

**PRELIMINARY ENVIRONMENTAL ASSESSMENT FOR 'CONCEPT
PLAN' APPLICATION**

**PURSUANT TO
PART 3A – MAJOR INFRASTRUCTURE AND OTHER PROJECTS OF
THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**



RETAIL AND CLUB MIXED USE PROJECT

PORT MACQUARIE

Prepared for

ING REAL ESTATE



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A Division of Lyneham Albon Planning
& Management Consultants Pty Limited

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VOLUME 1

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1 EXECUTIVE SUMMARY

1.1 Purpose

Planning Workshop Australia on behalf of ING Real Estate submitted a 'Preliminary Executive Report and Concept Plans (including staging) for its proposed expansion of Settlement City, Port Macquarie with the Department of Planning and the Director General.

Further to the receipt of the letter from the Department of Planning dated January 23, 2006, stating:-

'... that the Director General, as a delegate of the Minister, formed the opinion on 14 January 2006 that your proposal is a Project and that Part 3A of the Act applies. Consequently, you may now apply for the approval of the Minister to carry out this project.'

The documentation contained in the completed 'Application Form', Volume 1, Volume 2, Appendices and plans (concept and staging plans), sections and elevations is prepared to effect the formal lodgement of the application for the Project with the Director General (**Section 75E**) in seeking the Minister's determination of the Project.

The letter from the Department of Planning confirms the intention of the proponent (ING Real Estate) is to lodge the application as a Concept Plan pending the Minister's authorisation (**Section 75M** of the **Environmental Planning and Assessment Act (EP&A Act)**).

We include an assessment of the project in fulfilment of 'Schedule – information required at lodgement'.

The material submitted in this documentation relies upon detailed reports and investigations undertaken by specialist consultants in response to the key issues and specified information. Volume 1 is a 'Preliminary Assessment'. However, to ensure that all of the relevant matters were addressed, substantially greater detail is contained in Volume 2 and the Appendices.

1.2 Outline of Proposal

The proponent, ING Real Estate, proposes to restructure its existing Settlement City shopping centre on Lot 2 in DP 702484 and Lots 4 DP 1018087, [surrounding Lot 1 in DP 702484 (Council of the Municipality of Hastings) services easement] and to expand the shopping centre and develop a new club facility on Lot 5 in DP 1018087.

- the expansion of its existing "Settlement City" shopping centre (11,600m²);

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- a 4,500m² club;
- 267 additional car parking spaces for the total development; and
- staging as defined on the plans.

Concept Plan approval is sought for use, building envelopes as defined by height and setbacks, car parking and access, landscaping and staging.

Stage 1 and 2 of the project is to include restructuring the existing shopping centre and integrating this with a new club and supermarket.

The third stage of the project would include the construction of a Discount Department store.

1.3 Key Issues Arising

The **subject site** is **zoned 3(t)** under the Hastings LEP 2001 and can accommodate projected retail demand over the next 10 years without requiring any rezoning or other amendments to the aforementioned LEP. It is a compliant application consistent with the relevant EPI provisions and regional (Departmental) and local (Council) strategies including those for retailing.

Whereas, Hastings Council on **November 24 2004** resolved to the '**Walters St site**', from **2(t) Residential Tourist** to permit yet another shopping centre outside the 'town centre' of Port Macquarie, is prohibited. On that same day, **November 24 2004**, Hastings Council amended the Retail Policy that had underpinned the Hastings LEP 2001 in a manner that would facilitate the rezoning. Prior to this decision by Hastings Council, it had prepared and exhibited a Draft Master Plan for the Port Macquarie 'Greater CBD'. This Draft Master Plan included the aforementioned Walters St site to be rezoned from 2(t) to permit shops and it substituted the 2(t) Residential Tourist Zone onto the foreshores and open space zones. There has been significant public debate, opposition and public meetings opposing the aforementioned Council Draft Master Plan. Moreover, same consultant acted from both the Council in the preparation of the Draft Master Plan and prior to that being resolved acted for the the proponent for the Walters St rezoning.

1.4 Authorisation for a concept plan

A concept plan for the subject site zoned 3(t) and permitting both the expansion of the existing shopping centre and the new club is considered appropriate in the circumstances for reasons including the following:

- ING Real Estate requires a 'bankable approval' to provide it with the investment confidence to purchase an interest in the site in the immediate future (it is currently for sale) and to initiate a long term project of this magnitude. **This is particularly important**

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in the face of a pending proposal before Hastings Council to rezone a large adjoining tourist/residential site to allow substantial additional retail floor space. That proposal will adversely affect the viability of ING Real Estate's existing long standing investment, **and** the Port Macquarie CBD.

- The project will be staged to ensure that retail development within Port Macquarie keeps pace with, and does not outstrip, the retail demand forecasts prepared for Hastings Council, so as not to prejudice the viability and orderly and economic development of the Port Macquarie CBD (in contrast to the adjoining rezoning proposal).
- Approval is sought for the proposed 'uses' – shops and club, floor-space, building envelopes, car parking and access, public domain landscaping and staging of the project over the next 7 years.

Furthermore, this application is lodged as a **concept plan** to enable stage 2 to be better resolved in negotiations with the Panthers Club as to its specific club requirements on Lot 5 in DP 1018087. The Panthers Club is negotiating with ING Real Estate. The design of the club may influence the design of Stage 1.

In addition ING Real Estate would not propose to redevelop Stage 2 (supermarket, club and some additional specialties), unless it also had approval for Stage 3 (inclusion of the Discount Department store).

Accordingly, ING Real Estate has submitted concept plan within which changes to the detail of the layout of stage 1 can be developed, subsequent to the determination of the Concept Plan, yet at the same time ensuring that it would also be able to proceed some years later with the Discount Department Store.

It is also requested that this concept plan and Part 3A project be taken into account prior to any determination being made by Council and/or the Minister to proceed with the Warlters St rezoning from 2(t) Residential Tourism to any form of Business Zone.

1.5 Preliminary assessment of proposal

This report contains a preliminary assessment of the proposal (Executive Report), with specialist reports into its various potential impacts under the headings of planning, urban design, natural systems, infrastructure, traffic and transport, noise and vibration and ecological sustainability, undertaken by specialist members of the Planning Workshop Australia Partnership.

This assessment concludes that the proposal:

- is appropriate in the coastal area;
- has no identified risks or unreasonable adverse impacts;

- makes a positive contribution to the orderly and economic development of the site and the wider Port Macquarie area; and
- is consistent with the objectives and zonings of Hastings LEP 2001 and previous consents issued over the combined ING Retail and subject site.

Retail studies undertaken for ING Real Estate, and other investigations undertaken by Council, confirm that there is sufficient zoned Business land including the subject site to meet population growth. No amendment to the Hastings LEP and extent of 3(t) or other Business zones within Port Macquarie is required. The proposed concept plan complies with the existing zone objectives and is entirely permissible.

1.6 Request for environmental assessment requirements

We formally request the Director General to issue environmental assessment requirements for the project. We submit that those requirements need only extend to an embellishment of the heads of consideration of the preliminary assessment contained in this report. We believe that this level of assessment will be more than adequate to address the potential impacts of the concept plan, leaving more detailed environmental assessment to subsequent, detailed stages of the proposal.

1.7 Need for expedition

ING Real Estate seeks to lodge the Concept Plan application in parallel the due diligence process for its proposed acquisition of part of the subject site (Lot 5 DP 1018087) and while it concludes requirements relating to other matters such as the details of the new club facility. This part of the subject site was subdivided after consent was granted for Settlement City, the Panthers Club, and joint use of the car park. The consents for development and subdivision required that the easements for access and car parking be registered on the title. Part of the subject site that is currently for sale, is the subject of aforementioned reciprocal easements on title for access car parking and requires an immediate investment decision by ING Real Estate.

This proposal has major implications for the substantial capital value of ING's shareholders. Investment planning and risk appraisal has been guided by government land use policy made explicit in its gazettal of the Hastings LEP 2001. Departure from this statutory policy would have a substantial effect on this project and will set a precedent for assessing value and risk in other property projects.

ING Real Estate therefore attaches great significance and urgency to obtaining the final Director General Environmental Assessment Requirements, confirmation of the project's Part 3A and concept plan status, and the determination of the concept plan (subject to acquisition). ING Real Estate requests that (setting aside the determination of the concept plan), the Minister upholds the gazetted land use policy in Hastings LEP 2001 in relation to the subject site zoned 3(t1) and the expansion of the Settlement City district centre.

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ING Real Estate submits that rezoning the Walters St site from 2(t1) residential zone to 3 Business Zone for a separate shopping centre on the other side of Bay St would pre-empt the redevelopment and expansion of the subject site whether or not ING Real Estate acquires the part of the subject site with which it shares a common boundary.

2 EXECUTIVE REPORT

2.1 Project Description

2.1.1 Location & Proposed Project

The subject site is defined in **Figure 1**. The subject site is bounded by Park St to the east, Bay St to the south and the Hastings River and its estuaries (artificial and natural) along its western and northern property boundaries. **Hastings Council** is registered as the owner of a small area in the centre of the subject site (Lot 1 in DP 702484)(36m²) which is burdened by an easement for overhang and befitted by a services easement and sewer pit located thereon. The detailed design of the club, supermarket and specialty will ensure that Lot 1 and the sewer pit is either relocated with the agreement of Council or alternatively designed to leave the pit in its present location and avoid any encroachment on Lot 1. **Lot 2** in **DP 702484** has an area of 45,160m²; and **Lots 4** and **5** in **DP 1018087** (3,371m²) and (25,060m²) respectively.

The proposed project includes the redevelopment and expansion of an existing shopping centre and 'club' development in Port Macquarie, outside the 'town centre'. The project is an investment in excess of \$55 million (excluding land cost). The proposal includes an extension to an existing shopping and club complex by approximately 11,600m² (and specialties) and a new club of approximately 4,500m² (instead of the 11,200m² existing facility). An additional 267 car parking spaces are provided for joint use by shoppers and club patrons. The existing shopping centre is expanded primarily by the addition of a discount department store and supermarket with specialty shops limited to approximately 2,000m². The existing club facility is to be demolished and a new modern and smaller facility is incorporated within the overall development.

The proposed development is within the 100 metre distance from the Hastings River estuary system. Proposed building and structure heights are over 13 metres but do not exceed 14 metres in height.

Concept Plan approval is sought for:

- the proposed shop and club uses and floor space as per Table 1;
- building envelopes as defined by height and setbacks in the ground floor and upper level plans and elevations (Appendix 1);
- car parking and access as per the ground floor plan (Appendix 1);
- landscaping as expressly defined in the landscape plan (Appendix 1); and

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- staging (Appendix 1).

Table 1: Floor Area and Car Parking

	Existing Centre	Total – Existing plus Concept Plan	Concept Plan	Concept Plan	Concept Plan
RETAIL (Shops)	m ²	m ²	m ² added	m ² loss	m ² net change
Majors and Mini Majors					
Big W	6,618	6,618	-	-	-
Woolworths	4,253	4,253	-	-	-
New DDS		6,000	6,000	-	-
New Supermarket		3,245	3,245	-	-
Best and Less	1,175	-		1,175	-
Base Warehouse	996	996	-	-	-
Other		930	930	-	-
TOTAL Majors and Mini-Majors	13,042	22,042	10,175	1,175	9,000
TOTAL Specialities	6,199	8,809	5,435	2,825	2,610
TOTAL SHOPPING CENTRE	19,241	30,851	15,610	4,000	11,610
TOTAL PANTHERS (Club)	11,214	4,635	4,635	11,214	6,579
	No.	TOTAL CARS	Spaces Added	Spaces Lost	Net Gain
CARS					
Deck	699	721	22	-	-
Grade	149	61	-	88	-
Panthers Grade	267	-	-	267	-
Panthers Basement	75	-	-	75	-
New Roof Top Deck	-	675	675	-	-
TOTAL Cars	1,190	1,457	697	430	267
Cars/100m ² Shopping Centre Area	6.18	4.72			
Cars/100m ² Shopping Centre and Panthers Area	3.19	4.11			

2.2 Relevant Legislative & Statutory Provisions

2.2.1 Zoning

The subject site is wholly within the '*Coastal Zone; Map 3 – Port Macquarie*' as defined in the *Coastal Protection Act 1979 (CP Act)* (Figure 2). It is zoned *3(t) Tourist Business* in *Hastings LEP 2001* (Figure 3) and both the proposed shopping development and new club premises are permissible with consent of the relevant authority.

2.2.2 Part 3A & SEPP (Major Projects) 2005

SEPP (Major Projects) 2005, Clause 6 defines development that, in the opinion of the Minister, is declared a **Part 3A 'project'** pursuant to the 2005 Amendments to the **Environmental Planning and Assessment Act (EP&A Act)**:

"Development that, in the opinion of the Minister, is development of a kind:

*(a) that is **described in Schedule 1 or 2**, or*

(b) ..., or

(c) ..,

*is declared to be a project to which Part 3A of the Act applies (**Clause 6(1)**)."* (our emphasis)

The proposed project also falls within both **Schedule 1 Group 5 Construction** and **Schedule 2 Specified Sites**. The relevant class of development is **Part 3A Class 5 Construction Projects**, which includes:

*"Development for the purpose of residential, commercial, **retail** or other construction projects with a **capital investment value of more than \$50 million** that the **Minister determines are important** in achieving State or regional planning objectives."*(Schedule 1, Clause 13) (our emphasis)

The project costs substantially **exceed \$50 million** as per the estimates prepared for ING Real Estate by its quantity surveyors. Furthermore, the proposed development complies with the existing zoning provisions, whereas, it would be unreasonable and unnecessary, in the circumstances of this case, to rezone the nearby 2(t1) Tourist Residential Zone on Walters St as a 'business zone'.

There are strategic regional planning implications for the Minister to consider in determining the subject project under Part 3A, and prior to the issue of any Section 65 Certificate and/or gazettal by the Minister of the Walters St rezoning from its existing 2(t1) residential zone to any business zone. Such an amendment to the existing Hastings LEP 2001 would result in a significantly larger and cumulative adverse impact on the existing town centre as defined by the General Business 3(a) Zone.

The whole of the subject site falls within the '**coastal area**' (**SEPP (Major Projects) 2005 Schedule 2 Clause 1**) and the '**coastal zone**' (**Figure 2**) as defined by the **CP Act**. In addition, the majority of the subject site is also within 100 metres the Hastings River system (**Figure 4**).

Schedule 2, Clause 1 of SEPP (Major Projects) 2005 states that the following sites in coastal areas are projects to which Part 3A applies:

“(g) buildings or structures (other than minor alterations or minor additions to existing buildings or structures) that are:

(i) greater than 13 metres in height, in the case of buildings or structures wholly or partly within a sensitive coastal location, or

(ii) greater than 13 metres in height, in the case of buildings in other locations outside the metropolitan coastal zone”.

In this regard, the proposed project and substantial buildings and structures are wholly within the coastal zone, and buildings and structures within the environmentally sensitive coastal location are 14 metres in height.

In summary, the proposed project falls within Schedule 2 as it includes buildings and structures that are greater than 13 metres in height; it is located within an environmentally sensitive coastal location; and is wholly within the coastal area. Additionally, the proposed development has a construction value of more than \$ 50 m. In the context of the nearby Walters St rezoning from a residential to a business zone, this has strategic regional planning implications and potential conflicts between the position of the Minister (expressed in the gazettal of the Hastings LEP 2001) and the position taken by Council with its Greater Port Macquarie Draft Master Plan and already adopted amendments to its Retail Strategy.

2.3 Chronology of Key Events Preceding Proposed Project, including Views of Relevant Agencies and the Community

The chronology of events leading up to the proposed projects is outlined below:

- Development consent granted by Council on **Dec 16, 1982** (DA 284/82) was for the whole of the land, described as **Lot 1** in **DP 263340**, and for development of both the shopping centre and the club and joint use of the car parking facilities.
- Subdivision consent granted by Council on **December 23, 1982** pursuant to consideration of matters specified in Section 332 & 333 of the Local Government Act. There was consequently no right of appeal (Section 341 of the Local Government Act). Conditions 6-8 inclusive related to easements being granted consistent with the DA284/82 consent to provide a right of way and reciprocal access to car parking. This consent was given effect with the registration of subdivision of the former single allotment into Lots 2 & 3 in DP 702484 and Section 88B instrument. Under this 88B instrument, Hastings Council had the right to vary the easements in relation to right of way and car parking and drainage in relation to Lot 2 & 3 in DP 702484.
- Hastings Council is the owner of a small area within the centre of the site – approval dated April 9, 1986 and defined as Lot 1 in DP 702484. This allotment

includes a registered easement for overhang shown as so burdened in plan V96681.

- DA 1999/1034 (subdivision of Lot 3 in DP 702484 into Lots 4 & 5 in DP 1018087) was registered on **September 19, 2000**. It extinguished the easement for right of way and parking in DP 702484 and created an easement for right of way and parking specified as item 12 (noted as 'D' and 'S' on registered plans) burdening Lot 5 and benefiting Lot 2 and Lot 4. Under this 88B instrument to which Hastings Council was a signatory, the release to vary or modify the 'right of way and car parking' easement *'twelfthly referred to in the plan'* is nominated as Armstrong Jones Management Ltd.
- Hastings Council prepared its population, housing and retail strategies and gave these statutory effect in its preparation of the **Hastings LEP 2001** gazetted by the Minister in **June 2001**.
- In **May 2002**, less than one year from the gazettal of the Hastings LEP 2001 and at the instigation of the Economic Development Board members, Hastings Council initiated the 'Greater Port Macquarie Draft Master Plan' (DMP) exhibited on **October 23, 2003**, which raised extensive public opposition and was deferred.
- The consultants appointed by Hastings Council to undertake the DMP (King Campbell) are the same consultants that prepared and lodged the rezoning application on behalf of the proponent to rezone the Walters St site from Residential Tourist 2(t1) Zone to a 'Business zone' prior to the settlement of the DMP by Council.
- Notwithstanding this deferment of the GPM-DMP as a result of community opposition, Hastings Council proceeded to amend the adopted 'retail strategy' on **November 15, 2004** in a manner that would arguably materially facilitate the proposed rezoning of Walters St.
- On the same evening of **November 15, 2004** Hastings Council passed a resolution including - *"That Council prepare a draft Local Environmental Plan to rezone Lot 3 DP 873770 (St Joseph's School Campus) and the adjoining park (Lot 3 DP 363340), Walters Street, Port Macquarie from 2(t1) Residential Tourist and 6(a) Open Space respectively to 3(a) General Business"*.
- The D-G of the then Department of Infrastructure Planning and Natural Resources (DIPNR) expressly intervened and required Hastings Council to prepare an independent investigation prior to any Section 65 Certificate being issued. Hastings Council appointed the party it had nominated to act as a 'facilitator' for the rezoning to conduct the investigations (results of the study have not been tabled with the Council).

- In **November 2005**, Panthers (as part of state wide rationalisation of its property portfolio) has put to the market for tender Lot 5 in DP 1018087. The existing development approved by the Council includes parking facilities for the reciprocal use by owners of Lot 2 in DP 702484 and Lots 4 and 5 in DP 1018087.

Given the development consents for the existing shopping centre and club development, successive subdivision approvals, and the Council's role as a signatory to the registration of linen plans in which the existing shopping centre and the club are to operate in a manner consistent with the original DA 284/82 consent, the Council must arguably maintain the existing easement in relation to car parking which burdens Lot 5 in DP 1018087 and benefits Lot 2 in DP 702484 and Lot 4 in DP 1018087.

2.4 Alternative Sites and Developments

2.4.1 *Greater Port Macquarie – Draft Master Plan and Adopted Retail Strategy Amendments*

Hastings Council prepared and exhibited its 'Greater Port Macquarie - Draft Master Plan' (DMP) with significant public opposition. The master plan was initiated by members of the Economic Development Committee and was undertaken by King Campbell on behalf of Council.

It nominated redevelopment sites within the existing zoned 3(a) General Business Zone. It did not include investigations of land adjoining the existing 3(a) General Business Zone to enable the 'town centre' to be expanded.

The only site that was considered and nominated for rezoning for business purposes was the Walters St site which lies south of Settlement City and Panthers and is separated by Bay St.

No consideration was given by Hastings Council and its consultants to the potential for expanding retailing on existing business zones and particularly within Lot 2 in DP 702484 and/or Lots 4 and 5 in DP 1018087, notwithstanding the fact that Hastings Council was a signatory to the 88B instrument which expressly contemplated the expansion of the shopping centre in Part II clause (iv) and the terms of the 88B Instrument in 1983 and 2000 (burdening Lot 5 and benefiting Lot 4 in DP 1018087 and Lot 2 in DP 702484).

A letter from agents acting on behalf of Lot 5 refers to a 'vision' expressed by Hastings Council as to the development potential for the site, yet this proposes its use for residential and tourist purposes and does not contemplate retail expansion. The small strip of land on the other side of the subject site and Bay St is zoned 3(t) and would be more appropriate for residential development and tourist accommodation as it shares a common boundary with the Walters St site which is zoned Residential Tourist 2(t1).

The aforementioned Council 'vision' for Lot 5 to be redeveloped for residential and tourist purposes assumes that the 88B statutory easement and restriction providing car parking and access to Settlement City (Lot 2 in DP 702484 and Lot 4 in DP 1018087) is set aside. In our opinion, such residential development on this part of Lot 5 in DP 1018087 conflicts with the provisions and intent of the 88B instrument in relation to the right of way and car parking easement. It is also inconsistent with the Hastings LEP 2001 which zones the whole of the subject site as 3(t1) Business and the DA 848/82 consent for shops and clubs that applies to whole of the land.

In these circumstances, it is neither cogent, nor reasonable for Council as a signatory to the 88B instrument and easement referred to in item 12 in relation to right of way and car parking, to set aside, diminish or ignore these matters in Council's 'vision' for development on Lot 5 in DP 1018087. This is particularly the case as ***'the right to release, vary or modify the relevant twelfth easement created'*** burdening Lot 5 in DP 1018087 and benefiting Lot 2 in DP 702484 and Lot 4 in DP 1018087 rests with Armstrong Jones Management Ltd and to which Council was also a signatory in November 8, 2000.

2.5 Site Comparisons

The proposed concept plan on Lot 2 in DP 702484 and Lots 4 and 5 in DP 1018087 has been prepared by ING Real Estate in relation to the same land and for the same uses that were approved by Hastings Council. The development and use of the site for these purposes is consistent with the Hastings LEP 2001 3(t) zoning of the subject site to include a new club facility, a new supermarket and limited specialty stores, followed by a subsequent stage which would include a new discount department store.

This represents an environmentally preferable outcome to that of creating a separate and substantially larger shopping centre (given the Walters St site is double or 100% larger than Lots 4 and 5 in DP 1018087. It is a more efficient use of land and a significantly better use of existing infrastructure (roads et al).

Furthermore, given the 88B instrument and easement for right of way and parking, only a limited portion of one part of the subject site, namely Lot 5, would be available to be used for residential purposes in lieu of the existing or proposed new club in that location.

By comparison, the Walters St site is double the land area of Lots 4 and 5 in DP 1018087. It is zoned Residential Tourist 2(t1) in the Hastings LEP 2001 following an extensive period of consultation with the land owners and the public. It would deliver in its present zoning, a mix of residential dwelling types consistent with the government's consolidation objectives in the vicinity of a district shopping complex and club facility, as proposed in the concept plan.

However, there would be significant adverse impacts on the Hastings LEP 2001 if the existing residential zone of the Walters St site were rezoned to a business zone. The substantially larger separate shopping centre would accommodate a significantly larger

number of specialty stores. This separate and cumulative impact would cause a significantly greater adverse impact upon small traders in Settlement City and the 'town centre' 3(a) General Business Zone.

In brief:

- **the subject site and the proposed concept plan development complies with the zone objectives and permissible uses of the 3(t) Zone in the Hastings LEP 2001, and offers an appropriate scale and staging of development that will not significantly or adversely impact on the 'town centre' and/or the specialty stores in Settlement City; and**
- **in particular, Lot 5 in DP 1018087 is legally constrained and physically offers substantially limited opportunity for including any other uses such as residential.**

Whereas

- the Walters St site is zoned Residential Tourist 2(t1) and would deliver a significant amount and diversity of residential dwelling types consistent with State and local government objectives;
- this residential strategy and its potential yield in number and mix of dwelling units and tourist accommodation would be substantially compromised by changing the 2(t1) Zone to a 3(a) or 3(t) Business Zone; and
- the substantially larger land area and zoning of the Walters St site would fragment distribution of retailing and car parking. This would have a significantly greater and cumulative impact on regional planning objectives to maintain the existing 'town centre' as per the 3(a) Zone, and would defer the provision of retail and community facilities in new growth areas within the larger region.

Accordingly, it is our assessment that the Hastings LEP 2001 remains valid and capable of delivering the planning outcomes it set out to achieve. As such, the subject site for the proposed concept plan complies with the relevant Hastings LEP 2001 provisions and is eminently preferable to the non-compliant Walters St site.

2.6 Pivotal Role of Minister

The combination of the following circumstances suggests that the Minister must determine the proposed project as a 'concept plan' given:

- The proposed development is more than 13 metres in height and is located in a SEPP (Major Projects) 2005 Schedule 2 coastal area and sensitive coastal environment;
- The proposed project has a construction cost of more than \$50 million;

- Hastings Council has prepared and exhibited its DMP which met with extensive public opposition and yet has resolved to amend the Hastings LEP 2001 on the Walters St site south of Bay St and has prematurely adopted amendments to its Retail Strategy;
- The D-G of the Department had intervened and issued specific terms of reference prior to any Section 65 Certificate being issued, and prior the Council adopting an amendment to its retail strategy to facilitate such a rezoning;
- The proposed development complies with the Hastings LEP 2001 whereas, the proposed development on the Walters St site does not and requires a change of zoning from a residential zone to a business zone; and
- Given the site dimensions, the concept plan would be staged and capped to the proposed scale in a manner consistent with the regional planning strategy for the 3(a) General Business Zone (town centre) and population growth and distribution to new areas on the outskirts of Port Macquarie.

2.7 Environmental Planning Assessment and Risk Appraisal

2.7.1 Site Suitability & Context

The site's suitability has been established in the investigations and consultations leading to the gazettal of the Hastings LEP 2001.

In addition, consideration has been given to the 'Greater Port Macquarie - Draft Master' (DMP) and community reaction and opposition to the proposal (**Figure 5a**). An amended strategy in lieu of the DMP is proposed by Planning Workshop Australia (**Figure 5b**) and:

- removes residential development from land used for public purposes and zoned open space;
- incorporates and consolidates a mix of low-rise dwelling types on the Walters St 2(t1) Zone;
- retains a district scale shopping centre and new club on the existing 3(t) Zone;
- substantially improves the public domain; and
- is preferred by the DMP as it importantly implements the regional and local planning policy of the Hastings LEP 2001.

A more detailed site analysis has been prepared identifying views and vistas to and from the subject site, particularly from public areas along the coast and the sensitive

environmental coastal location. Consideration has also been given to solar access, pedestrian movements and traffic.

The subject site has been substantially altered. There are opportunities that have been incorporated in the concept plan for improving the connectivity of the public domain along the foreshore with the larger public pedestrian and open space network.

The maximum height in the proposed development does not exceed the existing maximum height. The landscaping and treatment of the streetscape and elevations to the Hastings River estuarine system have been developed to improve the views into the development from the public domain and from residential dwellings on the other side of the water.

2.7.2 Use and Scale of Development

The proposed project includes the redevelopment and expansion of an existing shopping centre and 'club' development in Port Macquarie, outside the 'town centre' on land that is zoned to permit the proposed shops and club uses (**Figure 6**).

The project is an investment in excess of \$55 million (excluding land cost) and includes an extension to an existing shopping by a total floor space of approximately 11,600m² (including a supermarket, discount department store (DDS) and specialty shops) and a new club of approximately 4,500m² (replacing the existing 11,200m² existing club). An additional 267 car parking spaces are provided for joint use by shoppers and club patrons.

The first stage of the project includes the redevelopment of part of the specialty shops particularly in the vicinity of the northern Hastings River foreshore. This first stage would be on Lot 2 in DP 702484 and in preparation for stage 2 which would include the supermarket and some specialties as well as the new club. The existing club facility is to be demolished and a new modern and smaller facility of approximately 4,500 square metres is incorporated within the overall development. The DDS and the remainder of the specialty shops constitute the third stage of the project and would be anticipated to be completed in approximately 7 years.

This staging of the project ensures that the development proceeds in response to the projected growth in population anticipated by Council and the Minister in the Hastings LEP 2001. It ensures that the proposed scale of retailing does not compromise the objectives for the 'town centre' and its development and does not conflict with the development of new shopping centres to serve new growth areas in the outskirts of the Hastings Region.

The investigations conducted by Council including the Draft Retail Report prepared by Leyshon Consulting as part of the King Campbell GPM - Draft Master Plan assert that there is sufficient demand to accommodate an additional floorspace in the order of the proposed project within the next 10 years.

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ING Real Estate investigations confirm that there is sufficient population growth and demand for the proposed development and land already zoned for Business (including the 3(t) zoning on the subject site) without there being any demand or need to rezone any further residential or other land for Business Zones or to permit shops.

In summary, the proposed uses, scale and staging of the proposed project on the subject site is consistent with the Hastings LEP 2001 and does not have any significant and adverse impacts on the 'town centre' and retailers therein and/or in new developing areas and centres.

2.7.3 Planning, Urban Design and Physical Assessment

The comparison of the before photographs and perspectives and elevations of the proposed development demonstrates the substantial improvement to the public domain and visual amenity from vantage points on the other side of the Hastings River estuary (residential), from the public domain and Park St. These demonstrate the positive urban design outcomes as considered in this assessment (**Figure 7 & 8**) (see also **Appendix 1 – in particular elevations and perspectives**).

The views are taken from the perspective of the pedestrian at key points rather than an axonometric view.

In the case of a concept plan approval, the key factors that will affect the urban design impact are bulk, height and setback of building envelopes. These are clearly defined on the plans (**Appendix 1**).

In addition, the use of materials, relationship of solid to voids and elevation treatments including balconies, awnings and facades are matters that are in many instances dealt with in staged projects subject to a nominated officer or party being satisfied with such details, and may also be dealt with under Part 4 and indeed Section 96 amendments.

However, the treatment of the public domain and the landscape plan is a particularly important aspect of urban design, as is the appearance and contribution such a development may make to the community at large. Accordingly, this has been developed (**Appendix 1 – in particular the Landscape Plan**).

Finally, with regard to infrastructure, the access and exit arrangements, the interconnections between the car parking areas and internal traffic arrangements are clearly identified in the plans in **Appendix 1**.

2.7.4 Impacts on the Natural Systems

2.7.4.1 Estuarine Processes and Protection

The **Assessment of Estuarine Processes and Protection** prepared by **Gary Blumberg and Associates**, concludes:

"The impact assessment for estuarine processes and protection has considered the physical estuarine setting of the site as well as water levels, currents, wave action, sediments and sediment transport, and bank stability.

The main arm of the Hastings River is approximately 120 km long, draining a catchment area of some 2,800 km². The river is under tidal influence for some 32 km from the entrance to upstream of Bains Bridge. The Maria River forms the major tidal tributary. In general terms, sedimentation, flooding and bank erosion are seen as key management issues affecting the lower estuary.

The proposed ground floor level for the redeveloped Settlement City could be expected to coincide with the ground floor level of the existing facility, understood to be RL 3.5. We would not expect the 100 year flood level of RL 2.7 to incorporate SLR, however this would need to be confirmed. At this stage, we observe that if the full 100 year increment of median SLR is added to RL 2.7, it still leaves a future freeboard of 400 mm in the improbable event of a 100 year flood level occurring in 100 years time. Given the low exposure of the site to wind wave action (see below), this would seem quite reasonable for preliminary planning purposes."

2.7.4.2 Drainage, Hydrology and Acid Sulphate Soils Considerations

The **Engineering Report** prepared by **Martens Consulting Engineers** concludes:

"Identified site geotechnical constraints are considered to be comparatively minor and shall be readily overcome using conventional engineering practices and methods.

The proposed redevelopment of the site shall result in a net beneficial impact on the local hydrology and water quality impacts of the site. The reclamation of clean storm water and beneficial re-use shall minimise the development's demand for additional town water as well as reducing discharge volumes. The proposed water quality control measures shall ensure that the post development scenario is considerably better than the existing site situation.

Site acid sulphate soil conditions are not expected to be significant and shall not limit the ability of the site to be developed as proposed. Conventional management strategies shall be sufficient to manage any possible disturbance of acid sulphate soil material."

2.7.5 Contamination

The **Contaminated Land Assessment** has been conducted by **Martens Consulting Engineers** concludes:

Prior to development the land was a low-lying coastal floodplain, possibly a wetland or swamp. Aerial photographs indicate agricultural activity nearby from the 1950s to 1970s although this does not appear to have occurred on site. Canal developments,

likely involving sand dredging, occurred on surrounding lands during the 1970s, although it appears that the site was largely unaffected by these works until its development in the early 1980s. It is likely that the site was filled with locally sourced sandy soils, possibly from dredging of the Hastings River

Based on the findings of the Stage 1 contaminated land assessment it is considered that soil contamination is not a limitation to the proposed re-development. Furthermore, given that the site is mostly paved and land use will not change under the proposed re-development, any contamination present in the site soils would be effectively contained by site pavements and thus would not pose a threat to human health. Should any material need to be removed from the site, sampling and testing may be necessary to verify it as clean fill.

2.7.5.1 Flora and Fauna

The **Ecological Assessment** conducted by **Anne Clements and Associates** concludes:

The Site has been constructed from sand excavated from the constructed channels of Settle Shores Stage 1. It adjoins the Settlement Shores Stage 1 floodway on its northern boundary. To the north-west of the Site, there is a wier (a permanent flood control structure which was designed by Cardno & Davies Drawing No. 931/2-1 to 931/2-6 dated 3 September 1981).

The water quality in the channels of Seetlement Shore Stage 1 is similar to that in the Hastings River. The water quality is generally high, with the exception of downstream of the stormwater outlet point following rain events.

The slopes below the high watermark of the floodway appear to be steep and not supporting seagrasses. To the west of the Site, the slopes below the high watermark are gently sloping and colonised by dense seagrass beds.

*The shore is extensively colonised by saltmarsh species with *Sporobolus virginicus* and *Juncus kraussii* colonising parts of the planted western slope between the Bessar Block wall and the revetement wall. Part of the revetement wall is in disrepair.*

Mangrove colonisation is sparse; this may be related to wave action.

*The planted slopes have been colonised by weedy exotics species, including the commonly occurring Noxious Weed, *Chrysanthemoides monilifera* (Bitou Bush).*

*Most of the planted tree species do not naturally occur on sandy soils in Port Macquarie. The most successful plant species was the locally occurring native *Casuarina glauca* (Swamp Oak) which appears to be naturally colonising the lower section of the slope. The northern NSW and Queensland species *Corymbia torelliana* (Cadaghi) was relatively successful with juveniles observed.*

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The plantings surrounding the shopping centre were of readily available nursery stock with minimal maintenance requirements. The plants associated with the club and the fronting Park Street were also of readily available nursery stock and shrubs commonly hedge clipped.

2.7.6 Impacts on Infrastructure

2.7.6.1 Transport and Traffic

The **Assessment of Traffic and Parking Implications** prepared by **Transport and Traffic Planning Associates** concludes that:

"The development Concept Plan for the Settlement City Shopping Centre involves an increase in retail floor space to 30,851m² with a new supermarket, discount department store, specialty shops together with construction of a new club building. The parking provision on-site will be increased to 1,457 spaces, including a new rooftop element, and the parking areas will be interlinked. The assessment undertaken concludes that the envisaged development:

- will not result in any unsatisfactory traffic implications*
- will have a proposed parking provision which will be adequate and appropriate to accommodate the development demands*
- will have vehicle access, internal circulation and servicing arrangements which will be quite suitable and appropriate*
- will retain very good access by public transport*
- can be accommodated on the existing road system without any adverse traffic capacity, safety or traffic related environmental implications."*

2.7.6.2 Infrastructure Provision

The assessment of the **Electrical Services Infrastructure Requirements** has been prepared by the **VOS Group**, and concludes that:

"There is electricity supply on the site and this can be expanded to provide the necessary services for the development of the site."

2.7.7 Impacts on Third Parties and Surrounding Locality

2.7.7.1 Noise and Vibration

The **Acoustic Planning Review** prepared by **Heggies Australia**, concludes:

"Noise sources associated with the proposed commercial redevelopment have been identified and the appropriate criteria to the site has been outlined.

The acoustic planning review has identified noise sources with the potential to impact on noise sensitive receivers. In principle noise control measures are presented in this report to minimise the risk of adverse acoustic impact on nearby noise sensitive receivers."

2.7.7.2 ESD Assessment

The assessment of the proposed Concept Plan with respect to **Ecologically Sustainable Development** prepared by **Heggies Australia** concludes:

"Energy Efficiency and Greenhouse Gas reduction strategies for the proposed Settlement City Retail and Entertainment Redevelopment at Port Macquarie have been explored with reference to Hastings Council Greenhouse Action Strategy.

The development of this site will provide centralised retail and entertainment facilities to the expanding Port Macquarie population. The proposed development will have immediate access to existing infrastructure at very little additional energy cost to the city.

The overall concept of the development as well as specific design features have been investigated to explore opportunities to reduce the energy required by the development, both in building and operation.

Siting issues relating to solar access and natural ventilation have been explored as well as broader ESD principles relating to built form, water efficiency and waste/pollution reduction. It is proposed to explore both passive and active energy saving features such as mixed mode ventilation and geothermal heat pumps during detailed design."

2.7.8 Overall Assessment

The assessment of the proposed concept plan on the basis of individual heads of consideration has demonstrated that there are no inherent site constraints that would preclude the proposed development or generate any significant or adverse impact in the surrounding locality or to third parties.

The proposal complies with the relevant statutory provisions in the Hastings LEP 2001 and gives due consideration to its sensitive coastal location and responds to this accordingly.

An overall ESD analysis has also been completed and identified the potential areas of environmental risk and concluded that these are capable of being managed within the terms of the proposed concept plan.

The proposed concept plan is consistent with the population and Retail Strategy underpinning the Hastings LEP 2001. The proposed concept plan and particular site area, dimensions, and extent of existing development caps the scale of development capable of being accommodated on the site to that defined in the concept plan and accompanying area schedule in Table 1. The impacts on speciality stores and small traders is within the acceptable limits established in the Retail Strategy and subsequent reports prepared by Leyshon Consulting, and is significantly less than would potentially occur on the Walters Site were it rezoned.

The proposed redevelopment primarily on Lot 4 & 5 in DP 1018087 will include adjustments to service infrastructure and necessary easements. There are no significant infrastructure costs in terms of road service upgrades that would not be met by conditions of consent and attendant Section 94 development contributions.

2.8 Conclusions

Use – Consistent with zone objectives and permissible uses and uses previously approved by Hastings Council development consents within the boundaries of the subject site.

Scale – Proposed additional retailing and club premises are within the previously estimated retail requirements associated with projected population growth and retail expenditure contemplated in retail studies and updates prepared by Council and the Hastings LEP 2001 provisions so as not to compromise the 'town centre' 3(a) Business Zone and its pre-eminent position in the centre hierarchy. The relatively small area of additional specialty shops, the staging of the supermarket before a later stage involving the construction of a discount department store is not only compliant with the relevant provisions in the Hastings LEP 2001 and other EPI's as well as regional and local strategies.

Staging – Stage 1&2 includes the restructuring of some of the existing specialities and a small additional number of specialties, the construction of a new club facility (details subject to negotiations with the Panthers Club) and the construction of a supermarket. Stage 3 includes the development of a discount department store and associated car parking. This staging as well as the composition and size of the proposed development ensures that development does not compromise either existing investment in retail projects and social infrastructure both in Settlement City and the 'town centre' of Port Macquarie.

Height – Maximum height of any building in the concept plan does not exceed existing maximum height limit in the existing development.

Envelopes and Streetscape – significantly improves the relationship of the proposed development from the water front to the Hastings River estuarine system on the northern boundary of the subject site and creates a positive relationship and pedestrian connections with the public domain along Park St in keeping with the existing built environment and the surrounding locality.

Public Domain - Landscaping – makes a significant and positive contribution to the public domain in the context of its proximity to the waterfront along Hastings River estuarine system and open space network.

Access and Car Parking – does not adversely impact upon the operational capacity of the existing road network and intersection capacity, separates truck, car and pedestrian movements and is an efficient utilisation of the site with connected roof-top car parking.

Service Requirements – there are no capacity restrictions, and minor adjustments to location and standard of infrastructure commensurate with the proposed scale and layout of development are capable of being achieved.

Overall ESD assessment - in relation to energy efficiency et al demonstrates that approval of the proposed concept plan does not generate any significant adverse risks and impacts that are not capable of meeting relevant environmental standards and conditions.

The environmental assessment concludes that the proposed development is appropriate in this coastal area, is a positive contribution to the urban development structure emanating from the **Hastings LEP 2001**, is consistent with Council's development consent which continues to run with the whole of the subject site and is consistent with the proposed expansion of retailing and the inclusion of the club. There are no significant potential risks or sources of significant adverse impacts. By capping the scale and staging of the development, limiting the height and confining the development to the proposed building envelopes, access and parking arrangements within the context of the landscape plan ensures that the proposed development will not generate significant and adverse impacts. Conditions of consent subject to the satisfaction of the Department of Planning have the capacity to ensure that the development as proposed can proceed through the design development and construction stage without significant or adverse impacts.

Volume 2 provides additional details on each aspect of the assessment of the Concept Plan. We have also included a table that provides a ready cross reference to both the Department of Planning letter of January 23, 2006 and the attached Schedule at Appendix 2.

APPENDIX 1

**Concept Plans, Elevations,
Perspectives and Area Measurements**

APPENDIX 2

Schedule – Information required for lodgement of Concept Plan Application

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	Requirement	Volume 1: Executive Report	Volume 2: Preliminary Technical Report	Comments
Application Form	Completed Application for a Major Project Form	-	-	Provided with Concept Plan documentation.
Preliminary Assessment - Purpose	<p>Preliminary Assessment is to culminate in a "Summary of the Key Issues".</p> <p>Preliminary Assessment to assist in the preparation of the Director General's Environmental Assessment Requirements.</p>	Section 2.8 - Conclusions	Section 10 – Conclusions	
Preliminary Assessment – Identifying Key Issues	Consultation with all relevant agencies and groups.	Section 2.3 – Chronology of Key Events, including Views of Relevant Agencies and the Community.	<p>Section 4 – Chronology of Key Events, including Views of Relevant Agencies and the Community and</p> <p>Section 6 Draft Master Plan and Adopted Retail Strategy Amendments.</p>	
	Reference to applicable environmental planning instruments, policies, guidelines and other relevant planning documents, in particular non-compliances with known relevant	Section 2.2 – Relevant Legislative and Statutory Provisions.	<p>Section 3 - Relevant Legislative and Statutory Provisions &</p> <p>Section 5 – Other Environmental Planning Considerations.</p>	No non-compliances with environmental planning instruments.

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	planning controls.			
	Potential environmental impacts associated with construction, operation, or occupation of the project.	Section 2.7 – Environmental, Planning, Assessment and Risk Appraisal.	Section 9 - Environmental, Planning, Assessment and Risk Appraisal.	
	Likely environmental risks.	Section 2.7 - Environmental, Planning, Assessment and Risk Appraisal.	Section 9- Environmental, Planning, Assessment and Risk Appraisal.	
	Constraints arising from the peculiarities of the site.	Section 2.5 – Site Comparisons.	Section 7 – Site Comparisons.	Legal Constraints on the site, benefiting the current Concept Plan application.
Preliminary Assessment – Information to be addressed	Written and graphical description of the project and any ancillary components.	Section 2.1 – Project Description and Appendix 1 (Concept Plans)	Section 2.3 – Concept Plan Description	
	The location and a map identifying the site.	Section 2.1.1 – Location and Project Descriptions and Figures 1-4.	Section 2.1 – Site Details and Figures 1-4.	
	The planning provisions applying to the site and whether the project is permitted under prevailing EPIs, DCPs etc and any inconsistency herewith	Section 2.2- Relevant Legislative and Statutory Provisions.	Section 3 - Relevant Legislative and Statutory Provisions & Section 5 – Other Environmental Planning Considerations.	
	The views of other agencies, the local Council and/or the community if known	Section 2.3 – Chronology of Key Events and Views of Agencies and the Community & Section 2.4 – Alternative Sites and	Section 4 – Chronology of Key Events and Views of Agencies and the Community. Section 6 – Draft Master Plan and	

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		Developments	Adopted Retail Strategy Amendments.	
	Identification of any study or investigations undertaken for the preparation of regional or local strategies that may affect the project.	Section 2.4.1 – Greater Port Macquarie – Draft Master Plan and Adopted Retail Strategy Amendments	Section 6. Draft Master Plan and Adopted Retail Strategy Amendments Section 5.4 – Department of Planning Regional Strategy.	
Application Fee	\$1,000.00	-	-	Provided with Concept Plan documentation.
Copies of Documentation	12 copies of all documentation (including plans)	-	-	Provided with Concept Plan documentation.
Electronic Version of Documentation	1 CD copy in PDF or Rich Text Format. All plans in PDF or TIFF format. Files to be no greater than 5MB.	-	-	Provided with Concept Plan documentation.