

DATE OF DETERMINATION	25 October 2024
DATE OF PANEL DECISION	24 October 2024
DATE OF PANEL MEETING	22 October 2024
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Gow, Michael Wright and Chris Gee
APOLOGIES	Michael Mason
DECLARATIONS OF INTEREST	None

Public meeting held by videoconference on 22 October 2024, opened at 2.33pm and closed at 3.08pm.

MATTER DETERMINED

PPSNTH-293 – Port Macquarie-Hastings - DA 2024.141.1 – Gordon Street and Munster Street, Port Macquarie – Recreational Facility (Outdoor) and Recreational Facility (Indoor) and Kiosk - Port Macquarie Aquatic Facility (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 inspection listed at item 8 in Schedule 1.

Independent Planning Assessment

The Panel notes that as Council is the Applicant, an independent assessment of the proposal was undertaken.

Application to vary a development standard:

Following consideration of a written request from the Applicant, made under cl4.6(3) of the Port Macquarie-Hastings LEP 2011 (the LEP), the Panel is satisfied that the applicant has demonstrated that:

- a) compliance with cl4.3 (Height of Buildings) is unreasonable or unnecessary in the circumstances because the development meets the objectives of Clause 4.3, elements seeking variation are well distanced from the public domain and Gordon Street, do not dominate the existing urban character, allow sightlines to penetrate through which reduces perceived bulk and scale, and are compatible with the taller buildings that are desired within the future character of the locality; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard, noted as improved public benefit; good design and amenity of the built environment; and consistency with the objects of the Environmental Planning and Assessment Act, 1979.

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 for the following reasons, including those set out in Council's Assessment Report:

1. The proposal is permissible with consent in the RE1 Public recreation zone of the LEP and is consistent with the relevant objectives of the zone. The proposal does not impact the small portion of the site zoned C2 Environmental Conservation.

2. The site of the proposed development is suitable for the intended use with adequate access and utilities services able to be provided and upgraded.
3. The Panel agrees the cl4.6 height limit variation request is justifiable on planning grounds having regard to built form outcomes, minimal environmental impacts and positive social and community impacts. These include:
 - a. The increase will not result in overshadowing impacts on neighbouring properties
 - b. The waterslide tower and lighting towers will not dominate surrounding areas
 - c. The open structure of the water slide tower allows sightlines to penetrate through which reduces perceived bulk and scale
4. The development will be positioned outside the 1% AEP flood extent with most of the carpark flood free or at hazard category H1.
5. The Panel is satisfied that impacts associated with the proposed development can be adequately mitigated through the imposition of conditions. The proposed development will generate employment and economic benefit to the region through construction and social and community benefit through the provision of a new public recreational facility.
6. For the above reasons the Panel concludes the proposal is in the public interest.

CONDITIONS

The Development Application was approved subject to the amended conditions appended to the Council Assessment Report (uploaded on 18 October 2024).



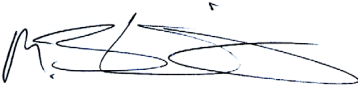

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Lack of shade, particularly each end of the 50m pool
- Need for 2 x 50m pools and additional facilities, including water polo pool, sauna, enclosure of all pools
- Need to protect the legacy of the existing War Memorial Olympic Swimming Pool – need to incorporate the memorial into the new facility
- Ensure universal access to all pools
- Emergency evacuation concern with service station opposite and childcare centre
- Waterslide tower and slides will be a distraction to drivers in Gordon Street
- Traffic, congestion and loss of parking in Gordon Street
- Lack of innovation, co-located health and community services
- Entry cost
- Loss of current sports field

The Panel also noted that 19 submissions were received in support of the development.

In conclusion, the Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report. Further, the Panel was advised by Council that the heritage significance of the war memorial was considered best maintained on its existing site, albeit that the current aquatic centre is intended to be redeveloped for a new use in future. No further issues requiring assessment were raised during the public meeting. The Panel notes that in addressing community concerns, appropriate conditions have been imposed.

PANEL MEMBERS	
 Dianne Leeson (Chair)	 Stephen Gow
 Michael Wright	 Chris Gee

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-293 – Port Macquarie-Hastings - DA 2024.141.1 – Gordon Street and Munster Street, Port Macquarie
2	PROPOSED DEVELOPMENT	Recreational Facility (Outdoor) and Recreational Facility (Indoor) and Kiosk - Port Macquarie Aquatic Facility
3	STREET ADDRESS	Gordon Street and Munster Street, Port Macquarie (Lots: 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 19, 20 Sec: 16 DP: 758852, Lot: 2 DP: 808449, Lot: 7063 DP: 1040735, Lot: 1 DP: 808449)
4	APPLICANT/OWNER	Co.op Studio Pty Ltd Council Managed Crown Land
5	TYPE OF REGIONAL DEVELOPMENT	Council related development 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 (Sustainable Buildings) 2022 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy Transport and Infrastructure) 2021 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: 25 September 2024 Amended Council Assessment Report: 17 October 2024 Clause 4.6 variation: Cl. 4.3 (Height of Buildings) Written submissions during public exhibition: 35 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Independent Planning Consultant – Wes Wilson Council assessment staff – Chris Gardiner On behalf of the applicant – David Huntley, Mike McGrath, Josh Bennie Total number of unique submissions received by way of objection: 35
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 21 May 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Chris Gee and Michael Mason

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Chris Gardiner and Dan Croft ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Site inspection: 11 October 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright ○ <u>Council assessment staff</u>: Chris Gardiner ○ Applicant Representatives: David Huntley, Josh Bennie and Joel Heise • Final briefing to discuss Council's recommendation: 22 October 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright and Chris Gee ○ <u>Council assessment staff</u>: Chris Gardiner and Dan Croft ○ <u>Independent Planning Consultant</u>: Wes Wilson ○ <u>Department staff</u>: Carolyn Hunt
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and updated on 18/10/2024