

## COUNCIL ASSESSMENT REPORT

Panel Reference	2018NTH019
DA Number	DA2018 – 654.1
LGA	Port Macquarie-Hastings
Proposed Development	Multi Storey Commercial and Retail Building with Clause 4.6 variation to Clause 4.3 (Height of Building) of the Port Macquarie-Hastings Local Environmental Plan 2011
Street Address	Lot 1 DP 1012667 & Lot 100 DP 855100, 99 William Street and 40-42 Horton Street, Port Macquarie
Applicant/Owner	Applicant: Hopkins Consultants Pty Ltd Owner: Port Macquarie-Hastings Council (Lot 1 DP 1012667) & Gowing Bros Ltd (Lot 100 DP 855100)
Date of DA lodgement	21 August 2018
Number of Submissions	None
Recommendation	Consent subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Clause 3(b)&(d) Council related development over \$5 million Development that has a capital investment value of more than \$5 million if: (b) the council is the owner of any land on which the development is to be carried out, or (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No. 44 - Koala Habitat Protection</li> <li>• State Environmental Planning Policy No. 55 - Remediation of Land</li> <li>• State Environmental Planning Policy No. 62 - Sustainable Aquaculture</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Coastal Management) 2018</li> <li>• Port Macquarie-Hastings Local Environmental Plan 2011</li> <li>• Development Control Plan 2013</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>• Plans</li> <li>• Clause 4.6 report</li> <li>• Statement of Environmental Effects and applicable Appendices</li> <li>• Services Plan</li> <li>• Traffic Impact Assessment</li> <li>• Proposed Conditions</li> </ul>
Report prepared by	Clinton Tink – Development Assessment/Contribution Planner
Report date	April 2019

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 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?

Yes

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### 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 been received, has it been attached to the assessment report?

Yes

**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

**No**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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**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*

## Executive summary

This report considers a Development Application (DA) for a multi storey commercial and retail building with Clause 4.6 variation to Clause 4.3 (Height of Buildings) of the Port Macquarie Hastings Local Environmental Plan 2011. The building will contain two (2) levels of basement parking, two (2) levels of commercial/retail with parking and then a rooftop level of additional parking. In total, 1037m<sup>2</sup> commercial floor area, 945m<sup>2</sup> retail floor area and 238 parking spaces are proposed.

The development is proposed to integrate with the existing Port Central shopping centre. To enable this integration, 12 parking spaces within the Port Central building will be lost, bringing the total proposed parking down from 238 to 226.

The land is currently owned by Council. Under the option to purchase the land from Council the developer is required to provide an additional 150 parking spaces to that which is required by the development. Part of Council's original purchase of the site used contribution monies collected under Council's Car Parking Contribution Plan 1993 to provide for CBD parking options.

The proposal has been advertised and notified to adjoining land owners in accordance with Council's Development Control Plan 2013. Following exhibition of the application, no submissions were received.

The assessment of the application has also considered written submissions from the following authorities:

- NSW Roads and Maritime Services.
- NSW Police Force.

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:

- **Clause 7 of SEPP No. 44 – Koala Habitat Protection.** Council staff are satisfied that the land is not potential koala habitat.
- **Clause 7 of SEPP No. 55 – Remediation of Land.** The land is not known to have previously been used for a purpose referred to in Table 1 of the contaminated land planning guidelines. The proposed development will also seal the current land via the basement car parking. In this regard, the land is not considered to be contaminated and the future use is a compatible/non sensitive. Council staff are satisfied that the proposed development meets the provisions of clause 7(1) of the SEPP.
- **Clause 15B of SEPP No. 62 – Sustainable Aquaculture.** Council staff are satisfied that suitable stormwater arrangements can be made to ensure no adverse water runoff into the Hastings River and associated impacts on oyster leases.
- **Clause 104(3)(b) of SEPP (Infrastructure) 2007.** Council staff are satisfied that comments from RMS have been considered in the assessment.

- **Clause 13, 15 & 16 of SEPP (Coastal Management) 2018.** Council staff are satisfied that the development will create no adverse impact on coastal environment areas, coastal hazards and/or any management plan.
- **Clause 4.6 of the Port Macquarie-Hastings LEP 2011 – Exceptions to Development Standards.** Clause 4.6 requires the consent authority to be satisfied that any variation to a standard is justified and is within the public interest. Council staff are satisfied in this case that the proposed development meets the provisions of Clause 4.6 in relation to a variation to Clause 4.3 (Height of Building).
- **Clause 7.13 of the Port Macquarie-Hastings LEP 2011 – Essential Services.** Clause 7.13 requires the consent authority to be satisfied that any services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 7.13 of the LEP.

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 application, subject to the recommended conditions of consent.

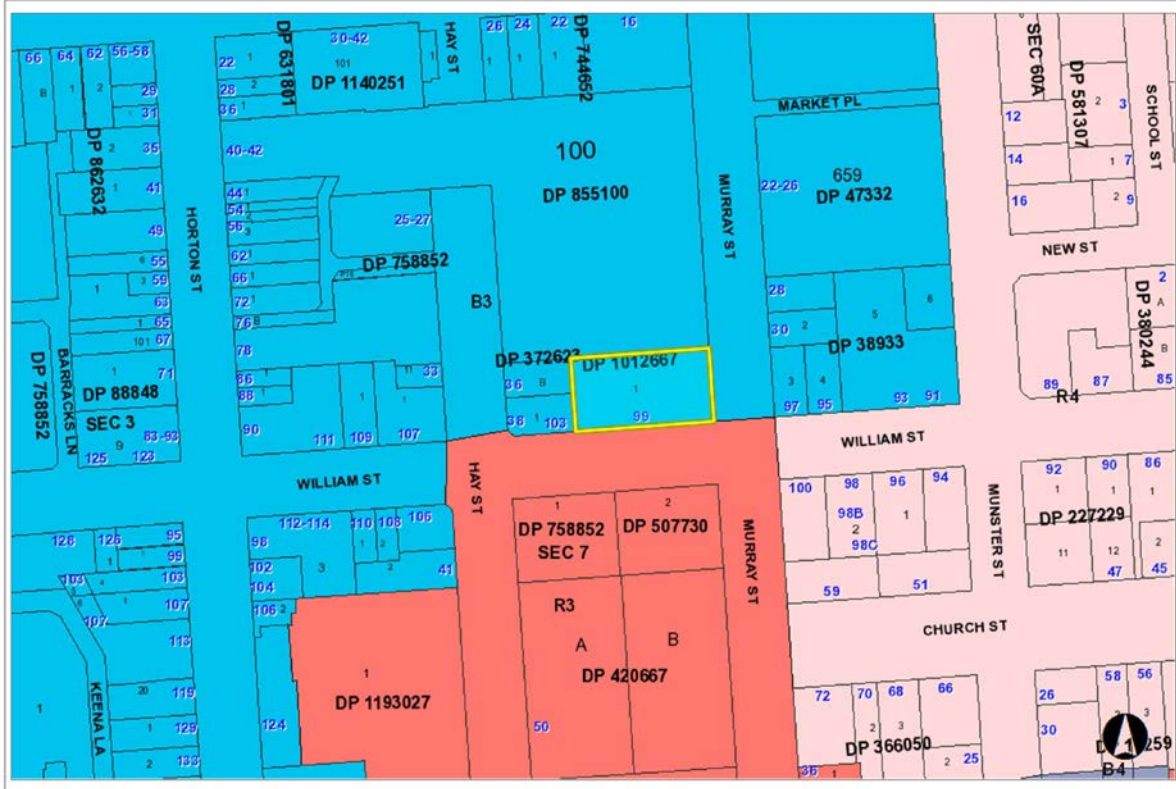
The Applicant has been provided with a copy of the draft 'without prejudice' conditions for review.

## **1. BACKGROUND**

### **Existing sites features and surrounding development**

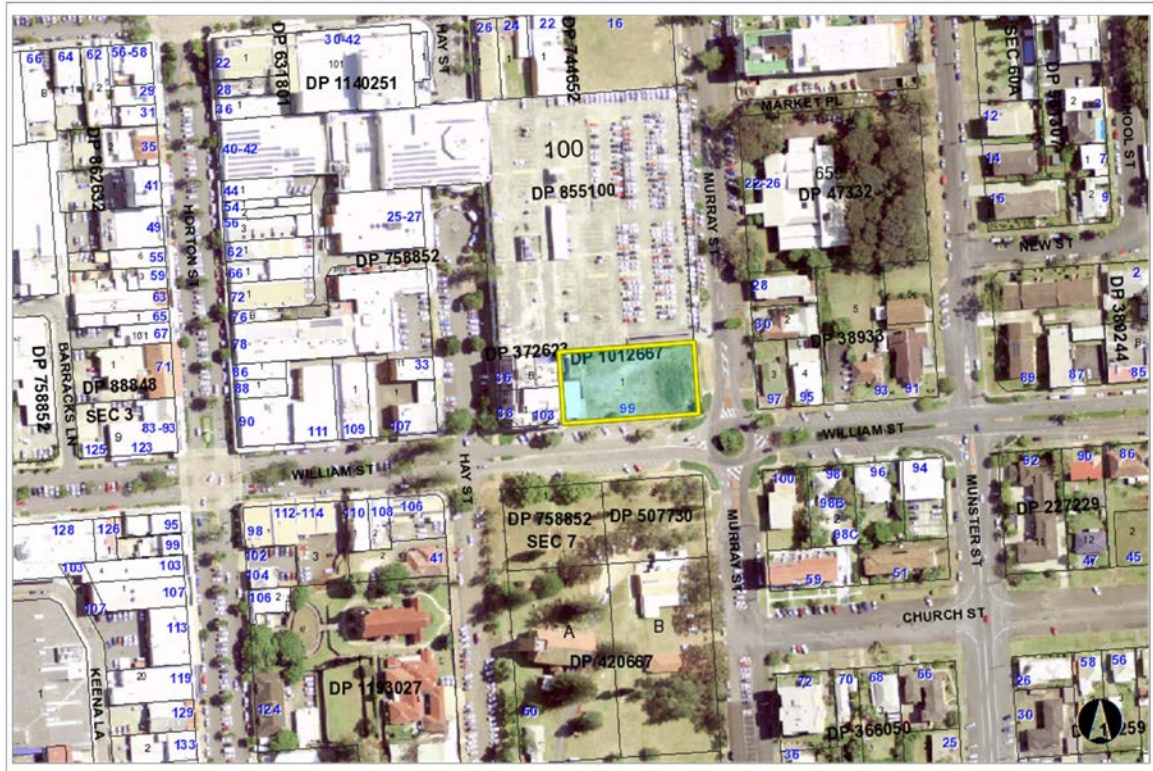
The development is proposed to be carried out predominately on Lot 1 DP 1012667, corner of Murray and William Street, Port Macquarie. Lot 1 DP 1012667 has an area of approximately 2400m<sup>2</sup>. Some minor works will be required to the existing Port Central building on Lot 100 DP 855100 to allow integration of the buildings. As a result, the two properties are to be consolidated and this will be reinforced by conditions of consent.

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



The site is located within the central business district (CBD) of Port Macquarie. Surrounding the development is a mixture of multi storey uses including commercial, retail, churches, motel development and the local court building. The existing subdivision pattern and location of existing development within the immediate locality is shown in the following aerial photos.





Nearmap – 23 October 2018



## 2. DESCRIPTION OF DEVELOPMENT

The proposal seeks consent for a multi storey commercial and retail building. Key aspects of the proposal include:

- DA1999/174 approved a cinema complex for the site. The DA was commenced, hence the partially excavated site.
- Two (2) levels of basement car parking, which will also contain additional loading facilities, storage, plant room, waste storage areas, bicycle storage and toilet/change room facilities.
- Two (2) levels of commercial/retail with further parking and toilet facilities.

- Rooftop level of additional parking.
- In total, 1037m<sup>2</sup> commercial floor area, 945m<sup>2</sup> retail floor area and 238 parking spaces are proposed. Although, as the development is proposed to integrate with the existing Port Central complex. To enable this integration, 12 parking spaces within the Port Central building will be lost, bringing the total proposed parking down from 238 to 226.
- Pedestrian access will be available from William Street with internal integration with Port Central. An ancillary stairway exit will also be available off Murray Street.
- Vehicle access will occur via the existing loading dock entrance to Port Central and also via the main existing vehicle entry to Port Central. Both these access points occur off Murray Street. The two basement levels will also be able to exit the site via the existing loading dock exit onto Hay Street.
- The development proposes to integrate with the existing Port Central building and allows both pedestrian and vehicular cross connections.
- The development provides an articulated, active, glass frontage to William Street and also partially to Murray Street, as the building wraps around the corner. Parking areas will either be screened from the street or stepped in as per the rooftop parking.
- The building proposes an overall height of RL26.1m. For the most part, the footpath levels/original ground level around the subject site are at RL10-12m. This results in the building being approximately 16-17m above the footpath levels/original ground level. This puts the building below the 19m height limit. However, due to a technicality with the site having already been excavated, the height of the building is measured from the “existing ground level”. The excavated area drops down to an approximate RL6m in places. This results in the building being approximately 20m in height, which would exceed the height limit. The height issue is discussed in more detail later in this report but is considered a technicality rather than a true variation.

Plans of the proposed development are included in the attachments to this report.

### **Application Chronology, Public Exhibition and Referrals**

- 6/4/1999 – DA1999/174 approved a cinema complex on the site via a deferred commencement consent. The DA physically commenced via consolidation of lots and as per the excavations onsite.
- 27/3/2018 – Pre-lodgment meeting with the applicant regarding development of the site.
- 21/8/2018 – DA2018 - 654 lodged with Council.
- 30/8/2018 – DA registered with Joint Regional Planning Panel (JRPP).
- 4/9/2018 – Referral to Roads and Maritime Services (RMS).
- 4/9/2018 – Council staff requested additional information on the plans, parking, signage and concealment areas.
- 6-19/9/2018 – Exhibition period.
- 7/9/2018 – Council staff requested additional information on stormwater.
- 10/9/2018 – Applicant requested feedback from other services (ie water and sewer) to assist responding to stormwater.
- 11/9/2018 – Comments from Council’s Heritage Advisor received.
- 12-13/9/2018 – Discussion between Council staff and the applicant on stormwater.
- 25/9/2018 – Applicant followed up on request for information from other services. Advice provided by Council staff.
- 25/9/2018 – Discussion between the applicant and Council staff on the awning detail.
- 11/10/2018 – Revised plans received regarding missing detail.



- 12/10/2018 – Response from RMS received.
- 16/10/2018 – Applicant responded to the additional information request from 4/9/2018.
- 17/10/2018 – Application was referred to NSW Police.
- 30/10/2018 – Council staff provided the service detail to the applicant.
- 1-20/11/2018 – Response received from NSW Police and discussion with Council staff on requirements.
- 6/11/2018 – Council staff requested additional information on traffic and parking matters.
- 20/11/2018 – Applicant provided preliminary responses to traffic and parking matters.
- 21/11/2018 – Meeting between Council staff and the applicant regarding the traffic and parking matters.
- 30/11/2018 – Updated traffic impact assessment received.
- 9/12/2018 – Council staff provided an update on the status of the DA to the applicant.
- 8/1/2019 – Council staff provided an update on the status of the DA to the applicant.
- 16/1/2019 – Council staff provided an update on the status of the DA to the applicant.
- 4/2/2019 – Council staff requested further information on traffic and parking matters.
- 5/2/2019 – Initial feedback provided by the applicant on traffic and parking request.
- 8/2/2019 – Council staff provided an update on the status of the DA to the applicant.
- 14/2/2019 – Meeting between Council staff and the applicant regarding the traffic and parking matters. Upcoming JRPP meeting dates checked and provided to the applicant.
- 20/2/2019 – Revised plans received addressing the traffic and parking matters.
- 26/2/2019 – Discussion with applicant on the need for the owner of Lot 100 DP 855100 to provide owners consent to allow integration/connection work and consolidation. Owners consent provided.
- 27/2/2019 – The application was listed for determination with JRPP.
- 6-15/3/2019 – Draft conditions provided to applicant and discussion.
- 7/3/2019 – Revised JRPP date provided to the applicant and contribution estimate.

### **3. STATUTORY ASSESSMENT**

**The provisions (where applicable) of:**

#### **(a)(i) Any environmental planning instrument**

##### **State Environmental Planning Policy No. 44 - Koala Habitat Protection**

With reference to clause 6, the subject land has an area greater than one (1) hectare (ie when including the adjoining Lot 100 DP 855100 Port Central land) and therefore the provisions of the SEPP must be considered.

Having inspected the site and considered the SEPP, no koala food trees or habitat is proposed to be removed. The site is considered disturbed from past activities with only some non-koala food tree species having grown back. In this regard, no further investigations are required.

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

Following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated. Furthermore, the construction of



the development will seal in the remaining exposed soil layers with a use that contains no sensitive uses such as residential, child care etc. In this regard, the development is considered suitable for the intended use in accordance with Clause 7(1) of the SEPP.

The land is also not known to have been used for a purpose referred to in Table 1 of the contaminated land planning guidelines. Therefore, a preliminary investigation is not required prior to determining the application.

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

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

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

The proposed development includes some concept signage on the elevations. However, the applicant has advised that the signage does not form part of this application. The applicant has advised that the intended signage for the building is yet to be resolved and they anticipate providing signage via a future development application(s). In this regard, consideration of SEPP 64 is not required in this case.

### **State Environmental Planning Policy (Infrastructure) 2007**

The proposal includes a rooftop solar energy system which is permissible in accordance with Clause 34(7).

The application is also traffic generating development as per Clause 104, being listed in Schedule 3 of the SEPP (ie carpark with over 200 spaces). As a result, the application was referred to the NSW Roads and Maritime Service (RMS). The RMS advice and other matters requiring consideration under Clause 104(3)(b) are considered in the assessment of Roads, Traffic and Transport, RMS, Parking and Maneuvering comments later in this report.

Overall, the development is considered to comply with the SEPP.

### **State Environmental Planning Policy (State and Regional Development) 2011**

As per Clause 20, the proposal is regionally significant development identified in Schedule 7(3) of the SEPP as follows:

#### **3 Council related development over \$5 million**

*Development that has a capital investment value of more than \$5 million if:*

- (a) a council for the area in which the development is to be carried out is the applicant for development consent, or*
- (b) the council is the owner of any land on which the development is to be carried out, or*
- (c) the development is to be carried out by the council, or*
- (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).*

In this case, the development relates to Council owned land and the capital investment value exceeds \$5 million.

### **State Environmental Planning Policy (Coastal Management) 2018**

The assessment table below considers the relevant provisions of the SEPP.

Clause	Provision	Proposed	Complies
<b>13 Development on land within the coastal environment area</b>			
13(1)(a)	Whether the proposed development is likely to cause an adverse impact on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment.	The site is already disturbed from past activities onsite. As a result, the proposed development will create no adverse impact on the biophysical, hydrological and ecological environments.	Yes
13(1)(b)	Whether the proposed development is likely to cause an adverse impact on coastal environmental values and natural coastal processes.	The proposed development will blend within the existing built form of the area. There will be no adverse change to environmental values or processes in the area.	Yes
13(1)(d)	Whether the proposed development is likely to cause an adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms.	Being located within the existing built up area of the CBD, the site is well clear of any key habitat.	Yes
13(1)(e)	Whether the proposed development is likely to cause an adverse impact on existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability.	The proposed development will not impact on access to any foreshore, beach, headland etc. Minor improvements will occur to existing pedestrian facilities around and through Port Central, which eventually links through to the foreshore.	Yes
13(1)(f)	Whether the proposed development is likely to cause an adverse impact on Aboriginal cultural heritage, practices and places.	Council records indicate that the site does not contain any known Aboriginal heritage. The site is also heavily disturbed from past activities.	Yes
13(1)(g)	Whether the proposed	The site of the development is well	Yes

	development is likely to cause an adverse impact on the use of the surf zone.	clear of the surf zone.	
13(2)	(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	The development is well clear of the surf zone.	Yes
<b>15 Development in coastal zone generally—development not to increase risk of coastal hazards</b>			
15(1)	The proposed development is not likely to cause increased risk of coastal hazards on the land or other land.	No adverse impact will occur. In particular, the development is well clear of any coastal hazard area.	Yes
<b>16 Development in coastal zone generally—coastal management programs to be considered</b>			
16	Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.	No coastal zone management program applies to the land.	N/A
<b>20 Flexible zone provisions</b>			
20	Flexible zone provisions not applicable to land to which the SEPP applies.	The proposal does not rely upon flexible zone provisions.	Yes

Overall, the proposed development is not likely to result in any of the following:

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

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

### **Port Macquarie-Hastings Local Environmental Plan 2011**

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

- Clause 2.2 - the subject site is zoned B3 Commercial Core. In accordance with clause 2.3(1) and the B3 zone land use table, the proposed development for a multi storey commercial retail building is a permissible land use with consent.

The objectives of the B3 zone are as follows:

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

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

- The proposal is a permissible land use.
- The development will allow additional commercial, retail and parking spaces to serve both the local and wider community.
- The provision of additional commercial and retail space will maintain employment within the CBD area.
- The location will strengthen an area already well served by public transport.
- The height of the development is consistent with other development in the area and will create no adverse impacts on view corridors. Pedestrian links will also be improved via the introduction of a pedestrian connection through to Port Central.

- Clause 2.7 - the demolition components require consent as they do not fit within the provisions of SEPP (Exempt and Complying) 2008.
- Clause 4.3 - 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 proposed development has a building height of 20m which represents a variation of 1.0m or approximately 5.3%.

It should be noted that the variation is due to a technicality with the wording of the “ground level (existing)” definition. In a circumstance such as this, the definition would not have factored in that the site had, in the past 20 years, been substantially cut/excavated by over 5m as part of another development.

For example, the footpath levels (ie original/natural ground level) around the subject site are at RL10-12m. When factoring in the proposed building height of RL26.1, the building is approximately 16-17m above the footpath levels. This would put the building below the 19m height limit if the site had not been excavated. However, strict compliance with the “ground level (existing)” definition, the excavated area drops down to an approximate RL6.1m in places, which results in the building being approximately 20m in height and exceeding the height limit.

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 locality is characterised by a number of other buildings with similar and/or greater heights, bulk and scale. Being a CBD location, the majority of surrounding buildings are built to the boundary and contain multiple storeys. The consistency is evident in the elevation plans with the proposed building being lower in height than the adjoining Mercure building at 103 William Street and containing a similar bulk and scale to both the Mercure and existing Port Central development.

Based on the above, the proposed height, bulk and scale of the development are 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 variations are created by the land having already been significantly excavated.



- Even accepting the technicality, the variation is minor equating to approximately 1m or a variation of 5.3%.
- The building height is consistent with other development in the area and will therefore not be visually dominant.

View impacts and solar access are considered later in this report under 'View Sharing' and 'Overshadowing'. The proposed development and minor height variation do not create any adverse view loss or overshadowing.

There are also no privacy impacts given the surrounding development. In particular, the development will be built to a blank wall on the Mercure building and the parking area for Port Central.

*(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. The area is already disturbed from past development.

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

Comment:

The proposed height is consistent with other buildings in the area. The minor variation does not compromise the intent of the standard.

In addition to the above, 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, which is established under Clause 4.3 (see comments below under Clause 4.6).

- Clause 4.4 - the floor space ratio of the proposal is 1.04:1, which complies with the 3.5:1 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 submitted a Clause 4.6 variation to the Clause 4.3 height of building standard. The applicant's reasoning for varying Clause 4.3 are as follows:

- *'The "existing ground levels" are acknowledged as misleading due to the previous partial development of this site under DA1999/0174. The excavation of a basement level, as has occurred, would be mandatory for any development of this site in order to meet the density and built form requirements of this inner-CBD location.'*

*We note that while the proposed building height is well within the desired built form and silhouette of the William/Murray street landscape under Council policy, the calculated height from the excavated site floor does not technically comply with the height controls of the LEP. Because of that excavation having been undertaken previously, a maximum building height*

*of RL 25.49m would apply if measured from this “existing” ground height. The proposed building proposes an overall height of RL 26.1m.*

*It is our submission that the use of Clause 4.6 of the LEP to justify and support this minor and technical variation is appropriate.*

- o The development footprint, density, form and street presentation is consistent with the development provisions of the Town Centre chapter of Council’s 2013 DCP and Town Centre Masterplan.*
- o The visible height of the building is consistent with the prevailing built form of the locality, and within the limits established if the building height was to be measured from the site’s original ground levels.*
- o The original ground levels at the footpath are the base level from which desired height limits of the LEP were calculated in terms of determining the appropriate building height sought for the Port Macquarie CBD. The building is compliant with those heights.*
- o The technical exceedance of the height control does not result in a building of inappropriate design, or a presentation that would be discouraged for this site. Rather, all pre-lodgement consultations with Council staff, including Council’s consultant heritage architect have supported the elevations and street presence of the intended building.’*

The applicant submits that applying some flexibility in the application of this development standard is warranted in the circumstances. That flexibility will achieve a better and more desired outcome for the proposed development than could have resulted in a building which achieved full compliance with the artificial site level taken as the base calculation.

Comment:

Having considered the application and Clause 4.6 variation to Clause 4.3, Council staff consider that the development will have limited impact on the environment as per the reasons identified by the applicant above. In addition, it was also considered by staff that:

- o The variation will not be readily visible due to the minor nature of the variation (5.3% to a small portion of the building).*
- o There are similar sized buildings within 500m of the site. As a result, the proposed height and minor variation are not recognisable or unreasonable within the context of the area.*
- o There will be negligible public domain impact.*
- o The development is well articulated, which further reduces the bulk of the building.*
- o No significant views or overshadowing impacts will occur.*
- o 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.*
- o The public benefit of the standard is not compromised or eroded.*

As per the Planning Circular PS18-003, the application included a written application objecting to the standard. As a result, the consent authority (JRPP) can assume the Director’s Concurrence in varying the height in this case.

- Clause 5.10 - the site does not contain any known heritage items or sites of significance. The site is also disturbed from past development/excavation onsite.

It is noted that adjoining the site to the south is the State heritage listed St Thomas Church complex. As a result, the application was referred to Council Heritage Advisor for feedback on whether the development would impact on the

heritage significance of the adjoining item. Council's Heritage Advisor provided the following comments:

*'The currently presented design by Crone Partners provides a well-balanced glazed elevation to William Street and the transparency is something that will be a positive contribution to the Murray and William Street corner. The loss of the extensive external ramping is much preferred to the previous scheme. Activation of the street frontage in William Street with all of the retail space having large volumes and glazed front to the street is a better resolution than the previous pre-DA submission.*

*I concur with the Hopkins Consultants SEE response to my earlier comments (p30) that the proposed design achieves the objectives I previously outlined. The Murray Street elevation is a good transitional elevational treatment and the car parking is well shielded from direct view. The car parking resolution is superior to the previous in that it utilises the same circulation and provides the opportunity to access the southern retail or the northern retail areas. The two precincts are no longer linked which enables a far tidier presentation of access and space planning.*

**Recommendations:**

*I support the proposal for its urban design contribution, integration into the existing built form without undue interruptions to the Murray Street façade nor ramping access exterior to the building mass which in the former scheme was foreign to the Port Macquarie context and unnecessary.*

*The glazed façade and mass resolution is respectful of the St Thomas' site and also opens the way for St Thomas' to develop their corner in a contemporary and reciprocal manner.'*

Based on the above, Council staff are satisfied that the development will create no adverse impact on the adjoining heritage site.

- Clause 7.7 - the site is subject to an Obstacle Limitation Surface restriction in relation to an assumed airspace operations of RL50m AHD. The proposed building itself will not penetrate the OLS but there is potential for construction cranes to penetrate the OLS. An appropriate condition is recommended to address this issue and obtain any necessary approval.
- 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 relevant instruments are applicable to the proposal.

**(a)(iii) Any DCP in force**

**Port Macquarie-Hastings Development Control Plan 2013:**

<b>DCP 2013: General Provisions</b>			
<b>DCP Objective</b>	<b>Development Provisions</b>	<b>Proposed</b>	<b>Complies</b>
2.2.2.1-2	Signage provisions.	No signage proposed.	N/A
2.7.2.2	Design addresses generic principles of Crime Prevention	Refer to detailed comments under the Safety, security and crime prevention	Yes

	<p>Through Environmental Design guideline:</p> <ul style="list-style-type: none"> <li>• Casual surveillance and sightlines</li> <li>• Land use mix and activity generators</li> <li>• Definition of use and ownership</li> <li>• Lighting</li> <li>• Way finding</li> <li>• Predictable routes and entrapment locations</li> </ul>	<p>heading later in this report. Overall, 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. Security measures, lighting etc will be conditioned to reinforce safety.</p>	
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Existing cut exceeds 1m. Some minor additional cut will be required to finalise the basement. Standard conditions will be imposed around engineering the design and monitoring impacts on adjoining properties (ie dilapidation report) to ensure no impact.	Yes
2.3.3.2	1m max. height retaining walls along road frontages	None proposed.	N/A
2.3.3.8 onwards	Removal of hollow bearing trees	No hollow bearing tree removal proposed or required.	N/A
2.6.3.1	Tree removal (3m or higher with 100mm diameter trunk and 3m outside dwelling footprint	The development will involve the removal of some re-growth that has occurred within the site since it was originally excavated. The vegetation to be removed has no significant habitat value.	Yes
2.5.3.2	New accesses not permitted from arterial or distributor roads. Existing accesses rationalised or removed where practical	No new access to an arterial or collector road proposed.	Yes
	Driveway crossing/s minimal in number and width including maximising street parking	The development is to merge with Port Central and utilize existing entry and exit points from that site.	Yes
2.5.3.3	Off-street parking in accordance with Table 2.5.1. (Provision to consider reduced parking where supported by parking demand study)	<p><b>Required</b></p> <p>Commercial and retail development require 1 space per 30m<sup>2</sup> gross leasable floor area.</p> <p>The proposed development contains 1037m<sup>2</sup> of gross leasable floor area.</p>	Yes

		<p>1037/30 = 66.6, which rounds to 67 spaces. (Note: there is approximately 200m<sup>2</sup> of ancillary storage areas, which are excluded from gross leasable floor area).</p> <p><b>Proposed</b> The applicant proposes 238 spaces. However, to incorporate the development into Port Central, 12 spaces are lost from the Port Central car park. Furthermore, as part of the sale of the land, Council is utilizing contributions collected for parking to require the developer to provide 150 public spaces onsite. Therefore, 238 - 12 - 150 = 76 spaces remaining.</p> <p>In summary, the development requires 67 spaces and 76 spaces have been provided. Conditions will be imposed to reinforce the above, including the 150 public spaces.</p>	
2.5.3.5	On-street parking permitted subject to justification	<p>As part of the development, the applicant will also be required to upgrade on street parking to ensure the development integrates with the Town Centre Masterplan requirements. There is potential wins and losses for parking subject to the detailed design. However, these wins and losses would occur regardless of the development (ie if Council were to do the works). There is also a 9 space credit as per comments on 2.5.3.3 above.</p>	Yes
2.5.3.6	<p>On street parking will not be permitted unless it can be demonstrated that:</p> <ul style="list-style-type: none"> <li>that streetscape improvement works, such as landscaped bays and street trees are provided.</li> <li>parking does not detract from the</li> </ul>	Refer to comments on 2.5.3.5 above.	Yes



	streetscape; and		
2.5.3.7	Visitor parking to be easily accessible	<p>The parking layout and design have been reviewed by Council Engineers and are considered compliant with Australian Standards and accessible.</p> <p>While they will not be specified, the lower two basement levels of parking will lend themselves more to staff parking due to the entry and exit arrangement.</p> <p>A lighting system will also be conditioned to help guide people throughout the facility to vacant parking spaces.</p>	Yes
	Stacked parking permitted for medium density where visitor parking and 5.5m length achieved	None proposed.	N/A
	Parking layout in accordance with AS/NZS 2890.1 and AS/NZS 2890.2	Council Engineers have reviewed the parking and consider it compliant with Australian Standards.	Yes
	Parking spaces generally located behind building line	All parking is located behind the front building line.	Yes
2.5.3.8	Accessible parking provided in accordance with AS/NZS 2890.1, AS/NZS 2890.2 and AS 1428	Nine (9) disabled parking spaces to be provided and these have been distributed amongst the levels.	Yes
2.5.3.9	Bicycle and motorcycle parking considered and designed generally in accordance with the principles of AS2890.3	The parking layout contains suitable area capable of being utilized for bicycle and motorcycle parking.	Yes
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	Not required. Parking provided within the building.	N/A
2.5.3.14	Sealed driveway surfaces unless justified	Driveway and parking areas will be sealed.	Yes
2.5.3.15-16	Driveway grades for first 6m of 'parking area' shall be 5% grade (Note AS/NZS 2890.1 allows for steeper grades)	Driveway grades have been checked by Council's Engineering staff and deemed compliant.	Yes
2.5.3.17-18	Car parking areas drained to swales, bio retention, rain gardens and infiltration areas	Council's Stormwater Engineer has reviewed the development and servicing plan. The site/development will continue to drain into the existing stormwater system via Port Central.	Yes
2.5.3.19	Off street commercial vehicles facilities are provided in accordance	The existing and proposed loading areas have been reviewed by Council's	Yes

	with AS/NZS 2890.2	Engineering section and deemed compliant with Australian Standards.	
	<p>Loading bays will be provided in accordance with the following requirements;</p> <ul style="list-style-type: none"> <li>• Minimum dimensions to be 3.5m wide x 6m long. (This may increase according to the size and type of vehicle).</li> <li>• Vertical clearance shall be a minimum of 5m.</li> <li>• Adequate provision shall be made on-site for the loading, unloading and maneuvering of delivery vehicles in an area separate from any customer car parking area.</li> <li>• A limited number of 'employee only' car parking spaces may be combined with loading facilities.</li> <li>• Loading areas shall be designed to accommodate appropriate turning paths for the maximum design vehicle using the site.</li> <li>• Vehicles are to be capable of maneuvering in and out of docks without causing conflict with other street or on-site traffic.</li> <li>• Vehicles are to stand wholly within the site during such operations.</li> </ul>	<p>Three (3) new loading bays are provided that exceed the specified width and length dimensions. The new loading bays will not meet the 5m height requirement but will still be suitable for smaller vehicles, vans, utes etc.</p> <p>Access to the existing two (2) larger loading bays associated with Port Central will be available for larger vehicles if necessary.</p> <p>Maneuvering and stand areas will also be available to reduce conflict with other users.</p>	No, but acceptable.
	Commercial development shall provide one loading bay for the first 1,000m <sup>2</sup> floor space and one additional bay for each additional 2,000m <sup>2</sup> .	The development has 2502m <sup>2</sup> floor area, which would require two (2) loading bays. Three (3) loading bays have been provided.	Yes
2.5.3.20	The location and design of loading bays should integrate into the overall design of the building and car parking areas.	The loading areas have been located within the basement level and will adjoin/integrate with the existing Port Central	Yes

		loading area.	
	Where visible from the public domain, loading bays are located behind the building.	The loading bays will not be visible from the public domain.	Yes
	Where loading bays are located close to a sensitive land use, adequate visual and acoustic screening is provided.	The location, access and egress of the loading bays adjoins/integrates with the existing Port Central loading area. This integrated design will help minimize the distribution of loading areas and associated impacts.	Yes

<b>DCP 2013: Business &amp; Commercial Development</b>			
<b>DCP Objective</b>	<b>Development Provisions</b>	<b>Proposed</b>	<b>Complies</b>
3.4.3.1	Setbacks: A zero metre setback to ground floor is preferred in all business zone developments.	When factoring in articulation elements, a zero metre setback has been provided.	Yes
3.4.3.2	Where a zero setback cannot be achieved, such as where parking can only be provided between the building and the street, a minimum 3.0m pedestrian setback is provided between the edge of the car park and the building. <ul style="list-style-type: none"> <li>The 3.0m pedestrian setback must be: open and accessible for pedestrians for its entire length and width;</li> <li>clear of columns (other than awning posts where provided) and other obstructions;</li> <li>has a pavement matching the gradient of the adjoining footpath and connects pedestrian areas on neighbouring sites; and</li> </ul>	Refer to above comment on 3.4.3.1.	N/A

	<ul style="list-style-type: none"> <li>connects without any lip or step to adjoining footpaths or abutting pedestrian areas on neighbouring sites.</li> </ul>		
	Steps, escalators, ramps or lifts are set back a further 1.2m to maximise pedestrian flow and safety and allow for adequate waiting space.	The proposed stairway on the east elevation is setback over 1m.	Yes
	<p>Automatic Teller machine within front Setback:</p> <ul style="list-style-type: none"> <li>Must be set back 1.5m in addition to the building line;</li> <li>Must be well illuminated at all times.</li> </ul>	None proposed.	N/A
3.4.3.3	Roof Form requirements.	<p>The roof contains a stepped in element and varied articulation/materials to screen the parking and provide visual interest.</p> <p>The roof design is not out of character with surrounding development.</p> <p>Lift overruns are incorporated into the roof design and will not be readily visible from the public domain.</p>	Yes
3.4.3.4	Colours, construction materials and finishes should respond in a positive manner to the existing built form, character and architectural qualities of the street	The proposed design provides an attractive building that suits the character of the area.	Yes
3.4.3.5	Shopfront widths are to be between 15 and 20 m.	The shop front width exceeds 20m but contains vertical elements that break up the façade (ie gives impression of multiple shop fronts). The design presents well to the street, creating no adverse streetscape impacts or unattractive bulk.	No, but acceptable.
	Widths up to a	Refer to above comment.	No, but

	maximum of 30 may be considered where the building achieves superior built design and streetscape outcomes.		acceptable.
	The maximum length of any similar façade treatment is 22m.	The façade contains variations every 22m or less.	Yes
	Side and rear facades are to be treated with equivalent materials and finishes to the front façade.	Being a corner lot, the site does not contain a rear façade. Where relevant, side boundaries will incorporate into adjoining buildings. Side boundaries facing the public domain are treated.	Yes
3.4.3.7	Infill development or alterations should respect the form, scale and massing of existing traditional buildings.	It is considered that the design integrates with surrounding development and will not be out of character in terms of height, bulk and scale.	Yes
	Where traditional frontages and facades set the architectural theme for parts of a Centre, infill buildings or alterations respect and reflect the architectural qualities and traditional materials of those buildings, but do not necessarily imitate historical architectural styles.	No specific theme exists in this area.	N/A
3.4.3.8	Active Frontages: <i>(Note: An active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.)</i>  Ground floor levels shall not be used for residential purposes in B1, B2, B3 and B4 zones.	Site provides active frontage on ground floor via proposed retail development.	Yes
3.4.3.9	A minimum of 50% of the ground floor level front facade is to be clear glazed.	The ground floor contains over 50% glazed area.	Yes
	Active frontages must consist of one or more of the	A retail premises has been provided on ground level to create an active frontage.	Yes



	<p>following:</p> <ul style="list-style-type: none"> <li>• A shop front.</li> <li>• Commercial and residential lobbies.</li> <li>• Café or restaurant if accompanied by an entry from the street.</li> <li>• Public building if accompanied by an entry from the street.</li> </ul>		
	Active ground floor uses are to be accessible and at the same level as the footpath.	The site is capable of being designed to match footpath levels.	Yes
	Restaurants, cafés and the like shall provide openable shop fronts to the footpath but must not encroach into footpath.	None proposed.	N/A
	Colonnade structures shall not be used unless it is demonstrated that the design would not restrict visibility into the shop or commercial premise or limit natural daylight along footpaths and do not create opportunities for concealment.	None proposed.	N/A
3.4.3.10	<p>Arcades are to;</p> <ul style="list-style-type: none"> <li>• House active uses (e.g. shop, commercial, public building and residential lobbies, cafés or restaurants.</li> <li>• Be obvious and direct through-ways for pedestrians.</li> <li>• Have a minimum width of 3m clear of all obstructions.</li> <li>• Provide public access from at least 7am-9pm daily.</li> <li>• Where practical, have access to</li> </ul>	The access/lobby area on the ground floor with two retail premises is not considered a true arcade. However, it is noted that the development contains compliant elements with the arcade requirements of the DCP.	N/A

	<p>natural light for part of their length and at openings at each end.</p> <ul style="list-style-type: none"> <li>• Where air-conditioned, have clear glazed entry doors at least 50% of the entrance.</li> <li>• Have signage at the entry indicating public accessibility and to where the arcade leads.</li> <li>• Have clear sight lines and no opportunities for concealment.</li> </ul>		
	Where arcades or internalised shopping malls are proposed, those shops at the entrance must have direct pedestrian access to the street.	Refer to above comment.	N/A
	Non slip pavements are provided throughout arcades.	Refer to above comment.	N/A
3.4.3.11	Awnings: Continuous shelter from the weather is to be provided for the full extent of the active street frontage.	Compliant awning proposed.	Yes
3.4.3.12	Any awnings are to be horizontal or near horizontal (maximum pitch of 10%).	Compliant awning proposed.	Yes
	Awnings are to be between 3.2m and 4.2m from the finished front property boundary level at the building edge to the underside of the awning.	The awning varies from 4.1m to 5.15m. The awning is considered to be consistent with the scale of the development and surrounding buildings/awnings. The minor variation is considered acceptable in this case and will create no adverse streetscape impact or loss of amenity.	No, but acceptable.
	A minimum awning width of 2.5m is required unless this cannot be achieved because of narrow pavements and street tree planting,	The awning complies with the 2.5m width.	Yes

	traffic signals, traffic signage or utility poles.		
	New awnings shall be set back at least 1.0m from the kerb line.	Awning to match adjoining buildings and be consistent with the Town Centre Masterplan works.	Yes
	Awnings along sloping streets shall step down in horizontal steps (a maximum of 700mm per step) to follow the slope of the street.	A continuous awning is proposed in this case to provide an attractive façade. The outcome does not create any adverse impact on streetscape or pedestrian amenity.	No, but acceptable.
	All contiguous awnings must be of consistent height and depth and of complementary design and materials.	Suitable consistency achieved.	Yes
	Awnings and/or canopies shall be provided elsewhere to define public entrances to buildings, including residential flat buildings.	Façade provides variation to define the entry.	Yes
	Awning shall wrap around street corners and contribute to the articulation and focal design of corner buildings.	The awning wraps around the corner.	Yes
	Materials shall ensure high quality design and amenity in the public domain.	The materials compliment the overall design.	Yes
	New awning fascias must be coordinated with adjacent awning fascias where they exist. In all other instances fascias are to be solid, flat and between 300mm and 700mm in height.	The fascia is not the same as the adjoining Mecure building but compliments the proposed design.	Yes
3.4.3.13	Skylights may be provided in the awning for a maximum depth of 1/3 of the total awning depth.	None proposed. Glazed awning shown on plans with detail to be provide with the construction certificate.	N/A
	Under awning lighting shall comply with AS/NZS1158.	To be conditioned.	Yes
3.4.3.14	Awnings are designed and constructed to	Not relevant to this development or area but design is capable.	N/A

	encourage pavement dining in areas identified for pavement dining, along the foreshore and in piazzas.		
3.4.3.15	<p>Landscaping: A landscape plan shall be submitted with the development application and include:</p> <ul style="list-style-type: none"> <li>• Existing vegetation; and</li> <li>• Existing vegetation proposed to be removed; and</li> <li>• Proposed general planting and landscape treatment; and</li> <li>• Design details of hard landscaping elements and major earth cuts, fills and any mounding; and</li> <li>• Street trees; and</li> <li>• Existing and proposed street furniture including proposed signage.</li> </ul>	<p>Not relevant to a commercial development within the CBD.</p> <p>Onstreet landscaping will be required as per the Town Centre Masterplan.</p>	N/A
3.4.3.16	All street plantings are to be selected from Council's Indigenous Street and Open Space Planting List from the relevant vegetation community adjacent to the Development.	Street landscaping to be provided as per the Town Centre Masterplan.	Yes
3.4.3.19	Fencing for security or privacy shall not be erected between the building line and the front boundary of a site.	Not relevant to a commercial development, which is required to have an active frontage.	N/A
3.4.3.20	Where fences are erected, landscaping of an appropriate height and scale shall be provided to screen the fence and achieve an attractive	No fencing proposed or required.	N/A

	appearance to the development when viewed from the street or other public place.		
3.4.3.21	Street furniture, including seats, bollards, grates, grills, screens and fences, bicycle racks, flag poles, banners, litter bins, telephone booths and drinking fountains are coordinated with other elements of the streetscape.	Any on street furniture will need to comply with the Town Centre Masterplan.	Yes
3.4.3.22	Any ramps are to be integrated into the overall building and landscape design.	Development provides a level access from William Street (ie no ramp proposed or required).	Yes
	The development complies with AS1428—Design for Access and Mobility.	The development is capable of complying with further detail to be provided at the construction certificate stage.	Yes
3.4.3.23	Gateways & Landmark Sites: The design of buildings on corner sites or at the ends of business or commercial zones, shall emphasise the importance of the corner as a focal point.	It is considered that the design of the building provides an attractive façade, which wraps around and provides an emphasis on the corner.	Yes
	Corner sites or at the ends of business or commercial zones shall be constructed to boundary or with a minimal setback with no car parking or servicing between the site boundary and the building.	The development is proposed to be built to the boundary.	Yes
	Design devices such as; <ul style="list-style-type: none"> <li>• increased wall heights,</li> <li>• splayed corner details,</li> <li>• expression of junction of building planes,</li> <li>• contrasting building materials; and</li> <li>• other architectural features;</li> </ul>	The design of the building contains suitable way finding elements such as a splayed corner and contrasting materials.	Yes

	shall be used to reinforce the way finding attributes and significance of focal points.		
	Shopfronts shall wrap around corners and entrances located centrally to the corner.	While the entrance has not been provided on the corner, the development does wrap around. Suitable outcome achieved.	Yes
	The tallest portion of the building shall be on the corner.	The slope of the land, height limits and need to integrate with adjoining development does not allow the corner to have the tallest portion of the building. However, the materials and articulation that have been incorporated into the façade, create an attractive and focal building.	No, but acceptable.
3.4.3.24	<p>Waste management: A waste management plan for the construction and/or occupation of the development is provided that:</p> <ul style="list-style-type: none"> <li>• Recycles and reuses demolished materials where possible;</li> <li>• Integrates waste management processes into all stages of the project;</li> <li>• Specifies building materials that can be reused and recycled at the end of their life;</li> <li>• Uses standard components and sizes to reduce waste and facilitate update in the future.</li> </ul>	<p>A suitably sized waste area has been provided within the basement level. The area will allow management of waste streams.</p> <p>Standard skip bins will be used during construction and there are incentives for these operators to sort and recycle waste where appropriate.</p>	Yes
3.4.3.25	Separate storage bins for collection for organic waste and recyclable waste are provided in the development.	Capable of being provided and managed in the designated basement waste area.	Yes
3.4.3.26	Bulk waste facilities must be stored in a designated area that is physically and	The waste area has been integrated into the design, is not visible from the public domain, is easily accessible,	Yes

	<p>visually integrated into the development at ground or sub-basement level that:</p> <ul style="list-style-type: none"> <li>• is not visible from the street or public domain;</li> <li>• is easily accessible to businesses;</li> <li>• may be serviced by collection vehicles;</li> <li>• has water and drainage facilities for cleaning and maintenance; and</li> <li>• does not immediately adjoin onsite employee recreation area; and</li> <li>• be maintained to be free of pests.</li> </ul>	adjoins the loading area for easy disposal, does not adjoin any sensitive use and can be designed for easy cleaning/maintenance.	
	Cardboard compactors are provided for large retail and commercial developments.	Capable of being provided in the basement waste area.	Yes
	Where waste facilities cannot be collected at the street, evidence that the site can be serviced by a waste collection service must be provided.	The waste area adjoins the loading dock for easy collection.	Yes
3.4.3.27	<p><b>Vehicular Access Location and Design:</b></p> <p>No direct vehicular access to at grade or basement car parking from the active street frontage will be permitted in B1 zones.</p>	No new access is proposed. The development will utilize the existing Port Central entry and exit points.	Yes
	The number of vehicular crossovers shall be kept to a minimum and appropriate sight lines provided to ensure safe integration of	<p>No new access is proposed. The development will utilize the existing Port Central entry and exit points.</p> <p>Conditions will be imposed to improve safety around the existing loading entry/exit</p>	Yes

	pedestrian and vehicular movement.	points.	
	Any car park ramps are located largely within the building footprint.	No new ramps proposed. The development will utilize existing ramps, which are located within the building footprint.	Yes
	Underground car parks must be designed to enable all vehicles to access and egress in a forward direction.	Council Engineers have reviewed the car park design and it allows access and egress in a forward direction.	Yes
	<p>Vehicular entrances to underground car parks are to be;</p> <ul style="list-style-type: none"> <li>• Located on minor streets;</li> <li>• Have a maximum crossover of 6.0m;</li> <li>• Shall be signed and lit appropriately;</li> <li>• Shall be designed so that exiting vehicles have clear sight of pedestrians and cyclists.</li> </ul>	<p>No new access is proposed. The development will utilize the existing Port Central entry and exit points.</p> <p>Conditions will be imposed to improve safety around the existing loading entry/exit points.</p>	Yes
	At-grade / surface car parking areas adjacent to streets shall be generally avoided or at least adequately softened by appropriate landscaping.	None proposed.	N/A
	All stairs and elevators in the parking structure are clearly visible.	A central lift core is proposed, which is considered visible from within the new car parking area. Way finding signage will be conditioned to improve interpretation of the car park.	Yes
3.4.3.28	The street level frontage of car parking structures (including multi-level car parks) where adjoining public places, including streets, share ways and laneways, shall present an active frontage along the entire frontage less any car park entry.	The development will utilize the existing Port Central entry and exit points with the remaining design of the building providing an attractive and active frontage.	Yes
3.4.3.29	Internal finishes of	The car park will not be readily	N/A



	underground car parks are to be consistent with the external materials where they are visible from the public realm.	visible from the public realm.	
	Underground car parks shall generally be designed for natural ventilation. Ventilation ducts/grilles shall integrate with the streetscape, be unobtrusive and/or appropriately screened.	Capable of complying with the detailed design to be provided at the construction certificate stage. The large loading ramp entry/exit will create significant natural ventilation.	Yes
	Garage doors to underground parking shall be designed to complement the materials used elsewhere on the development.	None proposed.	N/A
3.4.3.30	Pedestrian Entries & Access: The development complies with AS1428—Design for Access and Mobility.	The development is capable of complying.	Yes
3.4.3.31	Pedestrian and vehicle movement areas are separated to minimise conflict.	Core pedestrian areas (ie lift area, main entry) are separate from vehicle movements.  The carpark design does not contain any specific pedestrian pathways, similar to the existing Port Central. Painted pathways can be installed if required at the detailed design stage.	Yes
	Changes in pavement material, levels, lining or tactile treatments are used to distinguish changes between vehicle and pedestrian access ways.	To be conditioned.	Yes
3.4.3.32	Parking areas are adequately illuminated (naturally and/or artificially) during the time period the centre is open.	To be conditioned as part of addressing safety and security design requirements.	Yes
	Signage is provided at the entries to the development detailing the services	Signage will be applied for separately once uses are known. Capable of being addressed.	N/A

	available within the centre and where they are located.		
	Signage to key public spaces accessible from the centre such as car parks, food courts must be provided within the centre.	Internal way finding signage will be provided by the developer – standard practice.	N/A
	Signage to key facilities such as rest rooms, Centre Management, baby change rooms must be provided within the centre.	Internal way finding signage will be provided by the developer – standard practice.	N/A
3.4.3.33	Secure and convenient parking/storing for bicycles is provided close to the entrance of the development and with good surveillance.	A secure staff bicycle parking area is provided on level B01.  The remaining car park design contains other visible “no parking area” that can be used to incorporate bicycle parking.	Yes
3.4.3.34	Outdoor Dining requirements.	None proposed.	N/A
3.4.3.35	Commercial Development Adjoining Residential Land uses: The development is designed so that all vehicle movement areas and servicing areas are located away from adjoining residential areas.	There are no significant residential land uses adjoining the development and more specifically the vehicle movement/servicing areas.  In addition, no change is proposed to the location of existing vehicle movement/servicing areas.	Yes
	Where this cannot be achieved visual and acoustic treatment of the interface is required.	Refer to above comment.	N/A
	The building elevation adjoining the residential area must be; <ul style="list-style-type: none"> <li>• Articulated, with changes in setback at intervals no greater than 10m;</li> <li>• Use a variety of materials and treatments;</li> <li>• Be setback a minimum of half the height of the wall or a minimum of 3.0metres</li> </ul>	Refer to above comment.	N/A

	whichever is greater.		
	Waste areas are located and managed to minimise pests, noise and odour.	Waste area is located away from the public domain and conditions of consent will be used to require suitable management.	Yes

<b>DCP 2011 Port Macquarie Town Centre (only applicable provisions cited)</b>			
<b>DCP Objective</b>	<b>Development Provisions</b>	<b>Proposed</b>	<b>Complies</b>
DP1.1	Amalgamation sites.	The development is not listed as an amalgamation site. Nonetheless, the development will consolidate with Port Central, which is considered a good design outcome for centralized CBD parking.	Yes
DP2.1 & 4.1	Maximum shop widths comply with Figure 27	Shop widths addressed in 3.4.3.5.	No but acceptable.
DP5.1	Provide greater degree of façade enclosure within Horton Street and secondary retail areas.	The development provides a good mixture of open and enclosed façade. See comments on façade enclosure below, which are more specific to the actual property/block.	Yes
DP6.1	Façade enclosure complies with Block controls, which states flexible.	The development provides a good mixture of open and enclosed façade.	Yes
DP7.1-7.4	Roof controls Break up roofs where possible with hips, gables and change in materials.	Refer to comments on 3.4.3.3.	Yes
DP8.1 & 9.1	Where possible, utilise the roof as a recreation/green space.	The roof is being used for car parking, which allows limited recreation/green space in this case.	N/A
<b>Block Controls B12</b>			
	Building depth is the whole site for ground level minus any setbacks. Rear setback maximum 10m for non-ground floor levels. Street setback maximum 20m for non-ground levels.	Building depth complies with the DCP requirements.	Yes
	Front setback is 0m with 3m setback for top floor.	The building complies with the setback requirements.	Yes
	Side setback 4.5m to north, 3m to east and 0m for other sides.	The development has been designed to integrate with the existing Port Central building to the north. Therefore, the	No, but acceptable.

		north side setback is not relevant in this case. Development complies with the 0m western side setback.	
	Façade Enclosure flexible	The development provides a good mixture of open and enclosed façade.	Yes
	Front articulation 0m for ground level and minimum 1.8m & maximum 4m for other levels.  Rear and side articulation as per plan.	The development provides a good mixture of articulation that is consistent with the DCP controls.	Yes
	Awnings as per Block plan	Awning has been provided as per the plan (ie full street frontage). To be reinforced by conditions.	Yes
	Pedestrian entry from streets.	Entry proposed off William Street.	Yes
	Vehicle entry off Murray Street and William Street where unavoidable.	Vehicle access off William Street has been avoided. The development will utilize the existing Port Central entry and egress off Murray Street (and Hay Street for exiting the loading area and basement levels).	Yes
	Car parking underground.	Car park is provided within basement levels and central to the site (ie not visible from public domain). Parking is considered to be consistent with the intent of the DCP.	Yes
	Landscaping as per Block plan.	There is no landscaping shown on the Block plan. As a result, no landscaping has been incorporated into the design.	Yes

**(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.

**Demolition of buildings AS 2601 – Clause 92**

The part demolition of the existing Port Central building to allow the sites to integrated is capable of compliance with this Australian Standard and is recommended to be conditioned.

**Fire Safety and other considerations**

Council's Building Section has reviewed the plans and consider that any fire safety matters can be addressed in the BCA assessment by the Principal Certifying Authority.

**(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 street frontage to William Street (south) and Murray Street (east).

Adjoining the site to the north is Port Central, a large commercial/retail complex that dominates the CBD.

Adjoining the site to the east is a mixture of smaller commercial developments and a small residential flat building. The court house is located further to the north east.

Adjoining the site to the south is the St Thomas Church complex.

Adjoining the site to the west is a multi storey, mixed use building with the dominate tenant being Mercure (motel).

The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.

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

Most notably, the development will complete a missing section of the CBD that has laid unused and partial constructed for some time.

**Overshadowing**

Shadow diagrams submitted with the development application show that the proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.

**View Sharing**

During the public exhibition period, no concern surrounding view loss was raised. This is likely due to the commercial nature of surrounding developments and expectations of the CBD.

In addition to the above, the height of the building is consistent with the height controls, albeit for a technicality in interpreting existing ground level – refer to comments on Clause 4.3 and 4.6 in the LEP 2011 section of this report.

The development will also not block any substantial views to the heritage listed St Thomas Church by virtue of the height of existing and proposed buildings within the surrounding area.

**Roads**

The site has road frontage to William and Murray streets.

William Street is a local road which runs east-west through the centre of Port Macquarie's CBD. It connects Pacific Drive at the eastern end of town to Buller Street at the western end.

In the vicinity of Port Central, William Street is a 23m wide roadway within a 30m road reserve. There is generally one lane in either direction, although the existing lanes are generous (approx. 6m wide) and provide adequate width for 2 lanes through the adjacent intersections (Hay & Murray streets).

Across the frontage of the proposed Port Central expansion, William Street includes angled parking on both sides of the road. Further east (between Murray & Munster streets), William Street has been upgraded and includes a landscaped centre median island.

Murray Street is a 23m wide road which runs north-south at the perimeter of Port Macquarie's CBD. In the vicinity of Port Central, Murray Street has a 30m road reserve. There is generally one lane in either direction, although the existing lanes are generous (approx. 6m wide) and provide adequate width for 2 lanes at the approach to the nearby intersections (William & Clarence streets), as well as a turn lane into Port Central.

Across the frontage of the proposed Port Central expansion, Murray Street includes angled parking on both sides of the road for most of its length, but only on one (eastern) side adjacent to the development site.

The intersection of William and Murray streets has a single lane roundabout and each frontage has SA kerb. There is currently a 1.2m concrete footpath on both frontages.

### **Traffic and Transport**

The proposed expansion of Port Central will, once complete, generate 484 peak hour trips, an increase of 134 trips on the current 350 peak hour trips. This equates to approximately 2 additional vehicle trips per minute. The additional vehicle trips to be generated by the proposed expansion of Port Central are considered to be relatively minor and when distributed throughout the adjacent CBD road network, it is considered that they will have a minimal impact.

The adjacent roads have the capacity to cater for the increased traffic volumes. The SIDRA modelling has also shown that the existing intersections currently operate efficiently and at worst will operate at a Level of Service of 'B' in the future (ie including the Port Central traffic and 10 years local growth at 2% p.a).

The application also included a Traffic Impact Assessment prepared by Streetwise Road Safety and Traffic Services dated August 2018. Findings of the study resulted in the following key issues or recommendations to be addressed by conditions:

- *'The adjacent CBD road network has the capacity to cater for the additional traffic to be generated by the proposed development. The intersections currently operate efficiently, and it is recommended the current intersection layouts of Clarence St & Murray St, William St & Murray St and also William St & Hay St be retained, as they have capacity to cater for future traffic.'*
- *Any upgrades to William Street required as part of the proposed development should conform with Council's Town Centre Management Plan.*
- *The existing carpark entry ramp should clearly linemarked and signposted to warn motorists of pedestrian movements in Murray Street. Also, signage should be installed to make pedestrians aware of vehicle movements in and out of the Port Central carpark. Consideration should also be given to installing signage and other methods to ensure carpark speed limits are minimised.*
- *Signage should be installed to clearly delineate the future carparking areas, and the two separate access points i.e. loading dock access and current carpark ramp. Also, it is recommended that access to the all-day, roof-top parking be clearly signposted.*
- *To minimise any potential conflict between vehicles accessing the future basement carparking and vehicles utilising the loading dock, the following is recommended:*

1. *Linemarking to delineate loading dock access and maneuvering areas*
2. *Stop or Give Way signage at the basement carpark exit to ensure vehicles stop and look for vehicles on the loading dock access road*
3. *Signage to warn drivers of potential movements in & out of basement carpark*
4. *Signage to warn vehicles of potential manoeuvring in loading dock area*
- *To minimise conflict between pedestrians and vehicles at the Murray Street carpark entry and also the Hay Street loading dock exit, the following should be provided:*
  1. *Signage to make drivers and pedestrians aware of potential conflict*
  2. *Measures to minimise vehicle speeds when entering and exiting the site*
  3. *Provision of coloured and/or textured road and footpath surfaces to highlight the potential conflict areas.*
  4. *Removal, relocation or adjustment of structures or landscaping that may currently obstruct sight distance for pedestrians or drivers at the vehicle entry and exit locations.*
- *All proposed parking layouts are to conform with the requirements of AS 2890 and Council's parking requirements.*
- *Port Central management should continue to engage qualified traffic controllers at the carpark access ramp in Murray Street during the peak Christmas period to improve safety and efficiency of vehicle movements in & out of the carpark, as well as pedestrian movements across the driveways.*
- *Additional linemarking and signage should be provided in Murray Street to ensure clear delineation of turn lanes in & out of the Port Central carpark and loading dock areas. All other linemarking in the vicinity of the Murray Street entry ramp should be refreshed.*
- *In conclusion, the development meets the required guidelines in terms of safe access to the site. The local road network, including adjacent intersections, have adequate capacity to cater for the relatively small number of additional vehicle trips to be generated by the development with minimal impacts. Streetwise recommend that there are no traffic-related reasons to reject this development proposal.'*

The submitted Traffic Impact Assessment has been reviewed and it is considered that it appropriately addresses any concerns regarding the traffic generation, access and parking requirements of the proposed development. Appropriate conditions have been included to ensure the above concerns are addressed with this development. These include a requirement to upgrade the frontage of William Street to be in accordance with PMHC's Town Centre Masterplan, upgrades to linemarking and traffic arrangements at the site access points on Murray and Hay streets. In particular, it is recommended that a speed controlling device/speed bump be installed at the threshold of the loading dock access and the Hay Street footpath.

Internal parking is considered to be in accordance with AS2890 and this will be reinforced by conditions of consent.

### **Roads and Maritime Services (RMS)**

Consistent with RMS requirements, the proposal was referred to the RMS for comment. The RMS' review of the proposal determined:

*Roads and Maritime has reviewed the referred information and provides the following comments to assist the consent authority in making a determination;*

1. *The Consent Authority should be satisfied that the impact of through and turning traffic has been adequately addressed. Please refer to Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings and Australian Standard 2890.1 – Off Street Car Parking.*

2. *Service vehicles should enter and leave the site in a forward manner. The design should cater for the turning paths of the largest vehicle requiring access to the site. Please refer to Australian Standard 2890.2 – Off Street Commercial Vehicle Facilities.*
3. *Regulatory signs and devices will require the endorsement of the Local Traffic Committee prior to Council approval. Please refer to A guide to the delegation to councils for the regulation of traffic.*
4. *Consideration should be given to connectivity for public transport facilities and active transport modes such as walking and cycling.*

It is considered that the proposed development satisfies RMS requirements noting the traffic and transport comments above and proposed conditions of consent.

### **Site Frontage & Access**

The proposed development will be located on the existing vacant lot at the corner of William and Murray streets. This site is adjacent to the existing parking levels of Port Central and it is proposed to utilise the existing carpark access ramp and loading dock access lane to enter and exit the proposed new parking levels.

Access to Level B02 (ie the lowest level) is proposed via the loading dock lane. It is proposed to maintain the existing one-way conditions of this laneway with vehicles entering from Murray Street and exiting via Hay Street. Entry to the Level B02 carparking will allow drivers to choose one of the 53 parking spaces (plus 2 disabled spaces) on that level, or continue up to Level B01 via an internal (2-way) access ramps. Level B01 will provide 53 parking spaces (plus 2 disabled spaces). Vehicles can only access Levels B02 and B01 from the loading dock laneway with entry only at Level B02. While not specified, it is likely that the majority of these spaces will be utilized by staff and workers.

Access to the 28 parking spaces (plus 2 disabled spaces) on the new Ground level is proposed via a new driveway off the existing lower level Port Central carpark. Vehicles will enter Port Central from Murray Street via the existing access ramp, then turn left at the top of the ramp into the new parking area.

The proposed Level 01 parking area will provide 31 new parking spaces (plus 2 disabled spaces). Access to the new parking area will be provided from the existing rooftop parking area. It is proposed to remove 3 existing parking spaces along the southern boundary to construct a vehicle access to the new Level 01 carpark. A new internal ramp will be constructed within the Level 01 carpark to provide access to Level 02 (26 spaces) and Level 03 (38 spaces plus 1 disabled space). Therefore, the 95 new spaces to be provided on Levels 01, 02 and 03 will need to be access from the existing rooftop parking.

In summary, the 110 spaces on the proposed basement levels (B01 & B02) will be accessed via the existing loading dock laneway. The 123 new spaces to be provided on the upper levels (ie Ground, L01, L02 & L03) will be accessed via the existing carpark ramp off Murray Street.

### **Parking and Maneuvering**

Refer to comments on 2.5.3.3 of the DCP 2013 assessment for parking calculations.

The proposed parking and maneuvering layout has been checked against the requirements of AS2890 and it is considered that parking and circulation concerns have been addressed and are capable of compliance.

### **Water Supply Connection**



Council records indicate that the development site has an existing 20mm metered water service. 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 in accordance with AS3500.

The proposal is considered to be capable of complying with water servicing requirements and appropriate conditions have been imposed.

### **Sewer Connection**

Council records indicate that the development site is connected to Sewer via junction to the existing sewer line that traverses the development site.

The proposed consolidation of the Port Central lots will allow the whole site to be serviced through a single point of connection to Council's sewer system. The existing sewer line directly to the north of this development site shall be privately owned and maintained.

The proposal is considered to be capable of complying with sewer servicing requirements and appropriate conditions have been imposed.

### **Stormwater**

The site naturally grades towards the north and is serviced by an existing interallotment drainage system traversing the adjacent Port Central shopping complex.

Preliminary review of this system and its original design indicate that the interallotment system has sufficient capacity to convey designed stormwater discharge from the development lot. The detail of this will need to be further reviewed and signed off by Council as part of a future s68 application.

### **Other Utilities**

Telecommunication and electricity services are available to the site.

Evidence of satisfactory arrangements with the relevant utility authorities will be required prior to release of the construction certificate.

### **Heritage**

Refer to comments on heritage in the LEP 2011 section of this report.

### **Other land resources**

The site is within a planned urban area 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 subject to the conditions recommended for stormwater management and erosion and sediment control.

### **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.

**Waste**

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables – to be reinforced by conditions.

No adverse impacts anticipated.

**Energy**

The proposal includes measures to address energy efficiency and will be required to comply with the requirements of Section J of the Building Code of Australia.

No adverse impacts anticipated.

**Noise and vibration**

The development is to be located within an existing commercial/retail area with key noise source location (ie driveways, loading areas, plant etc) to remain essentially unchanged.

Standard conditions will be imposed to restrict construction hours and manage offensive noise.

**Bushfire**

The site is not identified as being bushfire prone.

**Safety, security and crime prevention**

The application was referred to the NSW Police for consideration of Crime Prevention Through Environmental Design (CPTED) feedback. The following matters were noted:

- The Safer by Design Evaluation on the information provided identified the Development as being Low Risk.
- The basement carpark appears to be the major safety issue of the entire proposal.
- Having to share the drive through entrance/exit with large heavy vehicles including semi-trailers and large pantechs especially in the morning period may cause a traffic jam in this area and /or collisions.
- For personal and vehicle safety it was suggested that the carpark be locked with steel shutters to prevent any access to the area between 9pm/10pm to 5am/6am. This would eliminate person/s sleeping, vandalising, stealing, skateboarding or other anti-social behavior being conducted in the two lower carpark areas during those times. It should be noted that discussions with NSW Police resulted in the 9pm/10pm closure being shifted to 11pm.
- Good quality CCTV system to be installed to cover all levels of the carpark with monitors in the centres security offices.
- Lighting that will minimise shadow areas throughout the basement car parks.
- Signage prohibiting the use of skateboards and other wheeled toys should be also displayed.
- Bicycle parking to be included adjacent to high pedestrian areas on ground level.

- As mentioned appropriate signage for vehicles when leaving loading dock to be aware of pedestrians in Hay Street. Signage in Hay Street to warn pedestrians about vehicles leaving the loading bay driveway.
- Nil pedestrian access to or from basement car parks through loading bay roadway.

Overall, the above matters can be complied with and or reinforced via conditions of consent. In this regard, 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 use of signage, lighting and CCTV will aid in achieving this outcome.

### **Social impacts in the locality**

Given the nature of the proposed development and its' location (ie commercial/retail development within the CBD), the proposal is unlikely to result in any adverse social impacts. The development will only further enhance and strengthen the commercial core/CBD of Port Macquarie.

### **Economic impact in the locality**

No adverse impacts expected. A likely positive impact is that the development will maintain employment in the construction and commercial/retail industries, 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. The integration with Port Central allows the site and development to be more viable.

### **Construction**

Construction impacts will need to be carefully managed, particularly for works in/adjoining the site (ie due to the existing cut and integration process). Appropriate conditions have been recommended to address impacts on adjoining properties/land.

### **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.

### **Town Centre Masterplan (TCMP)**

The TCMP dates back to 1992 and has been reviewed a number of times over the years. Essentially, the purpose of the TCMP is to equip the community with the design information necessary to provide a 'visually attractive centre that is refreshing, vibrant, safe and pleasant for users and enhances business opportunities for the benefit of the community.

The TCMP identifies key areas, linkages, suggested improvement works and design themes for the CBD. In terms of relevance to the subject site, the TCMP notes that the future use of the land is likely to be a multi-level carpark. It also notes the current vacant site with cyclone fencing creates a poor entry to the CBD from the east.

The TCMP notes that redevelopment of the site (including for retail, mixed use or commercial uses) should have built form that is sympathetic of the character, scale and aesthetic of the streetscape. The building should also provide activation along William Street.

Based on the submitted design and this assessment report, it is considered that the development achieves compliance. In addition, on-street works will be conditioned to comply with the standard TCMP William Street design requirements.

### **Development Applications - Conflict of Interest Policy**

The Policy applies to development applications relating to Council land or where Council is the applicant.

The procedure to follow for dealing with development applications relating to Council land or where Council is the applicant are as follows:

A. Development applications on Council land or where Council is the applicant are to be referred to the Director of Development & Environment for determination on whether external consultants should be used for the development assessment, to manage potential conflict of interest and increase transparency.

B. Where objections are received to development applications on Council land or where Council is the applicant, the Director Development & Environment is to make a recommendation to the General Manager as to whether external consultants should be used to report on the development application. The General Manager is to determine whether external consultants should be employed. Factors relevant to determining the use of external consultants include:

- The number and nature of the objections, including allegations of a conflict of interest.
- Whether the application concerns a community use or work or a "for profit" development.
- The potential environmental impact, including whether an Environment Impact Statement is required.

C. Regardless of whether the application is reported on by an external consultant or Council staff, all development applications on Council land, or where Council is the applicant, where objections have been received must be considered by the Development Assessment Panel and referred to Council for determination. The exception to the above process will be development applications that are required to be determined by the NSW Northern Joint Regional Planning Panel.

Being a development application on Council land, the application was referred to the Director of Development & Environment under the policy to determine whether the application could be assessed by Council staff or whether an external consultant should be used. The Director confirmed that the application could be assessed by Council staff pending a review if submissions were received during the exhibition period. In this case, no submissions were received so Council staff have continued with the assessment.

It is also noted that the JRPP will be the determining authority on the application, which provides a level of independence and aids in removing any conflict of interest.

Based on the above, the application has been processed in accordance with the Policy.

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

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

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

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

Following exhibition of the application in accordance with DCP 2013, no submissions were received.

**(e) The public interest**

The proposed development will be in the wider public interest with provision of appropriate additional commercial/retail development within the CBD.

The proposed development satisfies relevant planning controls and is not expected to impact on the wider public interest.

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

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

Development contributions will be required under Section 7.12 of the Environmental Planning and Assessment Act 1979 based on the cost of works being \$15,268,800.

An estimate of the above contributions is attached to this report.

It is also noted in the DCP 2013 parking calculations above in this report that the developer will provide an additional 150 parking spaces. These spaces are being funded/created by contributions collected for parking shortfalls on other sites in the CBD as per Council's Car Parking Contribution Plan 1993.

**5. CONCLUSION AND STATEMENT OF REASONS**

The application has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

Issues have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts.

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.