscape features should be protected by: - tree protection zones (see figure 4O.5) - appropriate signage and fencing during construction Plants selected should be endemic to the region and reflect the local ecology	Landscape design satisfactory responds to the existing site conditions including changes of levels.	Yes
4P Planting on structures			
4P - 1 Appropriate soil profiles are provided	Structures are reinforced for additional saturated soil weight Soil volume is appropriate for plant growth, considerations include: - modifying depths and widths according to the planting mix and irrigation frequency - free draining and long soil life span - tree anchorage Minimum soil standards for plant sizes should be provided in accordance with Table 5. Table 5 requires - Large trees 12-18m high, up to 16m crown spread at maturity = need 150m³ of soil at a depth of 1,200mm and area of 10m x 10m or equivalent.	N/A	N/A

	- Medium trees 8-12m high, up to 8m crown spread at maturity = need 35m³ of soil at a depth of 1,000mm and area of 6m x 6m or equivalent. - Small trees 6-8m high, up to 4m crown spread at maturity = need 9m³ of soil at a depth of 800mm and area of 3.5m x 3.5m or equivalent. - Shrubs need soil depth of 500-600mm - Ground cover needs soil depth of 300-450mm - Turf needs soil depth of 200mm		
4P - 2 Plant growth is optimised with appropriate selection and maintenance	Plants are suited to site conditions, considerations include: - drought and wind tolerance - seasonal changes in solar access - modified substrate depths for a diverse range of plants - plant longevity A landscape maintenance plan is prepared. Irrigation and drainage systems respond to: - changing site conditions - soil profile and the planting regime - whether rainwater, stormwater or recycled grey water is used	The plant species are capable of being chosen for their suitability for the local environment and tolerance to the existing and proposed site conditions. The proposal is considered compliant with the design criteria.	Yes
4P - 3 Planting on structures contributes to the quality and amenity of communal and public open spaces	Building design incorporates opportunities for planting on structures. Design solutions may include: - green walls with specialised lighting for indoor green walls - wall design that	The proposal is considered compliant with the design criteria.	Yes

	incorporates planting - green roofs, particularly where roofs are visible from the public domain - planter boxes Note: structures designed to accommodate green walls should be integrated into the building facade and consider the ability of the facade to change over time		
4Q Universal design			
4Q - 1 Universal design features are included in apartment design to promote flexible housing for all community members	Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features	Universal design features are included in apartment design to promote some flexible housing for all community members in particular units.	Yes
4Q - 2 A variety of apartments with adaptable designs are provided	Adaptable housing should be provided in accordance with the relevant council policy Design solutions for adaptable apartments include: - convenient access to communal and public areas - high level of solar access - minimal structural change and residential amenity loss when adapted - larger car parking spaces for accessibility - parking titled separately from apartments or shared car parking arrangements	The proposed apartments are considered to provide a layout and design that caters for adaptable apartments which include a satisfactory level of solar access.	Yes
4Q - 3 Apartment layouts are flexible and accommodat e a range of lifestyle	Apartment design incorporates flexible design solutions which may include: - rooms with multiple functions - dual master bedroom	The proposed apartments contain open plan living, kitchen and dining areas which are considered to be suitable for a variety of adaptable uses.	Yes

needs	apartments with separate bathrooms - larger apartments with various living space options - open plan 'loft' style apartments with only a fixed kitchen, laundry and bathroom		
4R Adaptive reuse			
4R - 1 New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Design solutions may include: - new elements to align with the existing building - additions that complement the existing character, siting, scale, proportion, pattern, form and detailing - use of contemporary and complementary materials, finishes, textures and colours Additions to heritage items should be clearly identifiable from the original building. New additions allow for the interpretation and future evolution of the building.	N/A	N/A
4R - 2 Adapted buildings provide residential amenity while not precluding future adaptive reuse	Design features should be incorporated sensitively into adapted buildings to make up for any physical limitations, to ensure residential amenity is achieved. Design solutions may include: - generously sized voids in deeper buildings - alternative apartment types when orientation is poor - using additions to expand the existing building envelope Some proposals that adapt existing buildings may not be able to achieve all of the design criteria in this Apartment Design	N/A	N/A

	Guide. Where developments are unable to achieve the design criteria, alternatives could be considered in the following areas: - where there are existing higher ceilings, depths of habitable rooms could increase subject to demonstrating access to natural ventilation, cross ventilation (when applicable) and solar and daylight access (see also sections 4A Solar and daylight access and 4B Natural ventilation) - alternatives to providing deep soil where less than the minimum requirement is currently available on the site - building and visual separation – subject to demonstrating alternative design approaches to achieving privacy - common circulation - car parking - alternative approaches to private open space and balconies		
4S Mixed use			
4S - 1 Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Mixed use development should be concentrated around public transport and centres. Mixed use developments positively contribute to the public domain. Design solutions may include: - development addresses the street - active frontages are provided - diverse activities and uses - avoiding blank walls at the ground level - live/work apartments on the ground floor level,	N/A	N/A

	rather than commercial		
4S - 2 Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	Residential circulation areas should be clearly defined. Design solutions may include: - residential entries are separated from commercial entries and directly accessible from the street - commercial service areas are separated from residential components - residential car parking and communal facilities are separated or secured - security at entries and safe pedestrian routes are provided - concealment opportunities are avoided Landscaped communal open space should be provided at podium or roof levels.	N/A – no commercial	N/A
4T Awnings and signage			
4T - 1 Awnings are well located and complement and integrate with the building design	Awnings should be located along streets with high pedestrian activity and active frontages. A number of the following design solutions are used: - continuous awnings are maintained and provided in areas with an existing pattern - height, depth, material and form complements the existing street character - protection from the sun and rain is provided - awnings are wrapped around the secondary frontages of corner sites - awnings are retractable in areas without an established pattern Awnings should be located over building entries for building address and public domain	Council's Development Control Plan identifies desired future character elements along the frontage of 4 Clarence Street as mixed use and continuous awning requirement. In considering the requirement for continuous awning as expressed in the DCP Figure 43-3, it is noted that the adjacent Focus building does not have this element and the articulation/façade elements at the pedestrian frontage are 2 to 3 storeys in scale. The Applicant has also advised that early design iterations for the subject site sought to articulate a continuous pedestrian awning along the frontage. However, it would result in an isolated section of awning clashing	Not provided – justification provided beside

	amenity. Awnings relate to residential windows, balconies, street tree planting, power poles and street infrastructure. Gutters and down pipes should be integrated and concealed. Lighting under awnings should be provided for pedestrian safety.	with the scale and articulation of the Focus building.	
4T - 2 Signage responds to the context and desired streetscape character	Signage should be integrated into the building design and respond to the scale, proportion and detailing of the development. Legible and discrete way finding should be provided for larger developments. Signage is limited to being on and below awnings and a single facade sign on the primary street frontage.	Signage will be limited to a street address and discrete building identification. No specific details shown however. A condition is recommended to require approval for any signage other than signage that is exempt development.	Yes - capable
4U Energy efficiency			
4U - 1 Development incorporates passive environmental design	Adequate natural light is provided to habitable rooms (see 4A Solar and daylight access). Well located, screened outdoor areas should be provided for clothes drying	All units have north or north west facing living room windows, natural light, as opportunity to dry on clothes airer inside north facing windows/sliding glass doors.	Yes
4U - 2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	A number of the following design solutions are used: - the use of smart glass or other technologies on north and west elevations - thermal mass in the floors and walls of north facing rooms is maximised - polished concrete floors, tiles or timber rather than carpet - insulated roofs, walls and floors and seals on window and door openings - overhangs and shading devices such as awnings, blinds and screens	Roof top solar panels and swimming pool water heater have been incorporated into the design.	Yes

	Provision of consolidated heating and cooling infrastructure should be located in a centralised location (e.g. the basement)		
4U - 3 Adequate natural ventilation minimises the need for mechanical ventilation	A number of the following design solutions are used: - rooms with similar usage are grouped together - natural cross ventilation for apartments is optimised - natural ventilation is provided to all habitable rooms and as many non-habitable rooms, common areas and circulation spaces as possible	Adequate natural ventilation minimises the need for reliance on mechanical ventilation.	Yes
4V Water management and conservation			
4V - 1 Potable water use is minimised	Water efficient fittings, appliances and wastewater reuse should be incorporated. Apartments should be individually metered. Rainwater should be collected, stored and reused on site. Drought tolerant, low water use plants should be used within landscaped areas	Water efficient fittings, appliances and wastewater reuse should be incorporated in accordance with requirements of BASIX.	Yes
4V - 3 Flood management systems are integrated into site design	Detention tanks should be located under paved areas, driveways or in basement car parks. On large sites parks or open spaces are designed to provide temporary on site detention basins.	In accordance with Council's AUSPEC requirements, the following must be incorporated into the stormwater drainage plan: • On site stormwater detention facilities. • Water quality controls	Yes - capable
4W Waste management			
4W - 1 Waste storage facilities are designed to minimise impacts on the streetscape, building	Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park. Waste and recycling storage areas should be well ventilated. Circulation design allows bins to be easily manoeuvred between	Storage area for rubbish bins in basement car park. Private waste collection service. Substantial area allocated in plantroom/bin store and each unit has additional storage in basement car park.	Yes

entry and amenity of residents	storage and collection points. Temporary storage should be provided for large bulk items such as mattresses. A waste management plan should be prepared		
4W - 2 Domestic waste is minimised by providing safe and convenient source separation and recycling	All dwellings should have a waste and recycling cupboard or temporary storage area of sufficient size to hold two days worth of waste and recycling. Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core. For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses. Alternative waste disposal methods such as composting should be provided	Waste recycling area bin store located in a convenient and accessible location to the vertical core adjacent the lift areas in basement car park.	Yes
4X Building maintenance			
4X - 1 Building design detail provides protection from weathering	A number of the following design solutions are used: - roof overhangs to protect walls - hoods over windows and doors to protect openings - detailing horizontal edges with drip lines to avoid staining of surfaces - methods to eliminate or reduce planter box leaching - appropriate design and material selection for hostile locations	Building design ensures all units have balcony access for reasonable maintenance of windows. Appropriate material selection for the coastal environment to be finalised at detailed design phase.	Yes
4X - 2 Systems and access enable ease of maintenance	Window design enables cleaning from the inside of the building. Building maintenance systems should be incorporated and integrated into the design of the building form, roof and façade. Design solutions do not require external scaffolding for maintenance access.	Maintenance capable of being satisfactorily completed.	Yes

	Manually operated systems such as blinds, sunshades and curtains are used in preference to mechanical systems. Centralised maintenance, services and storage should be provided for communal open space areas within the building.		
4X - 3 Material selection reduces ongoing maintenance costs	A number of the following design solutions are used: - sensors to control artificial lighting in common circulation and spaces - natural materials that weather well and improve with time such as face brickwork - easily cleaned surfaces that are graffiti resistant - robust and durable materials and finishes are used in locations which receive heavy wear and tear, such as common circulation areas and lift interiors	Details to be confirmed at Construction Certificate stage.	Yes

Clause 30(1) - Consent cannot be refused on the following grounds if the development satisfies the relevant design criteria:

(a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,

(b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,

(c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

As noted in the above assessment, the proposed development would satisfy the relevant design criteria for car parking, internal area and ceiling heights and consent could not be refused on any of these grounds.

In addition to the above, Clauses 143A and 154A of the *Environmental Planning and Assessment Regulation 2000* require a certifying authority not issue a construction certificate for the development unless the certifying authority has received the statement by the qualified designer verifying that the development achieves compliance with the design quality principles at the construction certificate and occupation certificate.

Appropriate conditions are recommended to require compliance with Clauses 143A and 154A of the regulations.

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

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

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

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

a) any restricted access (or opportunities for access) to a foreshore
b) any identifiable adverse amenity impacts along the foreshore and on the scenic qualities of the coast;
c) any identifiable adverse impacts on flora and fauna;
d) the development being subject to any adverse coastal processes or hazards;
e) any significant conflict between water and land based users of the area;
f) any identifiable adverse impacts on any items of potential archaeological/heritage;
g) reduction in the quality of the natural water bodies in the locality (due to effluent and stormwater disposal, construction impacts, landuse conflicts);
h) any identifiable adverse cumulative impacts on the environment;
i) a form of development that is unsustainable in water and energy demands.

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

State Environmental Planning Policy (Infrastructure) 2007

The proposal includes a rooftop solar energy system which is permissible in accordance with clause 7.

State Environmental Planning Policy (State and Regional Development) 2011

This policy aims to identify state and regionally significant development or infrastructure and confer functions on Joint Regional Planning Panels.

Clause 20 and 21 of this SEPP at the time of lodgement - regional development is triggered by the development. Schedule 4A to the Act (at the time of lodgement of the DA) identifies the development for which a regional panel is authorised to exercise the consent authority function.

Clause 3 of schedule 4A reads as follows:

3 General development over $20 million
Development that has a capital investment value of more than $20 million.

The proposed development meets Clause 3 as the proposal has an estimated construction value greater than $20 million.

Clause 21 (as the time of lodgement of the DA) identifies the Northern Joint Regional Planning Panel as the consent authority. The purpose of this report is to provide an assessment of the Development Application in accordance with section 79C of the Act.

Port Macquarie-Hastings Local Environmental Plan 2011

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

- Clause 2.2, the subject site is zoned R4 high density residential. In accordance with clause 2.3(1) and the R4 zone landuse table, the proposed development for a residential flat building is a permissible landuse with consent.

The objectives of the R4 zone are as follows:

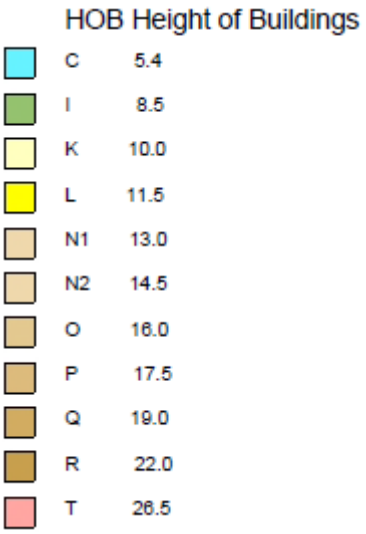
- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
-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

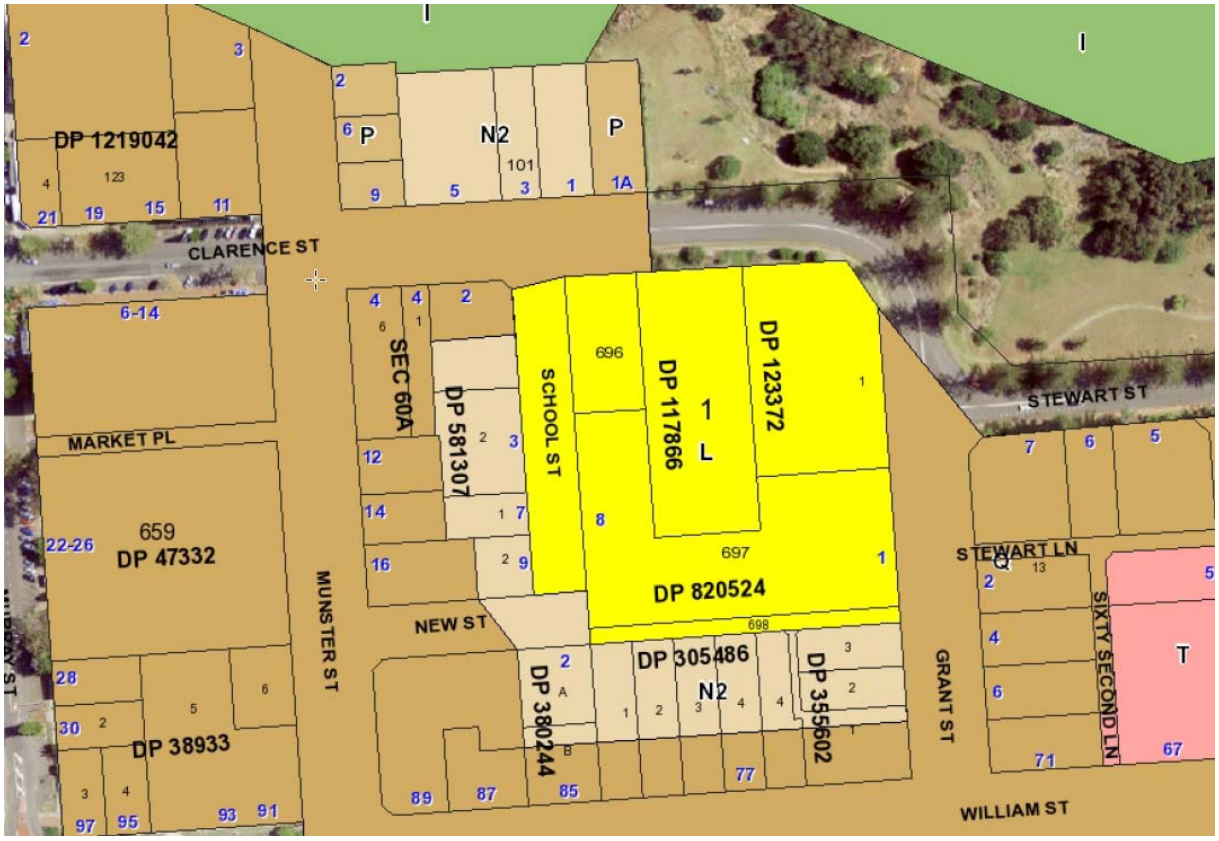
In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives having regard to the following:

- the proposal is a permissible landuse;
- the proposal will provide for an alternative form of high density residential housing in a highly accessible location to the Port Macquarie CBD;
- the design of the proposal satisfactorily responds to the desired future character of streets and supports active and safe uses at pedestrian level.

- Clause 2.7, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying) 2008.
- Clause 4.1A – Exceptions to min lot size permitted for strata title.
- Clause 4.3, this clause establishes the maximum "height of a building" (or building height) that a building may be built to on any parcel of land. The term "building height (or height of building)" is defined in the LEP to mean "*the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like*". The term "ground level (existing)" is also defined in the LEP to mean "*the existing level of a site at any point*".

The building height limit for the site is identified on the Height of Buildings Map as being 19m. The immediate context of building height limits is shown below:





The proposed development has a building height of 24.7m which represents a variation of 6.0m or 31.5%. Refer to the elevation plans, which demonstrate the areas of the building that exceed the height limit. The below image shows a representation of the height variation as viewed from the Clarence Street:

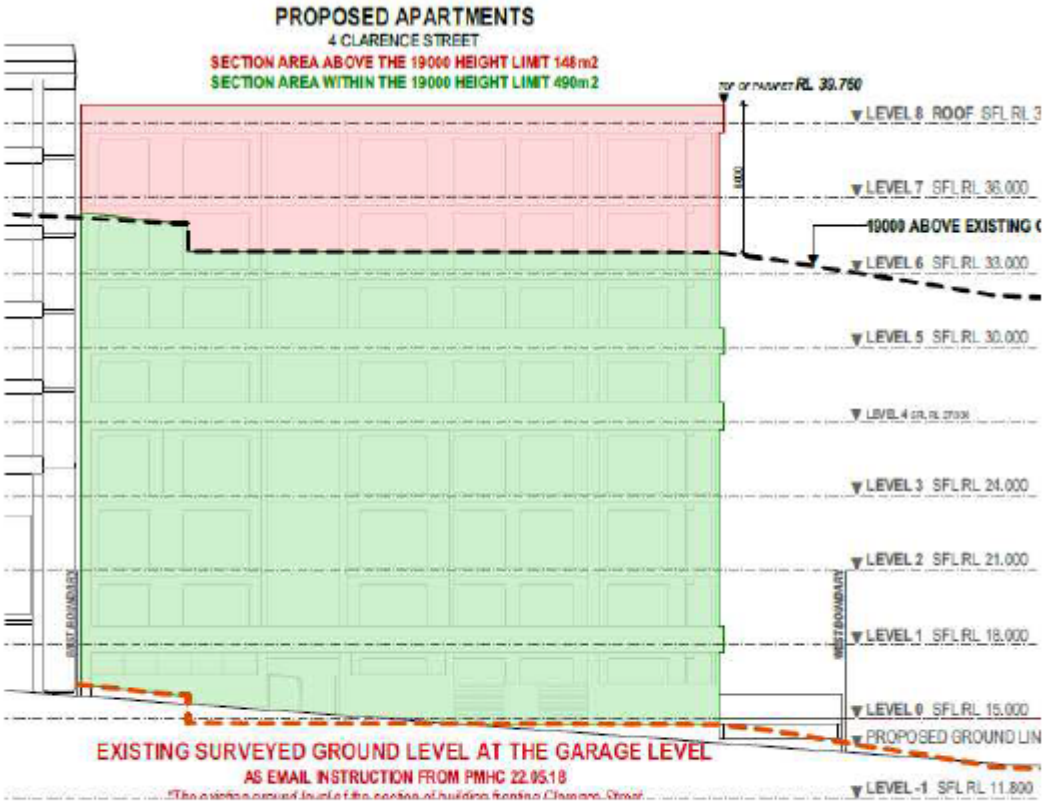


Figure 1 North Elevation

Source: McNeil Architects

In considering the height variation, compliance with the objectives of Clause 4.3 of the LEP have been considered below:

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

Comment:

The proposal responds to the existing character of adjoining and neighbouring development immediately east and west of the site and directly responds to the height, bulk and scale of these developments, which are representative of the existing character of the locality. The proposal is sufficiently compatible with the existing and desired future character of the locality, as specifically referred to in the objective.

At 14 Clarence Street (Port Pacific Building), opposite Munster Street is another 8-storey residential development. The proposal seeks to deliver a building form that is consistent with those on either side to present a scale that is consistent with existing development.

Despite the height non-compliance the proposal will achieve the desired future character by providing a transition to the CBD and deliver a residential development with a consistent urban perimeter block on Clarence Street that is clearly residential in character, befitting the Town Beach precinct.

The below image provides a contextual representation of how the building will sit within the existing Clarence Street streetscape:

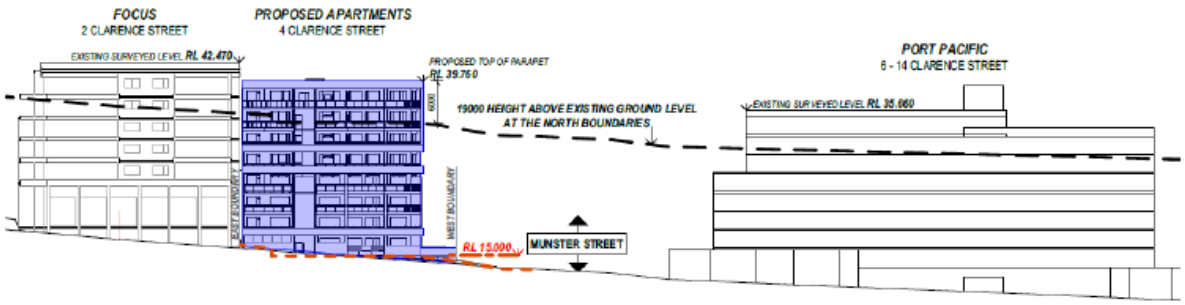


Figure 5 Surrounding development context
Source: McNeil Architects

Based on the above, the proposed height, bulk and scale of the development is considered compatible with the existing and future character of the locality.

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

Comment:

The visual impact of the building is considered satisfactory for the following reasons:

- The building height is similar to other buildings in the immediate context particularly to the immediate east and west.
- The site is corner site and it is a commonly accepted urban design principle to provide for additional heights on street corners to mark these street intersections.
- The Applicant has provided satisfactory additional information during the assessment of the DA to demonstrate that the views from neighbouring properties to the east and south will be obscured under a compliant scenario to 19m or the proposed varied height proposed.

- The proposed development and height variation will be unlikely to result in adverse overshadowing to neighbouring properties particularly to the south noting the permitted minimum sunlight standards in SEPP65.
- The impacts of the additional height proposed will not result in any identifiable adverse impacts to the existing privacy of neighbouring properties.

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

Comment:

The site does not contain any known heritage items or sites of significance as detailed later in report. There are no impacts to nearby heritage items identified which require consideration in the building height proposed.

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

Comment:

There is an inconsistency between the existing building heights making up the existing character of the area and the LEP height control at the site. There is a prevailing building height and development intensity generally being located on the southern side of Clarence Street that is taller than the LEP control.

The height of existing buildings immediately to the east and west include 8 storey developments along the southern side of Clarence Street. The northern side of Clarence Street features buildings between 3-6 storeys.

The proposal will achieve objective (d) by providing a building form that transitions across the site with a taller building presenting a uniform perimeter block between School Street and Munster Street on Clarence Street, consistent with existing development and provides a transitioned lower built form toward the south and neighbouring 3-4 storey development on Munster Street. The proposed height does not conflict with the strategic height controls as nominated in the LEP as this is an individual site variation and would provide suitable transition to surrounding built form intensity.

Further, the proposed development occupies an important corner location and therefore responds to the widely acknowledged design principle of locating building height on street corners.

Having regard to the above variation, the Applicant has lodged a written request in accordance with Clause 4.6 of the LEP objecting to the 19m building height standard applying to the site (see comments below under Clause 4.6).

- Clause 4.4, the floor space ratio of the proposal is 2.38:1.0 which complies with the maximum 2.5:1 floor space ratio applying to the site.
- Clause 4.6, 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 and/or unnecessary and that there are sufficient environmental planning grounds to justify the contravening of the standard without compromising the public interest.

As a result of the above, the Applicant has submitted a Clause 4.6 variation (as amended during the assessment of the DA) for the height standards (ie Clause 4.3).

The Applicant's reasonings for varying Clause 4.3 are as follows:

- The height variation will facilitate an improved urban design outcome to an otherwise height compliant scheme;
- The variation is largely restricted to the element of the building along Clarence Street;

- The variation is justified having regard to case law both from the NSW Land and Environment Court and the NSW Court of Appeal;
- The proposal adjoins and shares the boundary with an effective 8-storey residential flat building at 2 Clarence Street. The proposal responds to this building by providing a similar height, bulk and scale in order to present a consistent perimeter block on Clarence Street that defines the street edge between School Street and Munster Street. This allows the massing to be read as a compatible pair of buildings that will allow the blank end treatment of 2 Clarence;
- At 14 Clarence Street (Port Pacific Building), opposite Munster Street is another 8-storey development. Accordingly, the proposal seeks to deliver a building form that is consistent with those on either side to present a bulk and scale that is consistent with existing development;
- The streets will become activated by a compatible urban form;
- The proposal will not result in a development which is out of character with existing development adjoining the site;
- Council has, to some extent, abandoned the control in the immediate locality through approvals above the permissible height of buildings control;
- The proposal is consistent with the future residential development character of Town Beach;
- The proposal minimises amenity impacts on surrounding properties;
- The proposed development continues to meet the objectives of the maximum building height;
- The proposed development is consistent with the objectives of the R4 High Density Residential Zone.
- The variation of the height of buildings development standard does not raise any matter of significance for State or regional planning.
- It will result in significant investment to redevelop an infill site;
- It will contribute and strengthen the Clarence Street environment through urban renewal;
- It enhances the variety of housing options by increasing the number of homes within the Port Macquarie city centre;
- It is not considered that there would be any public benefit for the height of the proposal to be reduced, particularly where key planning issues deriving from height, such as privacy and overshadowing, as well as view loss have been assessed as being negligible in the context of the site and its CBD context.

The following additional matters are noted in addition to the Applicant's justification:

- Recent caselaw (after the DA was lodged) from the NSW Court of Appeal *Initial Action Pty Ltd v Woollahra Municipal Council (2018) NSWLEC 118* states clause 4.3 of the LEP fixes a maximum height and does not fix a limit on the number of storeys. The assumption that the height controls reflect a particular number of storeys for the site is an incorrect assumption. The variation relates only to the numerical height variation in metres only. In the subject case it relates to 6m above the 19m height limit.
- The development is consistent with the zoning and height objectives of the LEP 2011 and is unlikely to have any implications on State related issues or the broader public interest.
- The floor to ceiling heights are not excessive.
- The public benefit of the standard is not compromised or eroded as this is one individual case of variation in between higher buildings.

Having considered the application and amended Clause 4.6 variation (submitted during the assessment of the DA) to Clause 4.3, the Applicant's variation request has adequately addressed why compliance with the building height standard is unreasonable and unnecessary. The proposal will be in the public interest as it is sufficiently consistent with the objectives of the height standard and objectives for the R4 zone.

The variation is recommended to be supported by the Joint Regional Planning Panel.

As per the Planning Circular PS18 - 003, Council can assume the Director's Concurrence for variations to height. This DA is however to be determined by the Joint Regional Planning Panel. Furthermore,

the decision must also be reported to Council for their information, a public register of variations maintained and quarterly reporting required to the Department of Planning and Environment.

- Clause 5.10 – Heritage. The subject land is identified on Sheet 13FA of the Heritage Map within Port Macquarie Hastings LEP 2011 as Archaeological Site A111 under Schedule 5. A specialist report on Excavation of Test Trenches (under permit) have been undertaken by Mr Ted Higginbotham of Edward Higginbotham & Associates Pty Ltd. This has been forwarded to the NSW Heritage Council who have provided advice noting the archaeological test excavations done which identified no information on archaeological significance. No specific approval is required under the Heritage Act 1977 however a precautionary condition is recommended to address management of any unexpected relics are discovered during construction.

- Clause 7.7 – The site is subject to an Obstacle Limitation Surface restriction in relation to an assumed airspace operations of RL60m AHD. The proposed building itself will be unlikely to penetrate the OLS however there is potential for construction cranes to penetrate the OLS. An appropriate condition is recommended in this regard.
- 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:

DCP 2013: Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development			
DCP Objective	**Development Provisions**	**Proposed**	**Complies**
3.3.2.2	Satisfactory site analysis plan submitted.	Satisfactory site analysis plan submitted.	Yes
3.3.2.3	Statement addressing site attributes and constraints submitted.	Satisfactory statement and details addressing site attributes and constraints submitted.	Yes
3.3.2.4	Streetscape and front setback: • Within 20% of the average setback of the adjoining buildings. • 3m setback to all frontages if no adjoining development. • 2m setback to secondary frontages. • Max. 9m setback for tourist development to allow for swimming pool.	Streetscape and front setback: • Within 20% of the average setback of the adjoining buildings on Clarence Street and Munster Street	Yes
3.3.2.5	Balconies and building extrusions can encroach up to 600mm into setback.	N/A	N/A
	Buildings generally aligned to street boundary.	Buildings generally aligned to street boundary.	Yes
	Primary openings aligned to street boundary or rear of site.	Primary openings aligned to street boundary or rear of site.	Yes

3.3.2.6	Side setbacks comply with Figure 3.3-1: • Min. Side setback 1.5m for 75% of building depth. • Windows on side walls min. 3m from side boundary. • 3m minimum where adjacent to existing strata titled building.	Side setbacks comply + SEPP 65 requirements complied with	Yes
	Side walls adjacent to existing strata-titled buildings should be articulated and modulated to respond to the existing buildings.	SEPP 65 requirements for southern side boundary setback	N/A
	Min. 6m rear setback (including sub basements)	Corner lot – SEPP 65 requirements for southern side boundary setback	N/A
3.3.2.7	A party wall development may be required if site amalgamation is not possible and higher density development is envisaged by these controls.	N/A	N/A
3.3.2.8	Party wall development can occur only with the agreement and consent of the adjoining property owner. Exposed party walls should be finished in a quality comparable to front facade finishes.	Party wall proposed on eastern side of site against existing party wall. No maintenance assumed.	N/A
3.3.2.9	Corner sites consolidated with adjacent land where possible.	Deep soil zoned meets SEPP 65 requirements	N/A
	Where consolidation not possible a minimum setback of 6m should extend to secondary street (see Fig 3.3-2 and 3.3-3).	Deep soil zoned meets SEPP 65 requirements	N/A
3.3.2.10	Where sites adjacent to open space are to be developed the edge of the open space should be defined with a public road and buildings address the open space.	N/A	
3.3.2.11	Deep soil zones: • Extend the width of the site and have minimum depth of 6m. • Are contiguous across sites and within sites (see Fig 3.3-4).	Deep soil zoned meets SEPP 65 requirements	N/A
3.3.2.12	Deep soil zones accommodate existing advanced trees, and allow for advanced tree planting.	Deep soil zones accommodate existing advanced trees, and allow for advanced tree planting.	Yes
3.3.2.13	Deep soil zones integrated with stormwater management	Deep soil zones integrated with stormwater management	Yes

	measures.	measures.	
3.3.2.14	Sunlight to the principal area of ground-level private open space of adjacent properties should not be reduced to less than 3 hours between 9.00am and 3.00pm on June 22.	SEPP 65 apartment design permits alternate calculation for retained sunlight to southern neighbours at Huxley Court in particular – refer discussion earlier in this report.	N/A
	Where existing overshadowing by buildings and fences is greater than this, sunlight should not be reduced by more than 20%.		
	Buildings should not reduce the sunlight available to the windows of living areas that face north in existing adjacent dwellings to less than the above specification.		
3.3.2.15	Internal clothes drying space provided (not mechanical).	External drying space provided in communal area	Yes
	Ceiling fans provided in preference to air conditioning.	No detail of ceiling fans however capable of providing	Yes - capable
	Solar hot water systems (or equivalent technology) provided.	None proposed – swimming pool heating though	N/A
	Photovoltaic arrays installed where practical.	Solar PV proposed	Yes
3.3.2.16	Landscape plan provided including: • 35% soft landscaping with minimum width of 3m. • Existing vegetation and proposed treatment. • Details of hard landscaping. • Location of communal recreational facilities. • Species not to obscure doors, paths, etc. • Street trees in accordance with Council's list.	Landscape plan acceptable	Yes
3.3.2.17	Existing vegetation to be retained and nutrient-rich water prevented from entering native gardens.	Landscape plan acceptable	Yes
3.3.2.18	Landscape plan to demonstrate how trees and vegetation contribute to energy efficiency and prevent winter shading on neighbouring properties.	Landscape plan acceptable	Yes
3.3.2.19	Street trees in accordance with Council's list.	Landscape plan acceptable	Yes
3.3.2.20	All dwellings at ground floor level have minimum 35m^2 of private open space, including	Less area permitted under SEPP65 Apartment Design Guide – min. 15m2. All apartments	N/A

	one area 4m x 4m at maximum grade of 5% and directly accessible from living area.	>15m2	
3.3.2.21	Where open space is of irregular shape, areas having a width less than 2m are excluded from calculated area.	Dwellings above ground level have balconies with minimum area $8m^2$ and minimum dimension 2m.	Yes
	Dwellings not at ground level have balconies with minimum area $8m^2$ and minimum dimension 2m.		
3.3.2.22	Fencing or landscaping defines public/communal and private open space.	Landscaping defines public/communal and private open space.	Yes
3.3.2.23	Solid fences should be: • Max. 1.2m high, • Setback 1m, • Suitably landscaped, • Provide 3m x 3m splay.	N/A	N/A
	Where front fences higher than 1.2m: • Max. 1.8m high, • Landscaped recesses for 50% of frontage, or length of fence not more than 6m or 50% of street frontage. • Min. 25% transparent, • 3m x 3m splay for corner sites. • 900mm x 900mm splay at vehicle driveways.	N/A	N/A
3.3.2.24	Fencing materials consistent with or complimentary to existing fencing in the street.	N/A	N/A
3.3.2.25	Fences constructed of chain wire, solid timber or masonry and solid street not permitted, even if consistent with existing fencing in the locality.	N/A	N/A
3.3.2.26	Building to be designed so that: • Busy, noisy areas face the street. • Quiet areas face the side or rear of the lot. • Bedrooms have line of site separation of at least 3m from parking areas, streets and shared driveways.	Building layout design satisfactory	Yes
	Openings of adjacent dwellings separated by at least 6m.	Openings of adjacent dwellings separated by > 6m.	Yes
3.3.2.27	Building designed so noise transmission between apartments is minimised.	Building designed so noise transmission between apartments is minimised.	Yes
	Uses are to be coupled	Uses are to be coupled internally	Yes

	internally and between apartments i.e. noisy internal and noisy external spaces should be placed together. (See Figure 3.3-6).	and between apartments	
3.3.2.28	Development complies with AS/NZS2107:2000 *Acoustic – Recommended design sound levels and reverberation times for building interiors for residential development.*	Development capable of complying with AS/NZS2107:2000	Yes - capable
3.3.2.29	Impact of noise from key public places to be considered.	Impact of noise from key public places to be considered – elevated apartments from street level primarily	Yes
3.3.2.30	Direct views between living room windows to be screened where: • Ground floor windows are within 9m of windows in an adjoining dwelling. • Other floors are within a 12m radius. • Living room windows are within 12m radius of the principal area of private open space of other dwellings.	No direct views between living room windows that need to be screened	N/A
	Direct views may be screened with either a 1.8m high fence or wall, or screening that has maximum 25% openings.	N/A	N/A
	Windows in habitable rooms screened if >1m above ground level and wall set back <3m.	N/A	N/A
	Balconies, decks, etc screened if <3m from boundary and floor area >3m^2 and floor level >1m above ground level.	N/A	N/A
3.3.2.31	Developments to be designed in accordance with AS 1428.	Developments capable of compliance with AS 1428.	Yes
3.3.2.32	Barrier free access to at least 20% of dwellings provided.	Barrier free access to > 20% of apartments provided.	Yes
3.3.2.33	Developments located close to open space, recreation, entertainment and employment.	Development location suitable for high density	Yes
	Where LEP permits FSR > 1:1, FSR not less than 1:1 should be achieved.	>1:1 FSR	Yes
3.3.2.34	Variety of types - studio, 1, 2, 3 and 3+ bedroom apartments	Proposal will provide for 2 bedroom apartments in a suitable location	No
	Studio and 1 bedroom apartments not > 20% of total	Proposal will provide for 2 bedroom apartments in a suitable	No

	number of apartments.	location	
	Mix of 1 and 3 bedroom apartments at ground level.	Proposal will provide for 2 bedroom apartments in a suitable location	No
3.3.2.35	Council's Affordable Housing Strategy to be considered for residential flat buildings.	Proposal will provide for 2 bedroom apartments in a suitable location	Yes
3.3.2.36	Lift over-runs and plant integrated within roof structures.	Lift over-runs and plant integrated within roof structures.	Yes
	Outdoor recreation areas on roof tops to be landscaped and incorporate shade structures and wind screens.	Outdoor recreation areas on roof tops to be landscaped and incorporate shade structures and wind screens.	Yes
	Outdoor roof areas oriented to the street.	Outdoor roof areas oriented to the street.	Yes
	Roof design to generate interesting skyline.	Roof design to generate interesting skyline.	Yes
3.3.2.37	Facade composition should: • Have balance of horizontal and vertical elements. • Respond to environmental and energy needs. • Incorporate wind mitigation. • Reflect uses within the buildings. • Include combination of building elements.	Façade composition acceptable and meets SEPP 65 requirements	Yes
3.3.2.38	Building elements, materials and colours consistent or complimentary to those existing in the street.	Building elements, materials and colours sufficiently consistent or complimentary to those existing in the street.	Yes
3.3.2.39	Entrances clearly identifiable from street level.	Entrances clearly identifiable from street level.	Yes
	Entries provide clear transition between public street and shared private circulation spaces/apartments.	Entries provide clear transition between public street and shared private circulation spaces/apartments.	Yes
	Entries provide clear line of sight between one circulation space and the next.	Entries provide clear line of sight between one circulation space and the next.	Yes
	Entries avoid ambiguous and publicly accessible small spaces in entry areas.	Entries avoid ambiguous and publicly accessible small spaces in entry areas.	Yes
	Entries sheltered and well lit.	Entries sheltered and well lit.	Yes
	Entries and circulation spaces sized for movement of furniture.	Entries and circulation spaces sized for movement of furniture.	Yes
	Corridors minimum 2.5m wide and 3.0m high.	Primarily external passageways accessibly from lift connections to individual apartments	Yes
	Corridor lengths minimised and avoid tight corners.	No long corridors	Yes

	Longer corridors articulated by: • Changing direction and width. • Utilising series of foyers. • Incorporating windows.	No long corridors	Yes
3.3.2.40	Minimum 1 balcony per apartment.	Each apartment has a balcony.	Yes
	Main balcony accessible from living area.	Main balcony accessible from living area.	Yes
	Balconies take advantage of favourable climatic conditions.	Balconies take advantage of favourable climatic conditions.	Yes
	Balconies and balustrades balance privacy and views.	Balconies and balustrades balance privacy and views.	Yes
3.3.2.41	Balconies include sunscreens, pergolas, shutters and operable walls.	Balconies include sunscreens, pergolas, shutters and operable walls.	Yes
	Balconies recessed to create shadowing to facade.		
	Solid balustrades discouraged.	Mixture of balustrade designs. Note SEPP 65 encourages solid balustrades.	Yes
	Air conditioning units not visible from the street.	Air conditioning units not proposed in application.	N/A
3.3.2.42	Secure open air clothes drying facilities that are: • easily accessible, • screened from public domain and communal spaces, • located with high degree of solar access.	Secure open air clothes drying facilities behind Unit 1	Yes
3.3.2.43	Mailboxes integrated into building design and sighted to ensure accessibility and security.	Mailboxes capable of being integrated into building design and sighted to ensure accessibility and security.	Yes - capable
3.3.2.44	Public and private space clearly defined.	Public and private space clearly defined.	Yes
	Entrances: • oriented to public street, • provide direct and well lit access between car parks, lift lobbies and unit entrances, • optimise security by grouping clusters (max. 8) around a common lobby	Entrances oriented to public street and capable of being well lit	Yes - capable
	Surveillance facilitated by: • views over public space from living areas, • casual views of common internal areas, • provision of windows and balconies, • separate entries to ground	Surveillance facilitated by design	Yes

	level apartments.		
	Concealment avoided by: • preventing dark or blind alcoves, • providing lighting in all common areas, • providing graded car parking illumination (greater at entrances).	Concealment areas avoided	Yes
	Access to all parts of the building to be controlled.	Access to all parts of the building capable of being controlled.	Yes
3.3.2.45	Accessible storage provided for tenants in basement car park or garages.	Accessible storage provided for tenants in basement car park or garages.	Yes
	One bike stowage space per dwelling provided.	Bicycle storage facilities provided	Yes
3.3.2.46	For developments of < 6 dwellings individual waste management permitted. Designated area to be provided for storage of bins: • not visible from street, • easily accessible, • not adjoining private or communal space, windows or clothes drying areas, • on hard stand area, • close to street and a tap for washing, • maintained free of pests.	Designated area to be provided for storage of bins	Yes
	Communal bulk waste required where: • > 6 dwellings, or • Number of bins wouldn't fit in street frontage, or • Topography would make street collection difficult.	Communal bulk waste proposed	Yes
	Communal bulk waste facilities integrated into development and located at ground or sub-basement level. • Not visible from street, • Easily accessible, • Can be serviced by collection vehicles, • Not adjoining private or communal space, windows or clothes drying areas, • Has water and drainage facilities for cleaning, • Maintained free of pests.	Communal bulk waste facilities integrated into development	Yes
	Evidence provided that site can be serviced by waste collection service.	Private waste collection service proposed.	Yes

3.3.2.47	Common trenching of utility services where possible.	Common trenching of utility services capable.	Yes - capable
	Above ground utility infrastructure integrated with building design.	Above ground utility infrastructure integrated with building design including substation with amended plans	Yes
	Site and individual units numbered.	Individual units capable of being appropriately numbers at street access points.	Yes – capable
	Common aerials and satellite dishes provided.	Common aerials and satellite dishes capable of being provided.	Yes – capable

DCP 2013: General Provisions			
DCP Objective	**Development Provisions**	**Proposed**	**Complies**
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline: • Casual surveillance and sightlines • Land use mix and activity generators • Definition of use and ownership • Lighting • Way finding • Predictable routes and entrapment locations	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.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Substantial excavation for basement however technically cut is proposed in the south-east corner of the site greater than 1m outside the building. The deep soil zone on the eastern side of the site is nominally 1.2m below the floor level on the adjacent Focus building at 2 Clarence Street, and nominally 1.0m below the ground/driveway levels of Huxley Court at 12 Munster Street. This level relates well to the access to units 01 to 07 ensuring the best use of the common open space for all residents. No adverse impacts identified to neighbouring properties subject to appropriate engineering design and certification.	No – variation acceptable – refer to SEPP 65 justifications
2.3.3.2	1m max. height retaining walls along road frontages	Retaining walls along road frontages especially Munster Street acceptable >1m.	No – variation acceptabl

			e – refer to SEPP 65 justifications
	Any retaining wall >1.0 in height to be certified by structural engineer	Engineering detail to be provided with Construction Certificate	Yes
2.3.3.8 onwards	Removal of hollow bearing trees	Nil	N/A
2.6.3.1	Tree removal (3m or higher with 100mm diameter trunk and 3m outside dwelling footprint	Nil	N/A
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Yes
2.5.3.2	New accesses not permitted from arterial or distributor roads. Existing accesses rationalised or removed where practical	Driveway access proposed off secondary street frontage Munster Street	Yes
	Driveway crossing/s minimal in number and width including maximising street parking	Driveway crossing is minimal in number and width including maximising street parking	Yes
2.5.3.3	Off-street parking in accordance with Table 2.5.1: • 48 x 2 bedroom units = 1 space per 2 bedroom unit + 1 visitor space per 4 bedrooms = 48 + 12 = 60 spaces required	Provided 59 spaces including 5 accessible spaces. SEPP 65 permits parking to be calculated an alternate rate due to location and scale of the development. Refer to comments earlier in this report under SEPP 65.	N/A – refer to SEPP 65 parking calculations
2.5.3.5	On-street parking permitted subject to justification	None required for calculated provision	N/A
2.5.3.7	Visitor parking to be easily accessible	Visitor parking easily accessible	Yes
	Stacked parking permitted for medium density where visitor parking and 5.5m length achieved	Nil	N/A
	Parking in accordance with AS 2890.1	Parking capable of compliance with AS 2890.1.	Yes
2.5.3.9	Bicycle and motorcycle parking considered and designed generally in accordance with the principles of AS2890.3	Dedicated bicycle and motorcycle parking area provided	Yes
2.5.3.10	Parking concessions possible for conservation of heritage items	N/A – parking complies	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	Yes
2.5.3.14	Sealed driveway surfaces unless justified	Sealed driveway surfaces – condition recommended	Yes
2.5.3.15	Driveway grades for first 6m of 'parking area' shall be 5% grade (Note AS/NZS 2890.1 permits	Driveway grades acceptable and capable of compliance with Australian Standards	Yes - capable

	steeper grades)		
2.5.3.16	Transitional grades min. 2m length		
2.5.3.17	No direct discharge to K&G or swale drain	Stormwater from the proposed development is planned to be disposed via an existing kerb inlet pit and an additional new kerb inlet pit which is consistent with the above requirements. Where minor surface areas drain to the basement, such as from the access driveway, a pump out system is permitted with discharge directed to the OSD storage tanks(s). The risk of system failure is to be managed via the use of dual pumps and other mechanical safeguards as per AS3500.	Yes
2.2.2.1	Signage	Building identification signage is only proposed.	Yes

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) Any matters prescribed by 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)

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.

(a)(v) Any Coastal Zone Management Plan

- No Coastal Zone Management Plan applies to the subject site.

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

Context and Setting

The site has a general corner street frontage orientation to Clarence Street and Munster Streets, Port Macquarie.

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 sufficiently consistent with other high density residential development in the locality and adequately addresses planning controls (including variations to height control) for the area. The high density zoning of Port Macquarie-Hastings Local Environmental Plan 2011 and SEPP 65 envisage a change in character for the site.

The proposal will not have identifiable significant adverse lighting impacts.

There are no significant adverse privacy impacts identifiable. Adequate building separation and appropriate design responses have been chosen.

There are no identifiable adverse overshadowing impacts given compliance with the SEPP65 Apartment Design Guide and high density zoning of the site.

View sharing

During the neighbour notification period concerns surrounding view loss were raised by the adjoining property owners to the south at Huxley Court and the Focus building to the east.

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

Using the planning principles of NSW Land and Environment Court in *Tenacity Consulting v Warringah 2004 NSW LEC 140,* the following comments are provided in regard to the view impacts using the 4 step process to establish whether the view sharing is acceptable.

Step 1

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

Comments:

Several of the upper level units within adjoining southern property known as Huxley Court and the adjoining eastern property known as Focus have distant mountain views and be able to view sections of the Hastings River including the land and water interface.

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:

With regard to the views from upper level units within Huxley Court it is noted that there is currently a view corridor of the distant mountains and select sections of the Hastings River. An example of the views from a standing position on the deck enjoyed from one of the Units 5/12 Munster Street (Huxley Court) is shown below sourced from a recent real estate advertisement:

With regard to the views from upper level units within Focus it is noted that there is currently a view corridor of the distant mountains and select sections of the Hastings River across their western side boundary. An example of the views from a standing position on the deck enjoyed from one of the Units in the Focus building at 4/2 Clarence Street (Focus) is shown below sourced from a recent real estate advertisement:

Step 3

Assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service

areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comments:

The proposed development will significantly obscure the distant mountain and river views from the upper level units within Huxley Court and the rear upper level units within Focus.

The affected views from Focus are across a side property boundary and it is difficult to realistically be expected to be retained having regard to the height control of 19m for the site. Views from neighbouring properties to the east and south will be obscured under a compliant scenario to 19m or the proposed varied height proposed. It is also noted that the proposed building is stepped in on the Clarence Street frontage with a greater front setback than the adjoining Focus building which will assist with retaining some views from balconies of Focus in the areas identified below:

During the assessment of the DA, the Applicant has also provided a photo montage showing the likely view impact with a compliant 19m height for the upper Level 4 rear apartment at Focus as shown below:

Figure 6 View Impact - Focus Building (Level 4) – Compliant Scheme

Source: McNeil Architects

With regard to any potential views from the rear upper level Units of Focus and several of the upper level units of Huxley Court it is also noted that there is approved residential flat buildings (7 storeys) at 15-19 Clarence Street which will be likely to add a complete obstruction to any potential distant mountain and river views to upper level units in Huxley Court and Focus. Huxley Court is also a much lower building at 4 storeys than the subject proposal and/or an assumed fully compliant building to the assumed 19m height standard.

Step 4

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

Comments:

The Applicant has stated that care has been taken in the design to minimise the loss of views to Huxley Court in particular by creating an angled cut-away to the south-western corner of the proposed building. A most modest development of 4 Clarence Street would still result in loss of views to the residents of Huxley Court.

With regard to the potential view impacts on Unit 2/2 Clarence Street, the Applicant has advised that this Unit is not directly affected by the height of the building as the proposal is adjacent to the blank brick wall presented by the Focus building. There are no windows on that part of the building and the blank wall has been built with provision for a development on the subject site. A substantial part of the blank wall will still be visible projecting above the proposed development.

In summary, it would not be possible for an alternative design to that which is proposed (notwithstanding the height variation also proposed) other than a building of considerably less scale to reduce the extent of view loss. It is considered unreasonable to refuse the application on the grounds of view sharing impacts. Overall, the proposal is considered to be satisfactory having regard to the above principles.

Roads

The application includes a Traffic Impact Assessment form SECA Solution on 29 June 2018, which states:

The subject site is located on the corner of Munster Street and Clarence Street to the immediate east of the CBD area of Port Macquarie. It is currently occupied by a residential apartment building with access off both Clarence and Munster Streets.

William Street to the south of the site provides the major access road to the centre of Port Macquarie and connects with suburbs to the east and south of the site and Pacific Drive to the east that runs along the coast line. William Street connects with Munster Street via a 4-way intersection, with William Street being the priority road. Traffic movements out of Munster Street are controlled with Stop signs and William Street provides 2 lanes of travel in both directions with a raised central median.
Munster Street is a local access road, providing direct access to the subject site. Munster Street provides a single lane of travel in both directions and operates under the urban speed limit of 50 km/h. It generally allows for kerb side parking to both sides of the road, with normal restrictions at intersections and driveways. In the vicinity of the subject site the kerb side parking is parallel. There are footpaths provided to both sides of the road. Munster Street provides an overall carriageway width in the order of 13 metres.

Munster Street connects with Clarence Street via a 4-way intersection with Clarence Street being the priority road. Traffic movements out of Munster Street are controlled by Give Way signs and all turning movements are permitted. There are footpaths provided to both sides of Clarence Street allowing for direct pedestrian connection to the Port Macquarie CBD to the immediate west of the site. Clarence Street provides a single lane of travel in both directions and allows for kerb side parking along much of its length. Outside the subject site there is angle parking provided to both sides of the road which caters for all day parking.

There is a 40 km/h school speed zone on Clarence Street to the east of the site that extends along New Street to the east.

All the roads in this location are local roads under the control and care of Port Macquarie – Hastings Council.

Traffic and Transport

The Traffic Impact Assessment form SECA Solution on 29 June 2018. Findings of the study determined:

From the site work undertaken and the review of the development proposal and associated plans against the requirements of the RMS Guide to Traffic Generating Developments and Austroads Guide to Traffic Management, it is considered that the proposed development application should have no objections raised on traffic and access grounds.

The additional traffic generated by the proposed development is minimal and will have an acceptable impact upon the local roads and intersections. Sight lines at the proposed access locations are consistent with the requirements of AS2890.1:2004.

The provision of car parking on site meets the requirements of the Council DCP and is designed in accordance with AS2890.

Overall it is concluded that the project should be approved on traffic and parking grounds.

Council Engineering staff have reviewed the Traffic Impact Assessment and concur with the assessment.

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 two-way access driveway to Munster Street.

Pedestrian access will be provided on Clarence Street with a secondary access to Munster Street from the open spaces along the site boundary.

Given the proximity of the site to shops, beaches and other attractions the site will generate a significant amount of pedestrian movements, to help the existing network cater to this demand the following road frontage works have been conditioned:

- Pedestrian refuge on Clarence Street just to the east of Munster Street.
- Upgrade of the unsatisfactory crossing of Munster Street on the southern side of Clarence Street, including pram ramps and kerb returns.

All accesses shall comply with Council AUSPEC and Australian Standards, and conditions have been imposed to reflect these requirements.

Parking and Manoeuvring

A total of 59 parking spaces have been provided on-site, including 5 accessible spaces. Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890) and conditions have been imposed to reflect these requirements.

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.

On-street parking is permitted on each of the local roads surrounding the site with normal restrictions associated with driveways, intersections, and pedestrian crossings.

Refer to relevant conditions of consent.

Water Supply Connection

Council records indicate that the development site has an existing 100mm metered water service and 100mm fire service from the 150 PVC water main on the same side of Clarence Street.

Each individual unit shall be individually metered with the meters either located at an easily accessible location or there's the option for utilizing remotely read electronic meters. Details are to be provided on the hydraulic plans.

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

Refer to relevant conditions of consent.

Sewer Connection

Council records indicate that the development site is currently connected to sewer via a junction to the sewer line that runs outside the southern property boundary. The proposed development shall drain all sewage to an existing or proposed sewer manhole. Details are to be provided on the engineering plans. Refer to relevant conditions of consent.

Stormwater

The site naturally grades towards the street frontage and is currently serviced via a direct connection to the public piped drainage system.

Stormwater from the proposed development is planned to be disposed via an existing kerb inlet pit and an additional new kerb inlet pit which is consistent with the above requirements.

Where minor surface areas drain to the basement, such as from the access driveway, a pump out system is permitted with discharge directed to the OSD storage tanks(s). The risk of system failure is to be managed via the use of dual pumps and other mechanical safeguards as per AS3500.

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

In accordance with Councils AUSPEC requirements, the following must be incorporated into the stormwater drainage plan:

- On site stormwater detention facilities.
- Water quality controls

Refer to relevant conditions of consent.

Other Utilities

Telecommunication and electricity services are available to the site.

Evidence of satisfactory arrangements with the relevant utility authorities for provision to each proposed lot will be required prior to Construction Certificate approval.

Heritage

Refer to comments earlier in this report addressing clause 5.10 of the Port Macquarie-Hastings Local Environmental Plan 2011. No adverse impacts anticipated subject to compliance with recommended consent conditions.

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 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 (as in force at the time of lodgement of the DA) 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. No adverse impacts anticipated.

Noise and vibration

Potential exists for noise to be generated from the rooftop communal area. A rooftop management plan was submitted during the assessment of the DA. The management plan is considered acceptable and recommended to be supported subject to a consent condition to give effect to the Plan.

Potential exists for noise generation from a pool pump for the swimming pool. A standard condition is recommended to manage noise from such likely pump installation.

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

Bushfire

The site is not identified as being bushfire prone.

Safety, security and crime prevention

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

Given the extent of proposed excavation and scale of the development a specialist dilapidation report will be required. A standard condition is recommended in this regard.

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 potential heritage archaeology on the site has been adequately addressed and appropriate conditions of consent recommended.

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

Ten (10) written submissions have been received following public exhibition of the application.

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

Submission issue/Summary	Planning Comment/Response
Unit 8, 12 Munster Street (Huxley Court) • Loss of property value due to loss of river views • Disruption to working from home, during construction period. • Damage to property due to dust during construction period entering the air conditioner	• The Applicant has advised that care has been taken in the design to minimise the loss of views by creating an angled cut-away of the south west corner of the proposed building. A more modest development of 4 Clarence Street would also result in loss of views. • The Applicant has advised that while some noise will occur during the construction, every effort will be made to minimise impact on neighbours. • The Applicant has advised the concerns of the resident are noted, however developments regularly occur adjacent to existing buildings, without damage occurring to the existing buildings. All efforts will be made to minimise any dust. The above responses are considered satisfactory to the issues raised and appropriate standard conditions are recommended to restrict any potential impacts.
Unit 4, 12 Munster Street (Huxley Court) • View impacts • Wall colours and reflective quality • Request for AC and plant not to be close	• The Applicant has advised that care has been taken in the design to minimise the loss of views by creating an angled cut-away of the south west corner of the proposed building. A more modest development of 4 Clarence Street would still result in loss of views. • The Applicant has advised that the southern wall colour has been selected to strike a good balance between reflecting light into Huxley Court and not providing a colour that is so reflective as to cause undue glare. • The Applicant has advised that the final selection of locations for placement of the external component of the AC units so as to ensure noise levels are

	maintained well within the regulatory guidelines. The above responses are considered satisfactory to the issues raised and appropriate standard conditions are recommended to restrict any potential impacts.
Unit 1, 12 Munster Street (Huxley Court) • Glare from light coloured wall • Request for AC and plant not to be close	• The Applicant has advised that the southern wall colour has been selected to strike a good balance between reflecting light into Huxley Court and not providing a colour that is so reflective as to cause undue glare. • The Applicant has advised that the final selection of locations for placement of the external component of the AC units so as to ensure noise levels are maintained well within the regulatory guidelines. The above responses are considered satisfactory to the issues raised and appropriate standard conditions are recommended to restrict any potential impacts.
Unit 7, 12 Munster Street (Huxley Court) • Bulk and scale • Floor space ratio • Building height • Apartment mix • Shadowing • Visual impact from Munster Street • Glare and reflection • Request for AC and plant not to be close	• Whilst the height and bulk of the proposal at 4 Clarence Street is greater than the existing Huxley Court, it is very likely that only the southern portion of the proposal will be seen from Unit 7 Huxley Court. • The calculated floor space ratio complies with the maximum FSR for the site in accordance with Port Macquarie-Hastings Local Environmental Plan 2011 – refer to comments earlier in this report. • The proposal includes a variation to the 19m building height limit which is satisfactorily addressed earlier in this report. • The Applicant has advised that the types and sizes of the units are varied. There are seven units on each floor. There are four very different layouts out of the sevens units on each floor, with varying sizes. 57% of the proposed units are different to one another. As stated elsewhere the development will provide for a variety of residential accommodation in the immediate precinct. • The likely overshadowing of this neighbour and other neighbours within Huxley Court complies with the minimum sunlight requirements of the

	SEPP 65 Apartment Design Guide. • The visual impact from Munster Street is a subject evaluation however it is noted that the proposal generally complies with the SEPP 65 Apartment Design Guide which is quite prescriptive on design requirements. The proposal is also designed by a registered architect. • The Applicant has advised that the southern wall colour has been selected to strike a good balance between reflecting light into Huxley Court and not providing a colour that is so reflective as to cause undue glare. • The Applicant has advised that the final selection of locations for placement of the external component of the AC units so as to ensure noise levels are maintained well within the regulatory guidelines.
15-19 Clarence Street + Yogi Bear Holdings + Rodger Superannuation fund • Poor visual amenity • Minimal articulation of the façade • No commercial on the ground floor • Does not comply with guidelines • No apartment type variation • No activation of the site • No provision for onsite electricity • Height of building	• The visual impact from Munster Street is a subject evaluation however it is noted that the proposal generally complies with the SEPP 65 Apartment Design Guide which is quite prescriptive on design requirements. The proposal is also designed by a registered architect. • The building has a satisfactory amount of articulation incorporated into the building design. • The Applicant has advised that whilst no commercial space has been provided on the ground floor, it is noted that units 01, 02 and 03 could be converted to commercial usage should the expansion of the CBD indicate the need for such facilities. The zoning is also different to the objector's property. • The proposal includes a variation to the 19m building height limit which is satisfactorily addressed earlier in this report. • The Applicant has advised that the types and sizes of the units are very varied. There are seven units on each floor. There are four different layouts out of the sevens units on each floor, with varying sizes. 57% of the proposed units are different to one another. As stated elsewhere the development will provide for a variety of residential accommodation in the immediate precinct. • Activation of the site is encouraged by directing all residents through the

	common entry off Clarence Street, whilst Units 01, 02 and 03 still have available the option of entering their units directly off Clarence Street. Units 04, 05, 06 and 07 also have the option of direct access off Munster Street via a choice of 2 different sets on steps. • Provision is made in the updated drawings for a substation to be located in the south west corner of the site. • This is addressed in the comprehensive clause 4.6 objection that accompanies this report.
Unit 7, 6 Grant Street • Traffic issues and unsatisfactory assessment submitted	• The Applicant has submitted a specialist traffic assessment during the assessment of the DA. • The traffic impacts of the proposal are assessed as being acceptable subject to compliance with the recommended conditions of consent.
Unit 2, 2 Clarence Street (Focus) • Building height • Loss of views, privacy, solar access • Unacceptable design • Property devaluation	• The proposal includes a variation to the 19m building height limit which is satisfactorily addressed earlier in this report. • The Applicant has advised that Unit 2/2 Clarence Street is not directly affected by the height of the building as the proposal is adjacent to the blank brick wall presented by the Focus building. There are no windows on that part of the building and the blank wall has been built with provision for a development on the subject site. A substantial part of the blank wall will still be visible projecting above the proposed development. • The proposal will not result in any identifable loss of views or solar access to this Unit. • The proposal generally complies with the SEPP 65 Apartment Design Guide which is quite prescriptive on design requirements. The proposal is also designed by a registered architect. • Any potential for impacts on property values is not a matter for consideration in the assessment and determination of the DA.
Unit 15, 2 Clarence Street (Focus) • Building height • Disruption of views, loss of views, loss of solar access • Vehicular access	• The proposal includes a variation to the 19m building height limit which is satisfactorily addressed earlier in this report. • The proposal will not result in any identifable loss of views or solar access to this Unit.

	• The proposed development provides sufficient off street parking for the residents and visitors in accordance with standard requirements. It is further noted that with the reduction of driveways across the frontage of the site, additional on street parking will be made available. It is noted that there are 6 separately accessing individual parking spaces currently directly accessing Clarence Street which will be removed.

(e) The public interest

The proposed development will be in the wider public interest with provision of appropriate additional housing in a suitable accessible location.

The proposed development satisfies relevant planning controls including a justified building height variation and is not expected to impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

Section 94 Contributions

Yes - The development involves the creation of an additional residential component

Section 94A Contributions

No - The development does not contain any commercial/industrial component.

Section 64 Water and Sewer Contributions

Yes

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.