

DATE OF DETERMINATION	20 October 2023
DATE OF PANEL DECISION	20 October 2023
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Gow, Michael Wright, David Crofts, and Tony McNamara
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 4 October 2023.

MATTER DETERMINED

PPSNTH-212 - Port Macquarie-Hastings - DA 2023.244.1 at 66 William Street Port Macquarie - Health Services Facility and Shop Top Dwelling (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 listed at item 8 in Schedule 1.

Application to vary a development standard

Port Macquarie-Hastings LEP 2011 – Height and Floor Space Ratio

The Panel considered a written request from the Applicant, made under cl 4.6 of the *Port Macquarie-Hastings LEP 2011* (the LEP), that has demonstrated that:

- compliance with cl 4.3 (building height) and cl 4.4 (floor space ratio) is unreasonable or unnecessary in the circumstances; and
- There are sufficient environmental planning grounds to justify contravening the development standards

The Panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6(3) of the LEP 2011; and
- the development is in the public interest because it is consistent with the objectives for development in the R4 High Density Residential zone and of clauses 4.3 and clause 4.4 of the LEP; and
- the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve 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 uphold the Clause 4.6 variation to building height; and approve the application, subject to conditions, for the reasons outlined in the Council assessment report.

The Panel's decision was unanimous.

The Panel agrees with Council's assessment that:

- the development is permissible with consent and is consistent with relevant objectives of the LEP

- the development is consistent with the objects of the Environmental Planning and Assessment Act 1979
- exceedance of the height and floor space ratio controls under the LEP are justified
- the proposed exceedances are minor with the height variation occurring over a small and predominantly central part of the site. The FSR exceedance is also minor, occurring on only one portion of the site
- the development will provide a complementary built form to the emerging character of the locality
- the development, as conditioned, adequately addresses amenity, privacy, parking and stormwater issues
- the site is suitable for the development

The Panel is satisfied that the impacts associated with the construction and ongoing use can be mitigated or managed by the imposition of conditions as recommended by Council and as amended by the Panel.

The Panel is satisfied the proposal is in the public interest as:

- the site is suitably located and accessible
- it will provide positive social and economic impacts through the provision of new health services facilities to serve the locality, and employment during construction and operation
- the development, subject to the recommended conditions, will not result in significant adverse amenity or other impacts upon the surrounding built environment and neighbours

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments.


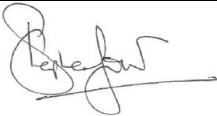
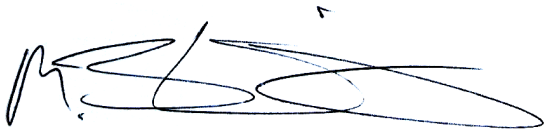


- Amend Condition A1 to amend the plan references as follows:
 - Architectural Plans – change reference to Project No 2006, Drawing No. DA01-6 to DA22-6, Rev 5 and date to 16 October 2023
 - Concept Strata Plan – change date to 13 October 2023
 - Landscape Plan – change date to 15 October 2023
 - Insert new Plan/ Supporting Document – Overland Flow Assessment Report, Reference - 21-363, Prepared by - Woolacotts, Date - 5 April 2023
- Amend Condition B14 to include the following words at the end of the condition – ‘The design is to include the management of any existing stormwater overland flow paths across the site.’
- Amend Condition B21 to include after the words ‘adjoining properties’, ‘(i.e. 64 and 68 William Street and 23 and 27 Church Street)’
- Amend Condition B22 to include the following words at the end of the condition – ‘The trigger point for the gate operation and mechanism (manual or electronic) for the gate is to be included in the detail and signed off by Council.’
- Amend Condition F1 to delete the words ‘disabled spaces’ and replace with ‘parking spaces for people with disabilities’
- Amend Condition F2 to update the Tenancy (pathology) Staff number to ‘0’
- Amend Condition F3 to insert after ‘the site must’, ‘as far as practicable,’ and delete the words ‘at all times’

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel noted there were 4 submissions objecting to the proposal. The Panel notes that issues of concern included:

- Damage during construction
- Lack of parking and parking
- Height and FSR variations
- Traffic
- Ambulance parking
- Overshadowing
- Stormwater
- Pedestrian access

The Panel is satisfied the Assessment Report adequately addresses the issues raised in submissions and that, where appropriate, conditions have been imposed.

PANEL MEMBERS	
 Dianne Leeson (Chair)	 Stephen Gow
 Michael Wright	 David Crofts
 Tony McNamara	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH–212 - Port Macquarie-Hastings - DA 2023.244.1
2	PROPOSED DEVELOPMENT	Health Services Facility and Shop Top Housing
3	STREET ADDRESS	66 William Street Port Macquarie
4	APPLICANT OWNER	Jason Heise – Heise Holdings Pty Ltd Heise Holdings Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Primary Production) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Port Macquarie-Hastings Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Port Macquarie-Hastings Development Control Plan 2013 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 29 September 2023 Clause 4.6 Variation to Development Standards for Building Height & Floor Space Ratio Written submissions during public exhibition: four (4) Total number of unique submissions received by way of objection: four (4)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 2 August 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, and David Crofts <u>Council assessment staff</u>: Clinton Tink and Dan Croft <u>Department staff</u>: Carolyn Hunt, Louisa Agyare, and Lisa Ellis Site inspection: 16 October 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, David Crofts, and Tony McNamara <u>Council assessment staff</u>: Clinton Tink and Dan Croft

		<ul style="list-style-type: none"> ○ <u>Applicant representatives</u>: Jason Heise, Paula Stone, Megan Watson and Andy Davis • Applicant Briefing: 18 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, David Crofts, and Tony McNamara ○ <u>Applicant representatives</u>: Paula Stone, Megan Watson and Andy Davis ○ <u>Council assessment staff</u>: Dan Croft ○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis • Final briefing to discuss council's recommendation: 18 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, David Crofts, and Tony McNamara ○ <u>Council assessment staff</u>: Dan Croft ○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report