

<b>DATE OF DETERMINATION</b>	5 November 2020
<b>PANEL MEMBERS</b>	Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Paul Drake and Robert Hussey
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by teleconference on 5 November 2020, opened at 4:05pm and closed at 7:50pm.

#### **MATTER DETERMINED**

PPS-2019NTH002 – Port Macquarie-Hastings Council – DA2018-1111.1 at Lots 21 & 22 DP 1220661 Park Street, Port Macquarie – mixed use development (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

#### **Development application**

The panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The panel determined to refuse the application for the reasons outlined in the council assessment report.

The application is refused for the following reasons:

1. The proposed on-site parking is insufficient by a maximum of approximately 155 spaces during the Saturday evening peak period and by less but still material numbers of spaces during other periods. The Panel believes sufficient parking should be provided on-site without regular reliance on supplementary offsite parking.
2. The proposed arrangements for supplementary off-site parking are unsatisfactory. There are insufficient parking spaces available on the adjoining Lot 21 given the existing and recently approved development on that property. Also, the proposed parking agreement with the owner of that property is insufficient as it lacks essential details (for instance, plans showing the affected parking spaces) and uncertain as it does not provide for the agreement to continue in perpetuity.
3. Aspects of the proposed access arrangements are unsatisfactory particularly the proposed channelised right-turn in Warlters Street that links to the existing right of way.
4. Overall, the Panel concludes that the proposal is an overdevelopment of the site best illustrated by the deficiency in parking and reliance on offsite parking and is not orderly development.

#### **CONDITIONS**

Not applicable.


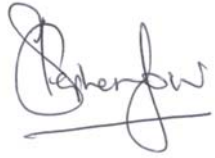



#### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Building height
- View sharing impacts

- Floor space ratio
- Architecture, scale and location of building
- Economic impacts
- Noise, amenity and light disturbance
- Traffic impacts
- Parking
- Safety, pedestrians and accessibility
- Visual amenity and landscaping
- Overshadowing
- Flooding and water table
- General suitability

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Paul Mitchell (Chair)	 Stephen Gow
 Penny Holloway	 Robert Hussey
 Paul Drake	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPS-2019NTH002 – Port Macquarie-Hastings Council – DA2018-1111.1
2	PROPOSED DEVELOPMENT	Mixed Use Development Comprising Entertainment Facility (Cinemas), Function Centre, Manager's Residence, Amusement Centre, Recreation Facility (Indoor) Including Gymnasium and Indoor Bowling, Restaurant, Food and Drink Premises, Retail Premises and Basement Carpark
3	STREET ADDRESS	Lots 21 & 22 DP 1220661 Park Street, Port Macquarie
4	APPLICANT/OWNER	Planet Warriewood Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Koala Habitat Protection) 2019</li> <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 No.64 - Advertising and Signage</li> <li>○ State Environmental Planning Policy (Coastal Management) 2018</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy (State and Regional Development) 2011</li> <li>○ Port Macquarie-Hastings Local Environmental Plan 2011</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Development Control Plan 2013 &amp; Development Control Plan 2011 - Part 5 Area Based Provisions - Settlement City Precinct</li> </ul> </li> <li>• Planning agreements: <ul style="list-style-type: none"> <li>○ Kmart Settlement City Precinct Planning Agreement</li> </ul> </li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 28 October 2020</li> <li>• Memorandum from Port Macquarie-Hastings Council: 4 November 2020</li> <li>• Written submissions during public exhibition: 291</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Alba Penninger, Terrance Stafford on behalf of East Wing Corporation Pty Ltd, Victoria Bashford, Jo Hollis, Renea Rootes, Tony Hannock, Heather Hannock, David Ledgerwood, Elaine Swatridge, Tess Tarrant-Clark, John Rutter, Jarrad Lawless,</li> </ul> </li> </ul>

		<p>Michael Cullen, Maree Lamb, Chris Denny, Kate Hutchison and Glen Holdsworth</p> <ul style="list-style-type: none"> <li>○ Council assessment officer – Dan Croft, Patrick Galbraith-Robertson and Grant Burge</li> <li>○ On behalf of the applicant – Craig McLaren, Roy Mustaca, Sam Mustaca, Vanessa Benitez, Aaron Gadiel and Michelle Chapman</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Site inspections <ul style="list-style-type: none"> <li>○ Paul Mitchell: 17 September 2020</li> <li>○ Stephen Gow: 16 October 2020</li> <li>○ Paul Drake: 27 October 2020</li> <li>○ Robert Hussey: 2 November 2020</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 5 November 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Paul Drake and Robert Hussey</li> <li>○ <u>Council assessment staff</u>: Patrick Galbraith-Robertson, Grant Burge, John Hanlon and Dan Croft</li> <li>○ <u>Department of Planning, Industry and Environment</u>: Amanda Moylan and Lisa Foley</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report