

**MAJOR PROJECT ASSESSMENT:  
EXPANSION OF SETTLEMENT CITY  
SHOPPING CENTRE  
LOT 2 DP 702484, LOT 4 DP 1018087 &  
LOT 109 DP 1083464  
1-3 BAY STREET, PORT MACQUARIE  
Proposed by ARMSTRONG JONES RETAIL  
FUND (ING REAL ESTATE AUSTRALIA)**

Director-General's  
Environmental Assessment Report  
Section 75I of the  
*Environmental Planning and Assessment Act 1979*

MAY 2010



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## EXECUTIVE SUMMARY

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Armstrong Jones Retail Fund (ING Real Estate Australia, the Proponent) is seeking project approval from the Minister for partial demolition of existing buildings and expansion of Settlement City Shopping Centre comprising additional retail shops, refreshment rooms, cinema, recreational facilities, commercial premises, infrastructure works and additional carparking ("the proposal") at 1-3 Bay Street, Port Macquarie (Lot 2 DP702484, Lot 4 DP 1018087 & Lot 109 DP 1083464).

In February 2006 the applicant lodged the subject Part 3A (*Environmental Planning and Assessment Act 1979*) application with the Department of Planning. The application was made under Part 3A as it was development of a kind described in Schedule 2 of *State Environmental Planning Policy (Major Projects) 2005* (Major Projects SEPP) (as in force at the time) due to the building height being greater than 13m on a site being partly within a sensitive coastal location and the capital investment value of the project being greater than \$50 million.

The estimated cost of the project is \$59 million. The proposal will create 419 construction jobs and 598 permanent and casual operational jobs.

During the exhibition period of the Environmental Assessment, the Council received a total of seven (7) submissions from public authorities and nine (9) submissions from the public. A preferred project report was submitted to Council on 10 February 2010 incorporating amendments to proposal. The PPR was referred back to members of the public who previously lodged submissions.

Key issues considered in Council's assessment includes:

- Strategic planning
- Land use pattern and adjoining sites
- Urban design, visual impact and sustainability
- Infrastructure provision
- Traffic and access
- Hazard management
- Water cycle management
- Flora and fauna
- Noise
- Socio-economic impacts
- Staging
- Building Code of Australia

On 16 April 2009 the Director-General agreed that Port Macquarie-Hastings Council be delegated all assessment powers and functions in relation to the assessment of the project application. The Minister remains the approval authority.

Council has assessed the merits of the proposal and is satisfied that the impacts of the proposed project have been addressed via the Proponent's Statement of Commitments together with the Council's recommended conditions of approval, and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. On these grounds, the Council is satisfied that the site is suitable for the proposed project and that the project will provide environmental, social and economic benefits to the region. All statutory requirements have been met.

Council recommends that the project be **approved**, subject to conditions.

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# 1 BACKGROUND

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## 1.1 THE SITE

### 1.1.1 Site context and location

The site, at 1-3 Bay Street, Port Macquarie, (Lot 2 DP 702484, Lot 4 DP 1018087 & Lot 109 DP 1083464), is located within the local government area of Port Macquarie-Hastings and is owned by Armstrong Jones Management Pty Ltd and Panthers Investment Corp Pty Ltd (see Figure 1).

Port Macquarie is located approximately 420km north of Sydney and 510 km south of Brisbane. Port Macquarie is the largest town in the Port Macquarie-Hastings Local Government Area. The site is occupied by an existing shopping centre known as Settlement City Shopping Centre (Settlement City). Settlement City is one of two sub-regional shopping centres within the region, the other being Port Central, located in the Port Macquarie Central Business District (CBD).

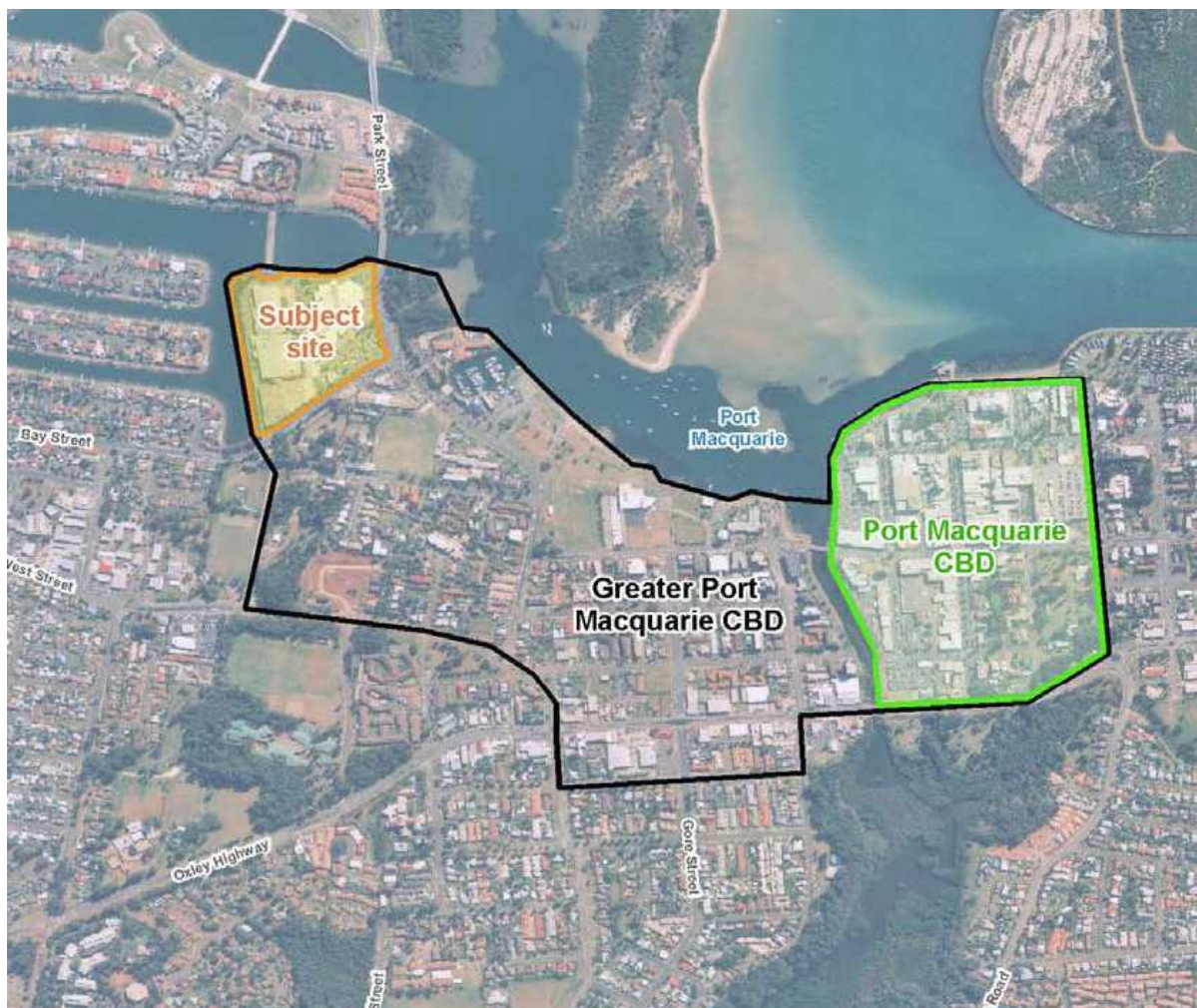


Figure 1: Site location (Source: Environmental Assessment)



### 1.1.2 Existing site features

Settlement City Shopping Centre was constructed 25 years ago. Various alterations and additions have occurred over this time. As shown in Figure 2, Settlement City occupies the western portion of the block bounded by Bay Street, Park Street and Governor's Way inlet of the Hastings River. The existing shopping centre consists of 19,157 m<sup>2</sup> gross floor area, comprising a discount department store, supermarket, mini major stores, specialty stores and food and beverage outlets. Access to the site is via both Park and Bay Streets with an existing triple-deck car parking area fronting Bay Street. Existing loading activities occur via a driveway along the western portion of the site, with access from bay Street. The carpark sits of the south-west corner of the site with poor presentation to Bay Street. A petrol station is located adjacent to the main Bay Street entry.

The shopping centre is single storied, with the main part of the centre running approximately north to south along the western half of the subject site. A second shopping centre arm runs diagonally from the south grade carpark to meet the main mall at a central plaza space.

Adjacent to the centre on the site and connected via a food court of the centre is the Panthers Club. The Panthers site provides a total of 11,214m<sup>2</sup> of floor space over three(3) levels, with 267 parking spaces provided at-grade in the carpark located on the corner of Park and Bay Streets. The carpark is used commonly by both shoppers and club patrons.



Figure 2: Site analysis (Source: Environmental Assessment)

### 1.1.3 Surrounding development

As shown in Figure 3, Settlement City is bound by Park Street to the east, Bay Street to the south, and the Hastings River and its estuaries (natural and artificial) to the west and north. Settlement City is the main retail development which has occurred outside the existing town centre in Port Macquarie, which is 1.3 kilometres from the subject site.



Figure 3: Existing landuses on the site (Source: Environmental Assessment)

## 2 THE PROPOSED DEVELOPMENT

### 2.1 PROJECT DESCRIPTION

The proponent is seeking project approval to carry out staged partial demolition of existing buildings and expansion of the Settlement City Shopping Centre comprising additional retail shops, refreshment rooms, cinema, recreational facilities, commercial premises, infrastructure works and additional car parking. Two new external streets through the site (Entertainment and Leisure Streets) and improved landscaping and pedestrian access through and around the centre, as well as better route options for buses and taxis are proposed to be created. Figure 4 shows the staging of the proposal and Figure 5 identifies the ground floor layout.

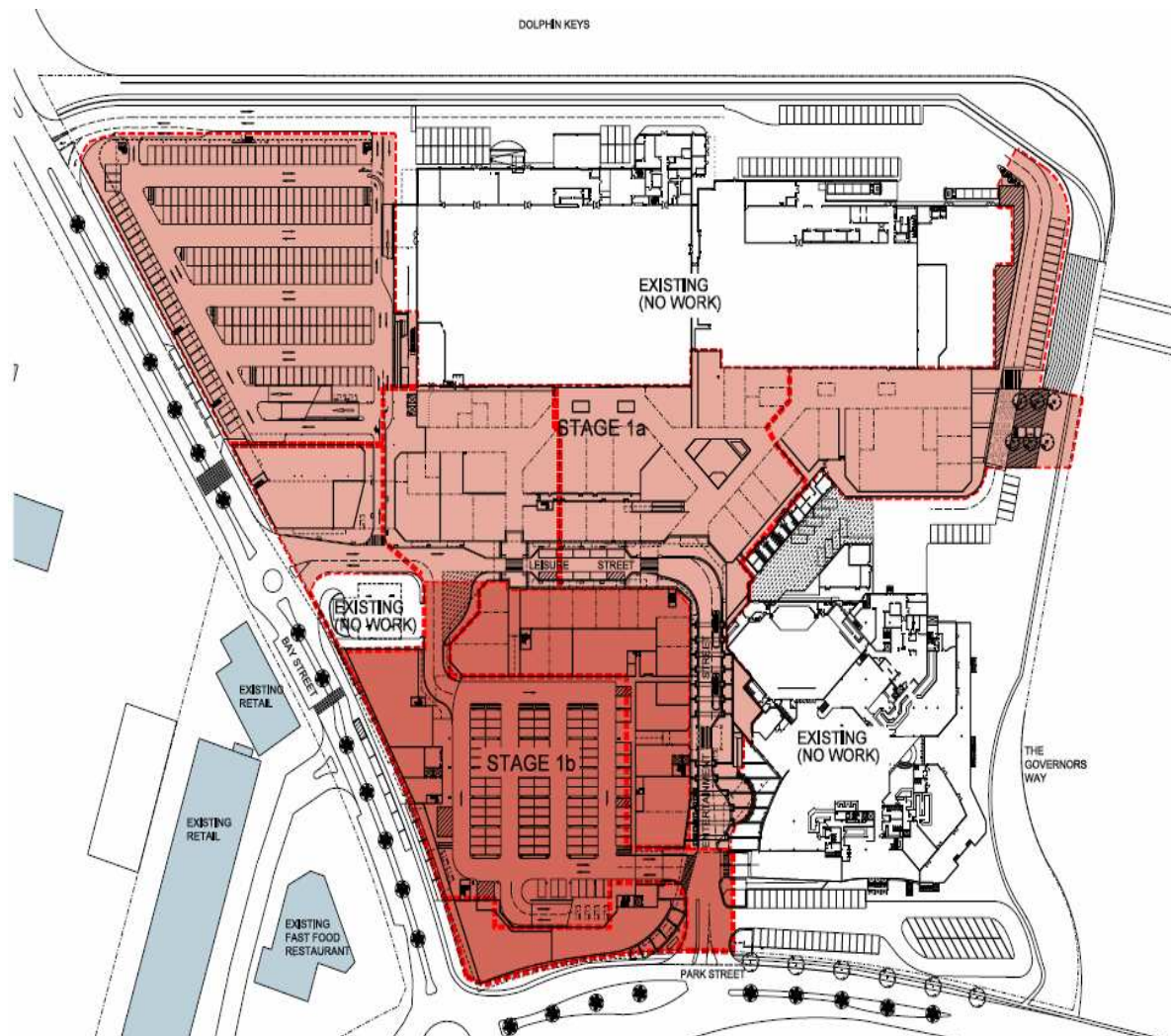


Figure 4: Staging plan of project (Source: Preferred Project Report)



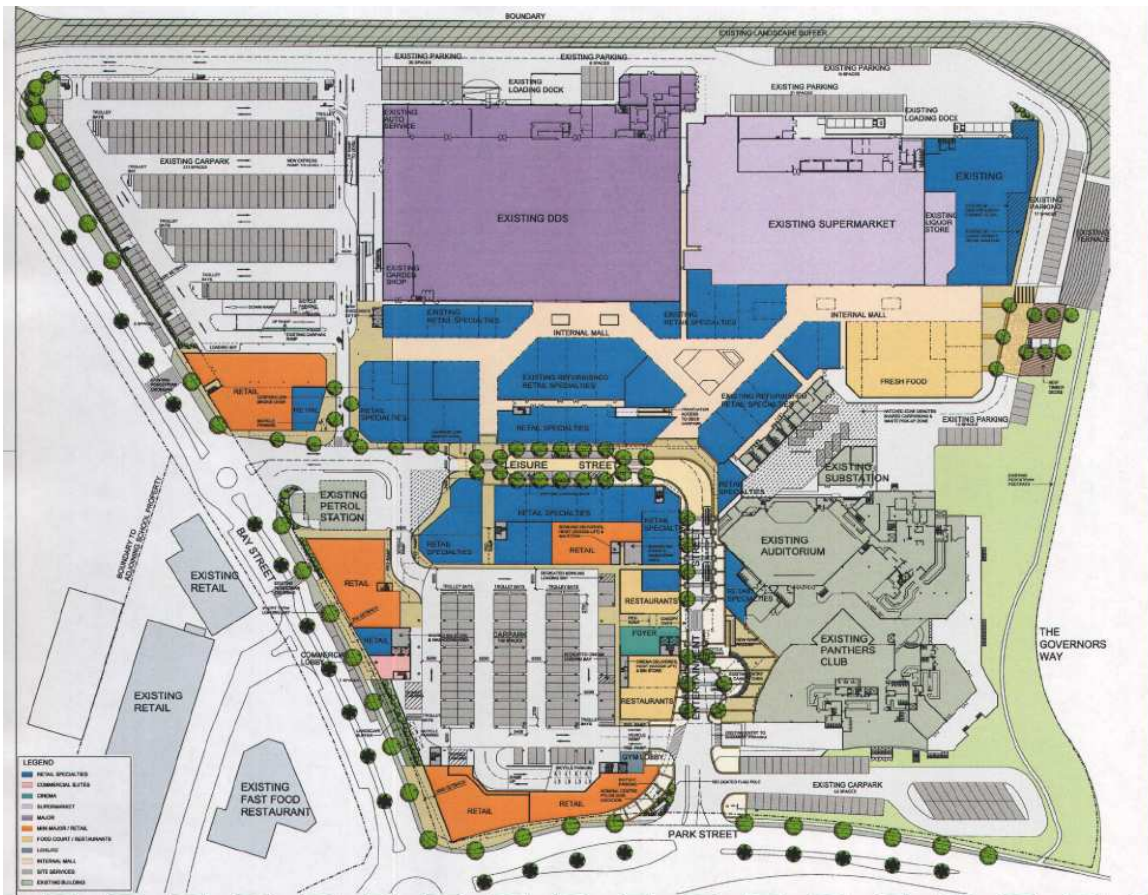


Figure 5: Ground floor level plan (Source: Preferred Project Report)

Key development data for the exhibited and Preferred Project Proposal is outlined in **Table 1** below.

Table 1 – Development data

	Existing	Exhibited	PPR	Planning Control (Settlement City Structure Plan & PM-H DCP 2006)	Compliance
Site Area (combined lots)	73,771m2	73,771m2	73,771m2		N/A
Additional floor area (GLFA)	19,157 m2	15,298m2	12,264m2		N/A
Height of alterations / additions (Park St frontage)	N/A	Max. RL 21.2m AHD	Approx. Max. RL 14.9m AHD	RL 14m AHD (SCSP)	No (approx. 0.9m higher)
Height of alterations / additions (Central part)	N/A	Max. RL 24.31m AHD	Max. RL 21.3m AHD (Cinema)	RL 19m AHD (SCSP)	No (approx. 2.3m higher)
Height of alterations / additions (North west corner)	Approx. Max. RL 11.5m AHD	Approx. Max. RL 12m AHD	Approx. Max. RL 12m AHD	RL 22m AHD (SCSP)	Yes
Height of alterations / additions (Bay St frontage)	3 Storey car park (south corner) & 1 storey service station	4 Storeys (no change to service station)	Setback: Max. RL 16.1m AHD Frontage: Max. RL 12.5m AHD	Setback: RL 19m AHD. Frontage: RL 14m AHD (SCSP)	Yes
Additional Car parking	1074 spaces	325 spaces	345 spaces	PM-H DCP 2006	Yes

## 2.2 STAGING

The existing shopping centre is proposed to remain operational throughout the expansion and redevelopment process. The project is proposed to be carried out in two (2) stages being Stage 1A and Stage 1B.

The initial works Stage 1A are to comprise aligning and opening out the existing enclosed shopping mall along the north-south axis of the site. This will require the demolition and relocation of some specialty retail stores. Changes will be carried out to the existing multi-level car parking area in the southern corner of the site.

The Stage 1B works will comprise a new multi-deck car park, additional specialty retail and leisure space.

Due to the nature of the project, interim sub stages are likely to be completed in phases to facilitate the ongoing centre operations.

The commercial space at the Park Street and Bay Street corner will be the final phase of works within the Settlement City Proposed Stage 1 expansion and redevelopment.

Timing of the works to be carried out will be adapted to suit market demand and building efficiencies.

## 2.3 PROJECT AMENDMENTS

A preferred project report was submitted to Council on 10 February 2010 incorporating the following amendments:

- Reduction in building height across southern-eastern part of the site.
- New retail frontage proposed at corner of Bay Street and Leisure Street.
- Addition of continuous awnings across footpath in Park Street.
- Alterations across Lot 1 DP 702484 deleted from the proposal.
- Car parking areas redesigned to compliance with relevant Australia Standards including changes to access arrangements to several areas within car parking areas.
- Bicycle and motorcycle parking spaces identified with one(1) bicycle area relocated.
- Façade design changes.
- Existing toilet facilities on ground floor to remain.
- The rear northern-most loading bay and at-grade car parking is now proposed without modification.
- Extent of new timber decks on northern side reduced.
- Landscaping design changes.
- Cinema foyer redesigned.
- Ground level car park entry of new building from service station side redesigned to open up corner entry.
- Screens installed to pedestrian and vehicular links. The vehicular bridge link redesigned to align with the pedestrian crossing underneath.
- The new vehicle ramp on the western side of the site deleted.
- Bus parking and taxi ranks added.
- Increase of 20 parking spaces.
- Several changes to tenancies and their design layouts. Overall reduction in gross leasable floor area of 3034m<sup>2</sup>.
- Commercial lobby design from Bay Street amended.
- Addition of individual loading zone area.
- Food court opposite supermarket deleted.

The PPR and amended plans were re-advertised to members of the public who previously lodged submissions and was placed on the Department's website. The PPR was also forwarded to the New South Wales Transport and Infrastructure for comment.

## 3 STATUTORY CONTEXT

### 3.1 PART 3A PROJECT

The proposal is a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act) applies because it is development of a kind described in clause (g)(i) of Schedule 2 of *State Environmental Planning Policy (Major Projects) 2005* (Major Projects SEPP) (as in force at the time) due to the building height being greater than 13m on a site being partly within a sensitive coastal location and the capital investment value of the project being greater than \$50 million. The opinion was formed by the Director-General, as delegate for the Minister, on 14 January 2006. Therefore the Minister for Planning is the approval authority.

On 25 January 2010, the Minister for Planning delegated responsibility for the determination of project applications under Part 3A of the Act to the Deputy Director-General, Development Assessment and Systems Performance where:

- there are fewer than 25 submissions in the nature of objections in respect of the project application; and
- the project is not a critical infrastructure project under Section 75C of the EP&A Act.

The project received fewer than 25 submissions in the nature of objections, and is not a critical infrastructure project. The Deputy Director-General can therefore determine the project under delegated authority.

### 3.2 PERMISSIBILITY

Under the *Hastings Local Environmental Plan 2001*, the site is zoned 3(t) Tourist Business (see Figure 6). The proposal is for an expansion of an existing shopping centre including additional shops, refreshment rooms, cinemas, recreation facilities and commercial premises. These uses are best defined under the LEP as 'shops', 'recreation facilities', 'commercial premises' and 'places of assembly' land uses. These uses are permissible with consent in this zone. The Proposal is also consistent with the objectives of Zone No. 3(t) which seeks to permit development that meets the function of the business centre and encourages a range of tourist development that takes advantage of the tourism potential of the centre.

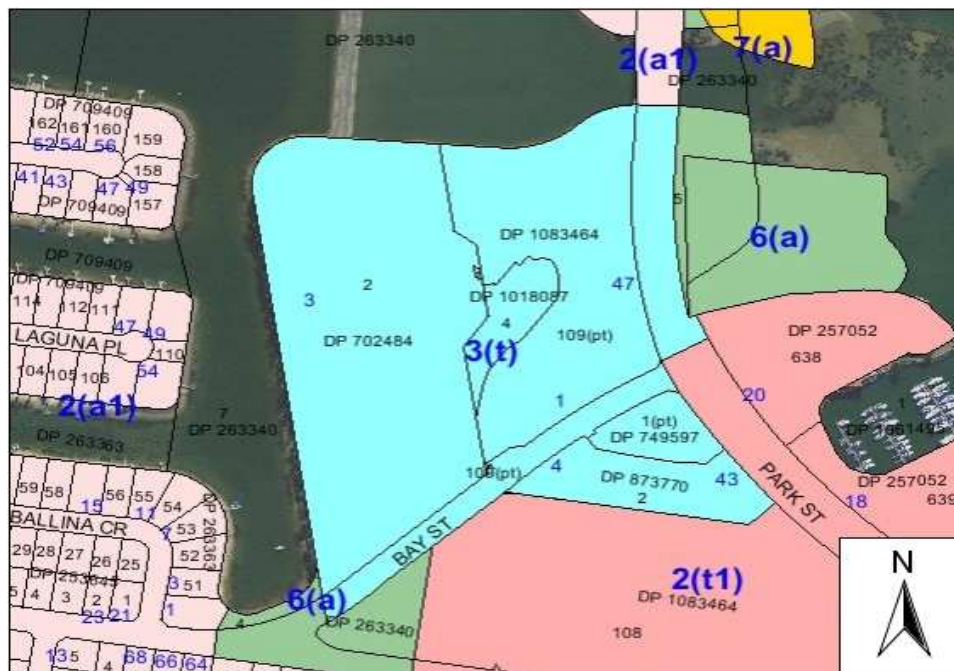


Figure 6: Zoning plan (Source: Council GIS)

### **3.3 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs) AND OTHER POLICIES**

#### **3.3.1 Application of EPIs to Part 3A of the Act**

Under Sections 75(2)(d) and 75(2)(e) of the Act, the Director-General's environmental assessment report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy (SEPP) that substantially governs the carrying out of the project, and the provisions of any environmental planning instruments (EPI) that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project.

The provisions, including development standards of local environmental plans, and development control plans are not required to be strictly applied in the assessment and determination of projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGRs require the proponent to consider relevant local, regional and State planning strategies. Accordingly, the objectives of a number of EPIs and the development standards therein and other plans and policies that substantially govern the carrying out of the project are appropriate for consideration in this assessment.

The Department's consideration of relevant SEPPs, EPIs and other policies is summarised in Appendix B.

#### **3.3.2 Other Plans And Policies**

The proposal has been considered against the following non-statutory documents:

- 1) Port Macquarie-Hastings Development Control Plan 2006;
- 2) Settlement City Structure Plan 2009
- 3) NSW Coastal Policy 1997; and,
- 4) NSW Coastal Design Guidelines.

The proposal is generally consistent with the objectives of the controls in the NSW Coastal Policy 1997 and NSW Coastal Design Guidelines. Refer to further comments regarding compliance with the Port Macquarie-Hastings Development Control Plan 2006 and Settlement City Structure Plan 2009 under Section 5.13 and Appendix B of this report.

### **3.4 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the Act, consistent with the backdrops of the Objects of the Act.

Relevantly, the Objects informing the determination of this application are the promotion and co-ordination of the orderly and economic use and development of land. The proposed redevelopment and expansion of the shopping centre will provide additional commercial uses which have been identified as being deficient in the Port Macquarie-Hastings area. The existing shopping centre will continue to operate as the redevelopment is under construction.

### **3.5 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES**

The Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of the five accepted principles discussed in turn below:

The Council has considered the proposed development in relation to the ESD principles and has made the following conclusions:



### **3.5.1 Integration Principle**

The proposal will be likely to result in long-term social and economic impacts largely beneficial to both the residential and tourist populations of the Port Macquarie-Hastings Local Government Area with an increase in range of retail and entertainment facilities offered. The proposal will be unlikely to result in any adverse environmental impacts within the locality subject to compliance with the recommended mitigation measures in the proponent's Statement of Commitments together with the recommended conditions.

### **3.5.2 Precautionary Principle**

The EA identifies and assesses the range of likely environmental impacts of the proposal. As part of the EA, a number of specialist studies/assessments addressing environmental impacts including estuarine, flora and fauna impacts, acid sulfate soils, contamination and salinity have been submitted which have not revealed any uncertainty regarding identification of potential environmental impacts. An assessment of the proponent's EA has identified that the proposal will be unlikely to result in any threat of serious or irreversible environmental damage subject to compliance with the recommended mitigation measures in the proponent's Statement of Commitments together with the recommended conditions.

### **3.5.3 Inter-Generational Principle**

The proposal will provide social and economic impacts largely beneficial to both the residential and tourist populations of the Port Macquarie-Hastings Local Government Area with an increase in range of retail and entertainment facilities offered. The project has sought to minimise its potential ecological impact inclusive of proposed mitigation measures as detailed in section 5.8.

### **3.5.4 Biodiversity Principle**

As detailed in section 5.8, an assessment of the proponent's EA has identified that the proposal will be unlikely to result in any threat of serious or irreversible environmental damage, subject to compliance with the recommended mitigation measures in the proponent's Statement of Commitments together with the recommended conditions proposal.

### **3.5.5 Valuation Principle**

It is difficult to assign a monetary value to the environment of the immediate site locality or the proposal's likely environmental impacts, including but not limited to the proposed removal of several koala browse habitat trees for commercial purposes. The more appropriate approach adopted for this project taken was to minimise and mitigate potential adverse environmental impacts. The cost of implementing these safeguards is assumed to have been included in the total project cost as a means of pricing the protection of the environmental attributes of the site.

The proponent is committed to ESD principles and has reinforced this through the Statement of Commitments and the Environmental Assessment which explores key ESD opportunities, including mechanical, electrical and hydraulic systems as well as architectural designs to ensure high environmental performance is delivered.

## **3.6 STATEMENT OF COMPLIANCE**

Director-General's environmental assessment requirements (DGRs) were issued on 5 March 2007 and amended on 4 March 2009 (see APPENDIX A). In accordance with Section 75I of the Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.

## 4 CONSULTATION AND ISSUES RAISED

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### 4.1 PUBLIC EXHIBITION DETAILS

The EA was exhibited for 30 days from 11 September to 12 October 2009. Notification of the exhibition was given in the following local papers:

- Port Macquarie News

Exhibition locations were at:

- Department of Planning offices at Bridge Street, Sydney and Grafton; and
- Port Macquarie-Hastings Council.

The EA was also provided for download on the Department's website.

Letters were sent to adjoining landowners and relevant government authorities, notifying of the exhibition and inviting a submission. A total of 16 submissions were received, comprising nine (9) submissions from the public and seven (7) submissions from public authorities being:

1. New South Wales Rural Fire Service
2. New South Wales Roads and Traffic Authority
3. Department of Environment and Climate Change and Water (Environment Protection and Regulation)
4. New South Wales Industry & Investment (Division of Primary Industries, Aquatic Protection Unit)
5. New South Wales Land Property Management Authority
6. New South Wales Police Force (Mid North Coast Crime Management Unit)
7. New South Wales Transport & Infrastructure

The nine (9) submissions from the public included eight (8) letters of objection and one (1) letter of support. Of the public authority submissions, several made recommendations, as detailed in Section 4.3 of this report.

A PPR was lodged on 28 January 2010. The final PPR was accepted on 15 February 2010. The PPR was re-exhibited to members of the public who previously lodged submissions from 18 February until 5 March 2010 and submissions were invited.

### 4.2 SUBMISSIONS FROM THE PUBLIC

#### 4.2.1 Summary of issues raised in public submissions

The following issues were raised in the public submissions:

- Traffic and access – accuracy of traffic impact analysis, impacts on existing adjacent road network, insufficient car parking, apportionment cost responsibilities for implementation of proposed Settlement City Structure Plan road improvements and inadequate provision for public transport interchange facilities.
- Strategic planning (Settlement City Structure Plan) - building heights above height limits, apportionment cost responsibilities for implementation of road improvements, inadequate active street frontages.
- Urban design, visual impact and sustainability – adverse impact on distant mountain views from public domain, adverse visual impacts with building heights, adequacy of pedestrian links from north, inadequate active street frontages and inadequate provision on smaller tenancies along public frontages.
- Socio-economic impacts – impacts on regional cinema market, average retail floor space above national average for Port Macquarie in short term and impact on strength and vitality of Central Business District.
- Noise impacts – excessive noise from centre during all hours, particularly the loading bay areas, adverse impacts with proposed trading hours, mitigation of impacts of rear loading area

- Fauna impacts – concern with possible future removal of koala food trees in existing at-grade carpark on site, recommend Council plant trees on opposite side of car park on Park Street continuing along Settlement Point Road.

The proponent provided a response to the issues raised the public submissions on 28 January 2010. The assessment of environmental, social and economic impacts in Section 5 of this report includes comments addressing the above the key issues.

#### **4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES**

Submissions were received from the following public authorities, and are summarised below:

##### **4.3.1 New South Wales Rural Fire Service**

No concerns or issues in relation to bushfire risk impacts

##### **4.3.2 New South Wales Roads and Traffic Authority**

- Satisfied with the recommendations made in the EA's Traffic Assessment. No objections to the proposal as it is not considered to have a significant impact on the classified road network.
- Notes that the proponent plans to enter into a funding arrangement with Council to assist in financing infrastructure works in the near vicinity, including a signalised intersection at the intersection of Park Street and Hastings River Drive. In the effort to maintain traffic efficiency and safety on the classified road network, the RTA requests Council ensure that such adequate contribution methods, between themselves and the developer, are implemented.

##### **4.3.3 Department of Environment and Climate Change and Water (Environment Protection and Regulation)**

- No concerns or issues in relation to impacts on species or communities listed in Threatened Species Conservation Act 1995.
- Recommend conditions for addressing items of Aboriginal Cultural Heritage if encountered during construction.

##### **4.3.4 New South Wales Industry & Investment (Division of Primary Industries, Aquatic Protection Unit)**

- Whilst the EA concludes that the redevelopment will achieve acceptable environmental outcomes due to a reduction of stormwater discharges, it is noted that the stormwater to be harvested (reduced) comes from the cleaner sources, ie. the development's roof tops.
- Acknowledge that the proposal is for redevelopment however recommended that the guidelines for Priority Oyster Aquaculture Areas (POAA, identified in the NSW Oyster Industry Sustainable Aquaculture Strategy) seek to achieve a higher standard than no net increase in peak stormwater discharges from the site. Fisheries state that achieving the POAA guidelines would be more adequately satisfied if the project also incorporated retrofitting stormwater treatment devices in the northern and western catchments of the facility.

##### **4.3.5 New South Wales Land Property Management Authority**

Stormwater controls should be in place and sediment controls prior to construction works commencing to ensure that the proposal will not have any negative impact on Hastings River.

##### **4.3.6 New South Wales Police Force (Mid North Coast Crime Management Unit)**

Potential crime risk concerns including overlooking of the internal car park, street lighting of the proposed private streets and activation of public area, which should be addressed.

##### **4.3.7 New South Wales Transport & Infrastructure**

- Recommend incorporation of measures to both promote and enhance sustainable means of transport, such as the preparation of a Workplace Travel Plan (WTP) and a Travel Access Guide (TAG) for workers and visitors to the site.

- Encourage a minimalist approach to car parking for the site given its high accessibility to public transport, and requests that the rate of car parking be based on surveyed demand and not exceed existing parking provisions.
- Recommend considerations be given to particular state transport planning requirements.

## 5 ASSESSMENT OF ENVIRONMENTAL IMPACTS

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Key issues considered in the Department's assessment of the Environmental Assessment and the Preferred Project Report and consideration of the proponent's draft Statement of Commitments include the following:

- Land use pattern and adjoining sites
- Urban design , visual impact and sustainability
- Traffic and access
- Flora and fauna
- Noise
- Socio-economic impacts
- Infrastructure provision
- Hazard management
- Water cycle management
- Monetary contributions
- Building Code of Australia
- Aboriginal cultural heritage
- Strategic Planning

Several key assessment issues were resolved following consultation with the Proponent, and form part of the Preferred Project Report. The above key assessment issues are discussed in detail below.

### 5.1 LAND USE PATTERN AND ADJOINING SITES

The site is currently occupied by Settlement City Shopping Centre, a conventional closed and internalised shopping mall, a Panthers Club, areas of at-grade parking and multi-deck structured parking, which is currently largely impermeable.

The site is relatively large but has limited access points and through connections. It currently has poor integration and connections with the local and wider context. Buildings on the site are generally introverted focussing patron's attention internally with little address to the riverside setting and water views.

The proposed Stage 1 redevelopment and expansion of the shopping centre will improve the site conditions by increasing permeability and improving access to and connections with the Settlement City precinct and wider geographical area. These positive impacts will be achieved by the following measures:

- Creating a new private street which provides retail, food and entertainment outlets as well as, increasing permeability of the site and improving links to the precinct. The street runs from Bay Street through the site to Park Street, creating a new pedestrian precinct that ties the Panther's Club into an external street setting activated by retail, restaurants and the cinema/bowling foyer.
- Both Park Street and Bay Street are proposed to have new buildings, built to the edge of the site, that will create active frontages to both streets and will include variation within the architecture and good quality environmental protection. New retail outlets will also be introduced to the site edges, turning the shopping centre 'inside-out' so that it is extroverted in a practical manner rather than introverted and better connected with its local context.
- In addition to the new private street that will puncture the site overall, multiple new pedestrian entries are proposed, including new access off Bay Street and Park Street and within the new streets itself. These entries will contribute towards creating an interconnected and permeable pedestrian network both within the site and the broader Settlement City Precinct.



Overall the proposal will realise a new urban benefit and significant improvement to the land use pattern and relationship between the subject site and adjoining areas.

The PPR details that the existing pedestrian crossing to the north will be maintained and upgraded as part of the proposal. The existing water's edge concrete terraced steps and weir crossing will be retained.

The Council is satisfied that the project presents an overall benefit to the site and surrounding areas.

## **5.2 URBAN DESIGN, VISUAL IMPACT AND SUSTAINABILITY**

### **5.2.1 Urban Design**

The proposal will provide a greater retail and service diversity with the expansion of the range of uses and facilities in the Greater Port Macquarie CBD area. Staging of the retail expansion will ensure that the long-term viability is enhanced. New uses and facilities will service touring opportunities and a wider population and age group than is currently catered for.

The proposal will activate both Park Street and Bay Street with the inclusion of new buildings, built to the edge of the site. These will create active frontages to both streets and will include variation within the architecture and good quality environmental protection. These new buildings along the two (2) new private streets 'sleeve' a central multi-level car parking structure within the middle of this new block.

The existing road network is proposed to be maintained and the two (2) new private streets will improve pedestrian and cycle access, as well as taxi connections. As part of the project the existing large areas of at-grade car parking in the south-east corner of the site are to be converted into a multi-level parking structure sleeved by buildings allowing for new active edges.

No public open space is included as part of this proposal. However, some existing public open space along the foreshore will be enhanced. These works are consistent with the Council's adopted Settlement City Structure Plan.

The corner of Bay Street and Park Street is an important urban junction within the precinct and the height and strong built form proposed for the corner responds to its prime location. The new buildings will respond, in both form and material, to the local character and coastal context and create a high quality public domain.

The proposed staging of the project will be unlikely to result in any adverse environmental impacts. It is recommended that a condition be imposed to require the staging to be completed in accordance with staging plan details provided.

The proposal does not contravene any of the objectives and strategic actions of the NSW Coastal Policy.

The Council's adopted Settlement City Structure Plan 2009, which has been considered as part of the assessment of the project, was prepared taking into consideration of the design principles of the Coastal Design Guidelines of NSW.

The proposed works are therefore considered to present an improvement to what is currently on the site.

### **5.2.2 Visual impacts**

In response to submissions, the Preferred Project Report identifies a reduction in overall building height. This is detailed in Table 1 of Section 2.1 of this report and is supported by an amended Visual Impact Assessment prepared by Clouston Associates.

As part of the Settlement City Structure Plan, key views and vistas which overlook the area are identified in the Clouston Associates report. The Settlement City Structure Plan indicates that under Council's DCP 20 – Town Centre and DCP 49 – Westport Precinct, the major receptors identified as overlooking the proposed project are from the following locations:

- St Agnes Church – to the south east of the site – one of the last remaining water views from this ridgeline with views of the dominant hills beyond the site.
- The Foreshore Walk – to the east across the Hastings River – with views across the river from a popular and well used public seawall walkway.

- Residential Ridgeline – to the direct south of Warlters Street – with oblique views predominantly from the private domain into the site.
- Hastings Avenue and Warlters Street – to the south of the site – with views across to Park Street, to the north and beyond.
- Seawall walkway – further east than the Foreshore Walk view

As part of the Clouston Associates report, a summary of overall visual impacts based upon a qualitative and quantitative assessment from greatest to least potential significance were listed as follows:

- Moderate impacts:
  - Various views along Bay Street from east to west at close quarters to the new buildings, given the scale of the street front building heights against the more intimate street scale.
  - Direct views across Governors Way.
  - Close quarters views along Park Street.
  - Foreshore views on the south side of Governors Way.
- Moderate to low impacts:
  - Some mid distance views to development approaching from north to south along Park Street and from the west along Bay Street.
  - Some views from the weir, the school and the marina and resort.
  - Elevated views across the site from Hastings Street
  - Individual high rise sites within the CBD (not numbered)
- Low impacts at all other receptors.

As part of the Clouston Associates report, the following comments/recommendations were provided in regard to mitigation measures:

- Given the site is zoned appropriately for the development of this nature and that the site is already a permitted use for the project, the site selection is appropriate and therefore does not require any avoidance measures.
- Given that the proposal generally meets all height and envelope controls there does not appear to be any need to reduce the scale of any part of the buildings.
- Remediation and enhancement relates to detailed design elements within the built form (eg. colours, materials, finishes etc) and associated landscape and urban design (eg. tree planting).
- The nature of the visual impacts as addressed in this assessment would not appear to warrant offsite tree plantings to screen immediate views from any of the visual receptors as these would also be likely to obscure long distance views to the horizons.

The proponent has also provided the following additional details in the PPR:

- Following a significant design review of the building heights, the revised design now complies with the objectives and desired character of the Settlement City Structure Plan.
- The amended design drawings are now consistent with the principle in the Settlement City Structure Plan to ensure that the height of the Stage 1B building does not exceed the top of the wave of the Panthers Building (assumed to be RL 21.3m AHD).
- Investigations into provision of a basement car park to reduce height found that this option is not commercially viable.
- The reduction of the cinema box volume any further would affect the operation/showing of the films.
- The cinema is well set back from Bay and Park Streets with the local impact being minimal.
- The minor projection of the cinema box is more than offset by the proposed height of built elevations along Bay Street being 2 to 3m below the guidelines contained in the Settlement City Structure Plan.
- The architecture design is sympathetic to the surrounding environment and the proposed design includes a variety of building heights which creates diversity, character and interest within the project.

The key visual impact assessment issue relates to determining whether the additional 2.3m building height within the centre of Stage 1B above the recommended building heights set in the Settlement City Structure Plan are acceptable. In this regard, consideration is required of the consistency of the project on balance with the height objective (in part) of the Settlement City Structure Plan which requires that new development does not dominate the views to hills in the distance (to the west of the site).

As indicated in Figure 4.4a and b of the Clouston Associates report, the proposal will have a significant impact on distant views of the mountains from a number of receptor view points along the Seawall Walkway running east to west, adjoining the Hastings River. Analysis of the Figures referred to indicate that a view corridor of the distant mountain views will be retained between the Stage 1B cinema level and the Panthers building. It should be noted that it has been observed that if the building was to comply with the maximum RL 19m AHD height limit for the section of the cinema level (in accordance with the Settlement City Structure Plan recommended height limits), then a significant portion of the distant view to the mountains would still be unable to be retained (ie. quality of view would still be significantly impacted upon). Additionally, it is observed that if the Stage 1B building was to be extended to connect with the Panthers building then the view corridor of the distant mountains would be greater impacted upon than the subject proposal. In this regard, the height limits set in the Settlement City Structure Plan would be unable to achieve the objective that the limits are based upon to ensure that new development does not dominate the distant views on the hills beyond the site to the west from the receptor locations along the Seawall Walkway.

On balance, based upon the above comments regarding the inability to prevent some domination of the distant mountain views identified from the particular viewpoint, and the retention of a level of view of the distant mountains through a view corridor, the project's visual impact is acceptable.

### 5.2.3 Sustainability

Sustainability mitigation measures are detailed in the EA to address energy and water reductions measures including but not limited to use of insulation, use of suitable external colour schemes, high thermal mass material, efficient heating and cooling systems, energy efficient lighting, potential use of green energy, rainwater harvestings. The proposed measures are acceptable and contained within the revised Statement of Commitments.

## 5.3 TRAFFIC AND ACCESS

### 5.3.1 Roads

The project is located within the Settlement City Precinct, and is bounded by Park Street to the east and Bay Street to the south. The streets within the Settlement City Precinct as defined by the *Road Network Traffic Report*, November 2009 are as follows:

- Park Street is a four-lane divided secondary arterial road with planted median. This road is a bitumen sealed road under the care and control of Council.
- Bay Street is a two-lane local (collector) road with planted median between Warlters Street road reserve and Park Street, and no median west of Warlters Street road reserve. This road is a bitumen sealed road under the care and control of Council. Bay Street will be widened and realigned between Ashton Street & Warlters Street intersection and "Leisure Road" to a four-lane divided carriageway as part of the Settlement City Precinct *Road Network Traffic Report*, November 2009.
- Warlters Street is two-lane bitumen sealed Local Street under the care and control of Council. This road will be widened to a four-lane divided carriage as part of the Settlement City Precinct *Road Network Traffic Report*, November 2009.
- Ashton Street is a two-lane bitumen sealed Local Street under the care and control of Council. This road will be widened to a four-lane divided carriage from Bay Road to Hastings River Road as part of the Settlement City Precinct *Road Network Traffic Report*, November 2009.

The Settlement City Precinct *Road Network Traffic Report*, November 2009 calls for a number of additional future improvements to the area to be constructed including:

- Signalise Park Street & Walters Street intersection
- Realignment of Bay Street to Ashton Street and construct a roundabout intersection with Bay Street/Warlters Street

- Channelised treatment of Bay Street & Bellbowrie Street intersection
- Channelised treatment of Newport Island Road & Bay Street intersection
- Channelised treatment of Newport Island Road & Denham Street intersection
- Signalise Hastings River Drive & Ashton Street intersection

Funding arrangements for these upgrades have been discussed with Council and ING (as the owner of the shopping centre) and agreement has been reached whereby ING will contribute a proportional amount towards these works. The details of this arrangement is discussed in further detail in section 5.10 of this report.

Any works required to be carried out within the public road reserves will require approval pursuant to Section 138 of the *Roads Act 1993*.

### 5.3.2 Traffic

Traffic conditions for the redevelopment of the site encompass the additional transportation impacts created with Stage 1 of the development. In February 2009, Transport and Traffic Planning Associates (TTPA) conducted a traffic study for Stage 1 of the development which included up to 7,626 m<sup>2</sup> of retail uses, up to 2,787 m<sup>2</sup> of commercial uses, up to 1,363 m<sup>2</sup> bowling facility, and up to 3,579 m<sup>2</sup> of Cinema. This study was supplemented by supporting documents from Colston Budd Hunt & Kafes, Ptd Ltd in June 2009, and December 2009. The transportation impacts defined with the PPR are similar to those previously provided, and therefore it can be concluded that analysis findings of previous reports are appropriate.

Comments related to traffic (*in italics*) were raised upon review of the EA. Through further coordination and consultation with the proponent and their consultants, these issues have been addressed within the PPR and as follows.

1. *Reviewing page 17 of the TTPA traffic report, the additional retail for the Stage 1 development is anticipated to generate at 3.5 vtp/h, while the existing retail generates at 5.5 vtp/h. The RTA defines retail trip generation rates that are even higher than the existing measured rates. It is not clear why lower trip generation rates are expected for the retail expansion. If trip generation cannot be explained, please adjust trip generation rates to be consistent with existing retail rates.*

Paragraph 3.3 of the PPR referencing paragraphs 3 through 9 of the December 22, 2009 Colston Budd Hunt & Kafes, Ptd Ltd (Attachment 3 of the PPR) adequately demonstrates that the transportation impacts for the proposed retail shopping centre expansion (Stage 1) have been addressed.

2. *As stipulated in paragraph 2.27 on page 12 of the Colston Budd Hunt & Kafes Pty Ltd (CBHK) supplemental traffic report, the road and intersection/access points were analysed previously (TTPA traffic report). Analysis will need to be updated based upon trip generation and additional changes noted based upon these comments.*

Paragraph 3.4 of the PPR referencing paragraphs 9 and 10 of the December 22, 2009 Colston Budd Hunt & Kafes, Ptd Ltd (Attachment 3 of the PPR) adequately demonstrates that the transportation analysis for the proposed retail shopping centre expansion (Stage 1) have been addressed.

3. *Please verify that "Leisure Street" and "Entertainment Street" are private streets.*

In section 3.5 of the PPR, the applicant has acknowledged that both "Leisure Street" and Entertainment Street will be private streets.

4. *The traffic report only evaluates the traffic conditions at the Bay Street & Park Street roundabout and driveway intersections on Bay Street and on Park Street. Future volumes shown in Figure 6 appear to be higher than intersection volumes analysed in Appendix E (SIDRA results). Please verify that analysis addresses all traffic impacts.*

Paragraphs 11 and 12 of the December 22, 2009 Colston Budd Hunt & Kafes, Ptd Ltd (Attachment 3 of the PPR) adequately demonstrates that the analysis impacts for the proposed retail shopping centre



expansion (Stage 1) have been addressed. It is also noted that Council's City Precinct Road Network Traffic Report, November 2009 demonstrates this intersection operating at an acceptable level of service without further modification.

5. *Traffic impacts at access driveways were only evaluated for Stage 1. Please analyse future traffic conditions at the driveways ("Leisure Street and Entertainment Street") with the completion of the master plan to verify that intersections and roads operates adequately for all master plan development impacts.*

Paragraph 13 of the December 22, 2009 Colston Budd Hunt & Kafes, Ptd Ltd (Attachment 3 of the PPR) has noted this Part 3A application is only considering the aspects of Stage 1. Future stages will be addressed with future applications.

### 5.3.3 Access

Two-way access is proposed through three existing driveway locations to Settlement City. Similar access shall be provided for the redeveloped sections of the site. Comments related to access (*in italics*) were raised upon review of the EA. Through further coordination and consultation with the proponent and their consultants, these issues have been addressed within the PPR as follows.

1. *As defined in the TTPA traffic report, all driveways including "Leisure Street" and "Entertainment Street" intersections shall be designed in accordance with AS/NZS 2890.1. Driveway widths and separators do not appear to comply for design vehicle and service vehicle standards.*

Paragraphs 14 and 15 of the December 22, 2009 Colston Budd Hunt & Kafes, Ptd Ltd (Attachment 3 of the PPR) recommend additional site driveway improvements to the southern/western driveway with Bay Street and the driveway ("Entertainment Street") with Park Street providing separate right and left egress lanes. Entry and exit lanes at these driveways shall be separated using a one (1) metre wide concrete median design in accordance with AS 2890.1: 2004.

2. *Demonstrate that vehicle queuing at all access driveways complies with AS/NZS 2890.1.*

Paragraphs 16 through 20 of the December 22, 2009 Colston Budd Hunt & Kafes, Ptd Ltd (Attachment 3 of the PPR) has demonstrated adequate queuing will be accommodated on site and satisfy the requirements of AS 2890.1:2004.

3. *Paragraph 2.29 on page 13 of the CBHK supplemental traffic report states intersection concept plans for Bay Street and western site access driveway intersection were attached. No plans appear to be attached in the report. Council is concerned that the proposed realignment does not create operational concerns between intersections. Please provide plans showing anticipated driveway connection in conjunction with potential Bay Street realignment to Ashton Street. Operation of this driveway needs to be evaluated in conjunction with the Bay Street/Ashton Street & Warlters Street roundabout and articulated vehicle sweep paths need to be accommodated with this driveway.*

Paragraphs 21 and 22 of the December 22, 2009 Colston Budd Hunt & Kafes, Ptd Ltd (Attachment 3 of the PPR) shows driveway modifications to the existing driveway to accommodate semi-trailers in accordance with Australian Standard for Parking Facilities (Part 2: Off-street commercial vehicle facilities), AS 2890.2 – 2002. Conceptual drawings have been provided as part of "Walter Street Integration Plan". Construction details at the Bay Street & western/southern driveway shall be provided showing integration of construction plans with conceptual plans for the Ashton Street/Bay Street & Warlters Street roundabout. Details to be provided prior to construction certificate.

4. *Restrictions have been placed at existing Settlement City driveway intersections along Bay Street and Park Street. Specifically turn radii do not accommodate large vehicle left turning egress movements at specific driveways. Please show sweep paths for design vehicles into and out of "Leisure Street" and "Entertainment Street" to verify driveway designs accommodate design vehicle turns.*

Paragraphs 23 of the December 22, 2009 Colston Budd Hunt & Kafes, Ptd Ltd (Attachment 3 of the PPR) and amended plans show widened driveways at Leisure Street and Entertainment Street to accommodate the sweep paths of the 12.5-metre bus (design vehicle) entering and exiting at these driveways.

#### 5.3.4 Parking

Parking for the redevelopment is proposed through the use of existing car park facilities, modification to the existing car park in the southwest quadrant of the site and through the construction of a new car park located in the southeast quadrant of the site. Stage 1 development parking is to be designed in accordance with Australian Standards and are adequate to accommodate anticipated demands with the proposed redevelopment.

Comments related to parking (*in italics*) were raised upon review of the 30 June 2009. Through further coordination and consultation with the applicant and their consultants, comments have been addressed within the PPR (Section 5) and are summarized below. Any additional outstanding parking concerns can be addressed as part of the detailed construction drawings reviewed prior to construction certificate.

1. *A total of over 1,500 spaces are provided. Based upon the June 2009 supplementary traffic information by CBHK, the total number of 1,275 off-street parking spaces parking spaces is required to accommodate the peak demands for the site. Although an adequate number of parking spaces area provided, many of the spaces do not comply with AS/NZS 2890.1. Total parking will need to be recalculated with all revision to parking layout to satisfy parking based upon additional comments.*

Revised parking analysis has been provided in Figure 124 (4) demonstrating a total of 1,380 spaces are required and 1,548 spaces are provided. It is noted that the calculations consider shared use parking for the leisure/gym/health spa, cinema and bowling alley. It is recognized that the peak parking for these uses are not anticipated to occur at the same time as other site land uses. Based upon Paragraphs 2.23, 2.24 and 2.25 of the June 2009 Colston Budd Hunt & Kafes, Ptd, Ltd report show adequate parking is anticipated to address additional demands created by these facilities.

Based on the calculations provided the development has demonstrated that adequate parking will be provided.

2. *Parking provided in the eastern car park (Cinema car park) are too small (4900 mm) and do not comply with AS/NZS 2890.1 and DCP 18. Parking should be modified to meet AS/NZS 2890.1 and DCP 18.*

Plans have been amended to comply with all relevant governing standards.

3. *Column placement for the parking on the eastern side of the eastern car park (Cinema car park) does not comply with AS /NZS 2890.1. Parking should be revised to accommodate the standard parking envelope defined in AS/NZS 2890.1.*

Plans have been amended to comply with all relevant governing standards.

4. *The single parking space located adjacent to the car service facility and along the ground floor entry to the western car park (DDS car park) will be difficult to use and may create sight obstructions to the entering and exiting vehicles of the car park. This space should be removed.*

Spaces have been removed.

5. *Stack parking provided in the back of the Existing DDS shall comply with DCP 18. Please delineate this parking in accordance with Section 5.3.4 of DCP 18 if used.*

Stacked parking is proposed and complies with relevant standards.

6. *Parking provided in the surface lot on the northern side of the site are 4900 mm. This parking is permissible with appropriate overhangs in accordance with Figure 2.2 of AS/NZS 2890.1. The eastern*

*parking space in this lot appears to abut the building, and therefore not meet the requirements. Please revise to comply with AS/NZS 2890.1.*

Plans have been amended to comply with all relevant governing standards.

7. *On Mezzanine Level plan (Stage 1), parking adjacent to the travelators in the western car park (DDS car park) are not aligned with all other aisle parking. These specific parking spots are anticipated to have difficulty backing due to sight distance obstructions from other vehicles. Please align these spaces with the aisle parking.*

Modifications to the carpark have addressed this issue. Plans have been amended to comply with all relevant governing standards.

8. *Many patrons of large retail stores will utilize trolleys. No trolley parking spaces can be determined. Please delineate locations for trolley parking facilities in car park areas.*

Trolley returns have been analysed and shown on revised plans.

9. *The TTPA traffic report makes a provision for 100 bicycle spaces and 10 motorcycle spaces. These spaces cannot be confirmed on the plans. Please summarize where bicycles and motorcycles will be parked. Bicycle parking areas shall be designed in accordance with AS/NZS 2890.3.*

Bicycle and motorcycle allocations have been nominated with revised plans.

10. *Disabled parking is required for the site and is to comply with AS/NZS 2890.6 and DCP 18. Disabled parking for the site cannot be determined. Please delineate number and location of disable car parking.*

It has been noted that disabled parking shall comply with AS/NZS 2890.6 and DCP 18.

11. *A car parking space appears to be blocking pedestrian access to the stairwell on the southern side of the western car park (DDS car park) on the Stage 1 – Level 1 plan. Unobstructed pedestrian stairwell access should be provided to aisle.*

Car park modifications have addressed this issue.

12. *Parking spaces adjacent to walls, such as in the northwest quadrant of the eastern car park (Cinema car park) should provide adequate distance from obstructions as defined in AS/NZS 2090.1.*

Modifications to the carpark have addressed this issue. Plans have been amended to comply with all relevant governing standards.

### 5.3.5 Pedestrians

Pedestrian facilities around the site are linked to adjacent facilities through existing pedestrian crosswalks located along Bay Street, and through existing pedestrian linkage provided along the Broadwater drainage reserve structure.

Comments related to pedestrians (*in italics*) were raised upon review of the EA. Through further coordination and consultation with the applicant and their consultants, these issues have been addressed within the PPR (Section 7 and Attachment 3) and are summarized below. Additional details incorporating pedestrian linkages within the carparks shall be provided prior to construction certificate.

1. *Safe pedestrian crossing/refuge should be considered across Park Street connecting the proposed development with the existing Sails Resort and the existing foreshore park, both of which would be anticipated users of the development.*

Council's structure plan recommends pedestrian linkages across Park Street between the Broadwater Drainage Reserve and Bay Street. Based upon Council's City Precinct *Road Network Traffic Report*, November 2009, no traffic signal is proposed at the Bay Street & Park Street intersection. Therefore, it is recommended that the applicant provide a pedestrian refuge along Park Street, north of Bay Street, connecting Entertainment Street with existing pedestrian facilities on the eastern side of Park Street. Pedestrian refuge areas shall conform with AUS-SPEC standards and ASD 109 (Port Macquarie Hastings Council version). Details are to be provided prior to construction certificate.

Additional pedestrian features are recommended to be provided via a condition within the modified "existing carpark" showing pedestrians paths/linkages from the carpark area to mall/travelators within the ground level and level 1 of the carpark.

### 5.3.6 Manoeuvring

Manoeuvring originally provided as part of the 30 June 2009 application showed potential deficiency to accommodate design vehicles within carparks and along the proposed private streets. Specific concerns were raised regarding servicing and loading vehicle sweep paths and bus movements through Leisure Street and Entertainment Street. Revised plans have modified the private roadway so that Leisure Street and Entertainment Street create a one-way road from Bay Street to Park Street.

Comments related to manoeuvring (*in italics*) were raised upon review of the EA. Through further coordination and consultation with the applicant and their consultants, comments have been addressed within the PPR (Section 6 and Attachment 3) and are summarized below.

1. *Two to Three vehicles have been observed to queue at the existing petrol station. Vehicle queuing may restrict access to the car park. Please show adequate queue storage for the existing petrol station.*

An additional area has been provided on the plans to accommodate additional vehicle queuing at the existing petrol station. Additional design details will be reviewed prior to construction certificate.

2. *Not enough information is provided to evaluate the proposed car park ramps. Car park ramps for both garages shall comply with AS/NZS 2890.1.*

Proposed car parks have been redesigned to comply with AS/NZS 2890.1. Additional design details regarding ramp configurations and manoeuvrability around ramps will be reviewed prior to construction certificate.

3. *Sweep paths provided in Figure 2 of the CBHK supplemental traffic report show the articulated truck exit path to traverse through the proposed rear parking rather than through the service road. Please modify to show truck access to the entry/exit through the service road.*

Proposed site modifications in conjunction with previous sweep path diagrams demonstrate that articulated truck sweep paths can be accommodated.

4. *Service/loading sweep paths shall be provided for the master plan (i.e. the future loading zones along "Leisure Street") to verify proposed Stage 1 street design is adequate for future stages.*

The proposed application is for Stage 1 only. Future loading zones will be addressed with future staging for the development.

5. *Existing loading zone access to the Panthers Auditorium is not provided in the Stage 1 plans. Please demonstrate plans to provide loading to the Panthers Auditorium.*

Proposed loading areas have been amended and shall not change from existing conditions.

6. *Vehicle islands behind existing supermarket should be connected to clearly delineate service road operation from parking lot facilities uses.*



Revised plans have addressed outstanding issues.

7. *The TTPA traffic report states that small retail units on "Leisure Street" and "Entertainment Street" will be serviced by small service vehicles (vans) at designated loading zones. It is unclear where these locations area. Please specify the location of loading zones.*

Revised plans delineate proposed loading zones.

8. *Please show proposed on-site bus facilities and routes. Please verify design bus sweep paths for routes through the site for both Stage 1 and the completion of the master plan.*

Revised plans delineate bus routes and bus loading zones.

9. *With the completion of the master plan, an eastern leg is created to the on-site roundabout along the foreshore. The intent and use of this intersection leg is unclear. Please explain.*

Revised drawings contained in the PPR have removed this intersection leg and roundabout. This intersection leg and roundabout were to serve future stages of development and therefore are not part of Stage 1 works.

The PPR plans demonstrate adequate circulation, however additional details shall be reviewed to address manoeuvrability around the "existing carpark" ramp locations and the existing petrol station queuing area. Prior to any construction certificate, the applicant shall consult with Council regarding the proposed on-site parking/aisle configurations at the ramp terminals and to discuss design for the queuing area for the existing petrol station. Detailed construction plans shall be required to address the following:

- Adequate pedestrian and trolley linkages on all levels between the proposed lifts locations and parking locations within the "existing car park".
- Adequate vehicle manoeuvring and circulation at the ramp terminals within the "existing carpark".
- Clearly delineate vehicle manoeuvring for petrol station queuing and the car park driveway.

## 5.4 FLORA AND FAUNA

A flora and fauna impact assessment prepared by Eco Logical Australia Pty Ltd has been submitted. The results of the investigations determined that the study area comprises a predominantly built environment (ie. the existing Settlement City Shopping Centre, Panthers and associated car parks). The Eco Logical report details that some planted vegetation on the western edge of the study area and scattered plantings within car parking areas and landscaped garden beds offer some value for terrestrial fauna, including the koala (which is listed as being vulnerable under the *Threatened Species Conservation Act 1995*) and the grey-headed flying fox (also vulnerable under the *Threatened Species Conservation Act 1995*).

The western and northern edge of the study area is identified in the assessment to offer corridor value for terrestrial fauna, in particular the koala. Aquatic ecosystems were observed on the outer edge of the and directly adjacent to the north and western boundaries of the study area. This included scattered and poor quality areas of saltmarsh species and grey mangrove.

Ecological constraints were mapped, classified into high, moderate and low levels of constraint. The majority of the site is identified as having low ecological constraint due to the level of development in those areas. Scattered vegetation and plantings in some of the areas of the site, such as car parks, is identified as having moderate ecological constraint and the corridor areas to the western and northern boundaries have high ecological constraint.

The Eco Logical report details that a potential impact that the proposal is the removal and disturbance of terrestrial habitat during construction. A number of the native and introduced tree plantings located in the existing car parks will be removed as a result of the redevelopment. Introduced trees are not of high ecological significance and their removal is unlikely to cause a significant impact on the ecology of the site and its surrounds. However, the removal of the primary koala browse species trees will result in a decrease in foraging

material for the species. Construction fences may also cause disturbance to habitat and impact on the condition of the vegetation corridor.

The Eco Logical report details that there may also be a disturbance and potential impact to estuarine aquatic habitat. Whilst the footprint of the redevelopment does not encroach on existing shoreline habitat, there is potential for stormwater runoff to impact on these areas.

The Eco Logical report details that the increase in the use of the site by the community may lead to increased anthropogenic impacts. While this use is expected to remain within the footprint of the development, there is potential for increased littering and disturbance to occur in the surrounding environment. This may cause a decrease in the health and condition of the surrounding vegetation and adjacent shoreline environment along the northern and western slopes of the site.

The following flora and fauna mitigations measures are proposed in the Eco Logical report:

- Compensatory plantings be provided for any losses of native vegetation in areas of moderate ecological constraint.
- Conserve and enhance the existing wildlife corridor values and/or connective importance of vegetation along the western and northern edges of the site by avoiding areas of high ecological constraint and undertaking strategic compensatory plantings.
- Incorporate water sensitive urban design principles and the appropriate management of saltmarsh species into the construction environmental management plan.
- Traffic calming devices such as koala signage, speed limit signs and speed bumps should be considered to reduce traffic collision threats to koalas.
- All construction fencing is to be positioned outside of high constraint areas and to have sufficient gap (ie. 20cm) along the base of the fence to allow koala passage.
- Erosion and sediment controls to be in place to reduce the potential disturbance and potential impact to estuarine aquatic habitat.
- Appropriate signage and recycle and waste bins to be provided both during and after construction.

With regard specifically to koala habitat, some portions of the study area contain primary browse species for koala and are identified to be Core Koala Habitat under *State Environmental Planning Policy No.44 - Koala Habitat Protection*. The study area contains greater than 15% primary browse trees in the upper and mid canopy component, with concentrations of browse trees, such as forest red gum and tallowwood along the western boundary of the study area. As such a core Koala Habitat assessment was required. Koala scats and scratches were observed at two locations in the northwest corner of the study area, as well as other locations outside of the study area to the east and north east. Although the study area and locality is fragmented by the Port Macquarie urban matrix, koala movement through this matrix is widely recorded and it is likely that the local koala population is utilising the site in the context of the tenuous north to south corridor link, albeit with associated threats (ie. traffic and dogs). Given these signs of koala presence and nearby local records, portions of the site met the definition of Core Koala Habitat under this SEPP.

The proposal is to occur within the existing built footprint and across the existing at-grade car park in the south-east corner of the site. This impact is likely to result in the removal of some primary koala browse trees representing isolated plantings within the at-grade car park. It is expected that by increasing the car parking spaces and facilities in the proposed complex, that vehicular and pedestrian traffic will increase.

The recommendations provided in the Eco Logical report include:

- Connectivity along the western edge of the study area will be retained and further enhanced by compensatory plantings along the northern edge of the study area.
- All primary koala browse tree plantings proposed to be removed will be compensated for by a planting ratio of 2:1 along the northern boundary of the site or other suitable locations.
- The use of vehicular traffic calming measures within and around the Settlement City Shopping Centre should be investigated (ie. signage, speed bumps).

- Retention of the corridor function of High Constraint areas during construction and operation. Use of construction fences that allow koala under passage.

The Eco Logical report concludes that subject to the above recommendations being adopted, the proposed development will mitigate negative impacts and will potentially improve the current situation for koalas and the lifecycle of the local population.

Subsequent to acceptance and public exhibition of the EA, clarification was sought from the proponent as to the impact the vehicle ramp from Bay Street in the south-west corner would have on the core Koala habitat corridor. In this regard, as part of the PPR the south-western vehicle ramp has been deleted and the koala corridor will therefore remain unchanged. Appropriate conditions of consent have been recommended.

Based upon the above details, no requirements are required for a Koala Plan of Management and mitigation measures are included in the Statement of Commitments.

The proposed mitigation measures are acceptable and included in the proponent's Statement of Commitments.

## 5.5 NOISE

An Acoustic Assessment prepared by Heggies acoustic consultants was submitted with the EA. Noise sources were identified as mechanical services, car park noise and loading dock operation. Traffic generated by the shopping centre is also a source of noise, with shopping centre customers and employees accessing the site by car and bus and service delivery vehicles also contributing to noise levels.

Noise receivers are identified in the Heggies assessment to be the residential areas to the west and north of the site (across waterways), the Panthers Club, Sails Resort and St Josephs Primary School (which now has primary and day care still on site), located across Bay Street. The most sensitive noise receiver is the residential area, which is located 80m from the subject site.

The NSW *Industrial Noise Policy* was used by Heggies to establish the appropriate noise criteria for the noise assessment. Since the land uses proposed for partial redevelopment and expansion are similar in nature to the existing shopping centre, no new operational noise sources are expected by Heggies. However, due to extended hours of operation from the cinema, bowling alley and gym, the noise may be generated at differing times to that which already occurs.

Noise during the construction phase of the proposal is expected to originate from equipment such as bulldozers, compactors, cranes, hand tools and compressors. Based on the offset distance between the proposed redevelopment and residences, vibration levels during construction activities are unlikely to impact nearby residences.

Additional traffic generated by the proposal has the potential to impact on nearby residential receivers. The ambient noise monitoring carried out along Bay Street indicates that current day time noise level of 54dBA are within the *Environmental Criteria for Road Traffic Noise* daytime criteria of 55 dBA. In this regard, it is expected that, at a minimum, traffic arising from the proposed redevelopment should be within the traffic noise levels of LAeq(1 hr) 55 dBA during the daytime period between 7am and 10pm at the nearby residences on Bay Street to the Centre. The proposed project is not expected to add 0.5 dBA to existing noise levels.

The additional traffic may, however, result in an increase in the amount of noise generated from carparks and loading docks, which are in some cases close to residential receivers. Overall, the noise from additional traffic has been assessed as being within acceptable limits.

The following noise mitigations measures are proposed:

- A complaints hotline will be available for residents to register a complaint about excessive noise.
- Appropriate signage will be installed, reminding people of the nearby, sensitive receptors.
- Monitoring will be undertaken if necessary.
- A noise management plan will be prepared prior to construction beginning.
- Temporary barriers, enclosures and silencers will be installed, where necessary, to comply with NSW DECC construction noise criteria.
- Noise generating equipment shall be located away from noise sensitive receivers.
- Existing and new building structures shall be used to shield plant from residences and mall areas.

- Where possible, equipment will be located within plant rooms inside the car park.
- Low noise appliances will be selected where possible (while minimising the energy use of the appliance).
- Acoustic barriers and enclosures will be used if noise levels are found to be beyond acceptable levels.
- Duct openings will be directed to the east and south away from residential receivers.
- Roof exhaust fans will be mounted as close as possible to the roofline.
- Plant equipment will use timers and variable speed fans to minimise their noise output.
- The use of public transport will be encouraged.
- Walking and cycling will be encouraged, particularly due to the flat nature of surrounding topography. Foot and bicycle paths will be provided, as well as bicycle racks.
- Loading dock hours of operation will be managed appropriately and in accordance with current approvals.
- Noise control measures in the form of barriers will be considered if noise from the loading dock becomes a concern.
- A dampening material will be applied to the underside of metal dock levellers to reduce noise generated by trolleys.
- Rubber matting will be installed where impact is likely to occur.
- Notices will advise drivers not to leave vehicles idling during delays using the loading docks.
- Metal grates shall be supported on rubber and clamped vertically so that vehicles passing over them cannot dislodge and generate rattling sounds.

Subsequent to the EA, as part of the PPR the proposal was amended to remove the modified loading bay area and retain the existing loading arrangements on the northern side of the site.

The proposed mitigation measures are acceptable and included in the proponent's Statement of Commitments.

## **5.6 SOCIO-ECONOMIC IMPACTS**

### **5.6.1 Social impacts**

The population of the Port Macquarie-Hastings Local Government Area has been growing steadily over a number of years, and is one of the fastest growing residential areas in NSW. This growth is forecast to continue, and therefore it is vital to ensure that retail and entertainment facilities are able to meet the needs of the growing population.

Tourism is a major source of income for the region and these visitors require the use of high quality and easily accessible retail facilities including restaurants, supermarkets and recreational facilities.

The construction activities for the project are expected to provide jobs in construction sector equivalent to employment of 419 workers in one (1) year.

During construction there would be a short-term impact on some existing retailers in the centre who may need to close or relocate. Customers who use the centre may be inconvenienced due to construction activities impacting on some area of the centre and parking area. Other potential social impacts during the construction period would include noise, vibration, dust and traffic.

The proponent has stated that the long-term social impacts of the proposal are seen as being largely beneficial to both the residential and tourist populations of the Port Macquarie-Hastings Local Government Area.

The proposal will increase the number and variety of retailers and introduce a range of new recreational facilities and restaurants that will broaden the appeal and convenience of the centre to both local and tourist populations.

Additional facilities will include six (6) cinemas, a bowling alley, gymnasium, new restaurants, a larger food court and new retail stores that currently do not have a presence in the Port Macquarie area. The cinemas, restaurants and car parks are likely to be open until late at night. It is possible that these areas may become a gathering place for youth who may engage in antisocial behaviour. If this is the case, then these areas could become areas requiring policing and may increase the prevalence of crime in the Settlement City area.

The following social impact mitigations measures are proposed:

- Ensure safety and communications are enhanced throughout this period alerting customers to the new locations of stores and facilities.
- Use of flexible construction hours to limit the impact on retailers in terms of both closure and inconvenience from constructions activities.
- Appropriate temporary facilities will be provided, as needed.
- Crime prevention through environmental design (CPTED) principles have been considered in the current design drawings and will be adhered to during the detailed design stage.
- Existing centre security arrangements will be adapted and enhanced to cater for proposed development.
- The Police local area command will be consulted during the detailed design phase to ensure the design considers any crime prevention considerations they may have.

The proposed mitigation measures are acceptable and included in the proponent's Statement of Commitments.

### 5.6.2 Economic impacts

An economic impact assessment prepared by Urbis has been submitted with the EA. The Urbis assessment details that it is estimated that there is currently around 150,000m<sup>2</sup> of retail floor space in Port Macquarie. This equates to an existing provision of around 2.2m<sup>2</sup> per person, slightly below the Australian average of 2.3m<sup>2</sup> per person. Port Macquarie, however, is detailed to have a large number of tourists and given the magnitude of tourism expenditure and net inflows, the provision per person could potentially be higher. In this case the Urbis assessment has assumed around 2.3m<sup>2</sup> per person.

Urbis have detailed that the existing notional undersupply of retail floor space is around 8,664m<sup>2</sup> based on an assumption of 2.3m<sup>2</sup> of retail floor space per person. This undersupply is consistent with the above average trading levels of retailers in Port Macquarie. The Urbis assessment further details that assessing the retail floorspace in Port Macquarie through market expenditure growth and population growth shows the market to have a notional overprovision of around 1,900m<sup>2</sup> of floor space in 2012. This assumes that the Settlement City application, other approved DA applications, and the proposal at Laurieton, all proceed prior to 2012 (ie. a total of 20,000m<sup>2</sup> retail Gross Leasable Area). This is, however, expected to be corrected by 2013-14 with an under provision of between 8,100 – 10,100 m<sup>2</sup> being evident by 2016, assuming the Future Stage 2 of the Settlement City application and other approved DA applications in the Port Macquarie-Hastings locality proceed by this time.

Urbis have detailed that the expanded Stage 1 development at Settlement City, when fully operating in 2012, is forecast to generate \$152.4 million or an additional \$26 million greater than if the existing centre remained in its current form. This additional turnover would be predominantly sourced from trade diversion from other centres within the trade area. The projected impacts of up to four(4) percent on any given centre in Stage 1 and are detailed to not be excessive and are well within the bounds of a normal competitive environment. Impacts of this magnitude are not expected to affect the viability of any individual centre, with market growth quickly mitigating any potential loss in turnover soon after opening.

Urbis have detailed that the proposal is likely to enhance the economic success of the Port Macquarie area, as the assessments carried out to date indicate that the types of retailers proposed are in demand in the Port Macquarie area. Urbis' research suggests that clothing, apparel, footwear and homewares are the types of retailer required most in Port Macquarie. Since these retailers benefit from co-location, and maximise their reach and potential in larger centres, Settlement City is the most realistic location to accommodate such an extended range of shops. Urbis detailed that the staged development of Settlement City enables the centre to meet some of the future demand for retail floor space within Port Macquarie and meet some of Council's objectives of consolidating the greater central business area. Urbis detail that the proposal will not present a major oversupply in retail floor space that will unduly impact the continued operation of long term viability of any centres in the trade area, particularly the core area with the central business area.

The assessment and conclusions detailed by Urbis are appropriate and does not contravene any of Council's own retail studies eg. analysis work undertaken by Hill PDA.

As part of the PPR the proponent, in response to a submission received raising concerns with impacts on the cinema market, has advised that they had engaged Urbis to undertake an extensive analysis of the Port Macquarie cinema market offering. The Urbis report is referred to as identifying a strong cinema market demand

which will be significantly undersupplied by 2012. The proponent advises that the inclusion of the new six (6) screen complex together with selected leisure, retail, restaurants and bowling will be an integral component of the proposal and will assist with stimulating the night time economy of the Settlement City precinct. In this regard, the proposal is unlikely to result in adverse economic impacts in the Greater Port Macquarie Central Business District.

### **5.6.3 Crime risk impacts**

Subsequent to the EA, a number of potential crime risk issues were raised with the proponent based upon advice received from the NSW Police Service. The following additional details were provided from the proponent in the PPR with the amended plans received:

- The majority of the tenancies which face into the internal ground flood car park as part of Stage 1B will have glass shopfronts.
- Bicycle parking for the commercial lobby has been relocated.
- The plans have been amended to maintain the existing toilet facilities on the ground floor of the shopping mall. The public amenities proposed on Level 1 are additional to the existing facilities and are located adjacent to and monitored by Centre Management offices. The facilities will be closed at selected hours to address the security issues raised.
- The existing loading bay in the northern section of the site is now not proposed to be modified and will be managed by security staff and will continue in a similar operation.
- Agreement that car parking ceiling and pillars should be painted white to increase reflective light.
- Appropriate lighting will be provided to the private Leisure and Entertainment Streets.
- A comprehensive security management plan shall be undertaken for this project. A major component of new electronic surveillance equipment with CCTV will be incorporated in consultation with the local area Police Command and Shopping Centre operations.
- Landscaping design and species selection have addressed visibility concerns.
- Street furniture will be provided to assist in activation of Entertainment and Leisure Streets.
- The common entry area accessed off Entertainment Street has been redesigned taking into consideration the need to accommodate public transport, pedestrian movement and security measures. Pedestrian barriers will be installed after consultation of the preferred location with the local area Police command.
- Ramp corrugations and other traffic calming devices will be installed throughout the carparks to prevent driving offences and skateboard activity.
- The entrance to the Stage 1B ground level car park from the petrol station side has been redesigned with professional traffic engineering input.
- The pedestrian bridge from the level 1 car park to commercial suites will be provided with screens to prevent the risk of items being thrown from the pedestrian and vehicular bridge links. The vehicular bring link has been aligned with the pedestrian crossing underneath.

The proposed mitigation measures detailed in the PPR are acceptable subject to recommended conditions being imposed on the approval.

## **5.7 INFRASTRUCTURE PROVISION**

### **5.7.1 Electricity**

The EA details that the electricity cable network servicing the site has sufficient capacity to cater for the proposed redevelopment and expansion. However, the substation will require some augmentation to cater for the proposal. The substation chamber is located adjacent to the existing discount department store and supermarket is clear of the proposed redevelopment works, and can therefore remain in its present location.

The redevelopment will not affect any of the other three (3) substations that exist on the site. The associated high voltage and low voltage cables will need to be re-established and re-routed to match the proposed development plans and new road system on the site. It is likely that two (2) new chamber substations would be required to serve the new buildings.

Some existing high voltage cables, forming part of the supply authority high voltage ring feeds in the area, cross the site on existing easements. These cables will be removed and repositioned around the site to suit the new



development works. The new development works on the south-east section of the site will require the establishment of new substations.

Mitigation measures including but not limited to use of underground servicing and location of substations within buildings are proposed in relation to provision of electricity and the revised Statement of Commitments requires that a full assessment of utilities will be conducted prior to construction to ensure that the site is adequately serviced. These measures are acceptable.

### **5.7.2 Stormwater**

The proposed site is highly developed with the majority of the land surface being covered by impervious surfaces, such as buildings, roads and car parking areas. The site currently does not have an on-site stormwater detention (OSD) system. Drainage is currently accommodated through a pit and pipe system, which drains to the canal system (north, east and west) or to a mangrove inlet beyond the eastern site of Park Street. No stormwater treatment devices are currently provided.

No on-site stormwater detention (OSD) facilities are to be constructed as part of this proposal. Council agrees that OSD is not required based upon the following reasons:

- The proposal results in a net decrease in impervious surfaces;
- The proposed rainwater reuse facilities will further reduce stormwater discharge from the site during storm events; and
- The site is located at the bottom of the receiving urban catchment with the majority of the existing site draining directly to the adjacent canals and Hasting River, thus not creating additional benefit to the capacity of Council's drainage system.

Assessments by the proponent recommend use of large scale rainwater reuse on the site and propose to incorporate quality controls into the drainage works. No details or commitments to the scale of such works is proposed with the reports. As such, the Council recommends a condition of approval that stormwater quality improvement devices (SQIDs) be installed on all new stormwater systems servicing the site, prior to discharge. Prior to issue of any construction certificate, detailed design plans and hydraulic calculations for SQIDs and rainwater reuse system shall be approved by Council. The proponent is advised to undertake water-balance type modelling (supply vs. demand) of any proposed rainwater reuse system to enable the most cost efficient system to be implemented.

The Council is satisfied that the incorporation of SQIDs, proposed sediment and erosion control measures both during construction and upon operation, as well as the reduction of runoff from the site through the use of rainwater tanks, will result in an improvement of water quality entering the surrounding waterways and will address the concerns raised by NSW Industry & Investment.

### **5.7.3 Wastewater - Sewer**

Sewerage services are available but may require extension at no cost to Council to serve the proposal. The Council owned property, Lot 1, DP 702484, within the centre of the site contains an existing sewer pump station plus an additional pumping station within an easement on Settlement City site. Pumping stations and rising mains are required to be clear of building footprint. Council requires unrestricted 24/7 access to these stations or any relocated station and associated rising mains. Amended plans have been submitted with the PPR to remove previously proposed buildings works across this lot (as part of EA) which has satisfactorily addressed this matter. Appropriate conditions have been recommended.

### **5.7.4 Water**

A 450mm water main runs along the south side of Bay Street opposite part of the road frontage of the development site and along the western side of Park Street while a 200mm water main crosses Bay Street to the site.

It is unlikely that the proposed project will place undue strain on the existing 450mm water main. An upgrade for the 200mm water main across Bay Street to the site is also unlikely, however the capacity of this main will depend on any additional requirements requested by the developer's hydraulic consultant. The harvesting and

reuse of rainwater as well as the requirement to connect the development to Council's reclaimed water supply could reduce the effective demand from the expanded development on this main.

Details of rainwater harvesting and reuse are to be provided with the Section 68 application (water, stormwater and sewerage works). Connection to Council's reclaimed water supply will be required for use in toilet flushing and irrigation or for rainwater top up. The existing toilets that are retained in the redevelopment as well as existing external irrigation and wash down facilities are also to be supplied from this system.

Final water service sizing for the proposed developments will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development, as well as addressing fire service and backflow protection requirements. Appropriate conditions have been recommended.

## **5.8 HAZARD MANAGEMENT AND MITIGATION**

### **5.8.1 Contamination**

A contamination assessment has been submitted by Martens Consulting Engineers with the EA. This report concludes that the only site activity that has potential to result in significant soil contamination is the existing service station. No obvious signs of contamination were noted on the site surface. Other potentially contaminating historical uses of the site include possible minor agricultural or farming activity, filling of the site and the current commercial land use including the petrol retail outlet. It is unlikely that any agricultural chemical contamination of the site has occurred.

The initial contamination evaluation provided in the Martens report found that no contamination was present on the site. Council is satisfied that the contamination assessment was undertaken in accordance with NSW EPA Sampling Design Guidelines.

### **5.8.2 Acid Sulfate Soils**

A preliminary acid sulfate assessment (ASS) has been submitted by Martens Consulting Engineers with the EA. The preliminary ASS assessment has been supplemented with a full acid sulfate soil field investigation to determine the depth at which acid sulfate soils are likely to be found. The results of the assessment indicate that fill material (generally 2.5m to 5.5 depth with majority at 4.5m depths) is free of Actual ASS or Potential ASS.

The proposal does not involve the excavation of the deeper Potential ASS materials that have been found three (3) m below ground level and deeper. Current planning for the development assumes footings will be driven into subsurface material which will be retrieved. Given this, there is no need for specific ASS mitigation measures, such as an ASS management plan.

The EA notes that an ASS management plan will be required should construction methods be revised, such that material below the surface fill (approximate 2.5m) will be disturbed or retrieved or the groundwater table is lowered beyond this depth.

The amended plans submitted with the PPR indicate that the majority of the ground floor level floor plan of the new building works within the south-east corner of the site has been lowered by approximately 0.5m. In this regard the above comments provided with the EA still apply. The proponent's Statement of Commitments includes a requirement that if ASS is encountered prior or during construction that an ASS management plan will be prepared. No further mitigation measures are considered unnecessary.

### **5.8.3 Bushfire**

The EA was referred to the New South Wales Rural Fire Service (RFS) for comment. The RFS provided advice that no issues of concern are raised in relation to bushfire risk for the proposal.

### **5.8.4 Geotechnical**

Given the site's coastal location and history of filling, a number of potential geotechnical constraints have been identified:

- Settlement of layers of readily compressible silt, clay or peat or poorly compacted fill may result in differential settlement of structures.
- Groundwater is currently at a depth of approximately 2.5m below the ground surface. If construction works are near that depth, dewatering may be required. This could lead to saltwater ingress issues.

The proposed mitigation measures require that further investigation are to be made prior to finalisation of the redevelopment design and strategic remedies for management of any identified geo-technical constraints/stability issues be implemented as necessary. The EA details that the current design does not intercept the groundwater table. In the event that the groundwater table was intercepted, a dewatering plan would be developed prior to works commencing. The proposed mitigation measures are acceptable and included in the proponent's Statement of Commitments.

#### **5.8.5 Flooding and Coastal Processes – Climate Change**

The site is marginally affected by the 1 in 100 year flood event. Primarily, the flood affected areas are located within the canal batter and are defined as a Restriction On Use (for maintenance of the canal). The majority of the site is within the Flood Planning Area (FPA).

Council's flood policy requires commercial development to be at the 1:100 level with 25% of the development at or above the Flood Planning Level (FPL) (ie. freeboard). All basement carpark are to be protected from the 1:100 year event. It is noted that the above mentioned 100 year flood event does not include Climate Change (ie. sea level rise and changes to rainfall patterns) and as such the development must allow for an increase in flood levels.

The New South Wales Department of Environment, Climate Change and Water (DECCW) released a Sea Level Rise Policy Statement in October 2009 which outlines the government's objectives and commitments to sea level rise with regard to climate change. The sea level rise policy recognises that consent authorities must consider the effects of sea level rise on coastal and flooding hazards when considering planning and development approval decisions. The new policy sets a sea level rise benchmark of 400mm by 2050 and 900mm by 2100. In March 2010, Council adopted amendments to its flood policy to align with the NSW sea level rise policy, and required amendments to the project to increase freeboard requirements by 100mm.

The development must consider the effects of sea level rise and allow for an adaptable approach to be implemented over the life of the development. Final adopted finished floor levels must allow for sea level rise. The current 100 year flood level is 2.85m AHD and the revised freeboard is 900mm.

The development shall comply with the Council's Flood Policy (as amended). A condition is recommended to require compliance with Council's Interim Flood Policy and the NSW Sea Level Rise Policy Statement (October 2009).

#### **5.9 WATER CYCLE MANAGEMENT**

The proposal is expected to result in positive outcomes for the health of the adjacent Hastings River through minimisation of the quantity of stormwater being discharged from the site, however protection measures will need to be implemented to prevent impacts during construction.

Stormwater harvesting will reduce the potential for sediment-laden discharges from the development site by reducing the overall volume, and hence scouring velocities, of runoff leaving the site.

Pollution of the Hastings River could potentially result from erosion, sedimentation and accidental spills of oils, fuel or chemicals during construction.

Turbidity and plumes from construction could result from untrapped sediment discharges into the river. This is of particular concern given the proximity of the redevelopment to waterways and the intense adjacent residential and recreational use.

The Council is satisfied that appropriate sediment control and erosion mitigation measures are proposed to be in place prior to and during construction and are included in the proponent's Statement of Commitments.

## 5.10 MONETARY CONTRIBUTIONS

### 5.10.1 Section 94

No relevant section 94 Contributions plan applies to this project. Council has adopted a S94A Levy contribution plan, however, the cost of the necessary road and intersection upgrading is well in excess of the contribution if levied under section 94A. Consequently, Port Macquarie-Hastings Council has undertaken an assessment of road infrastructure required to be upgraded as detailed in Council's *City Precinct Road Network Traffic Study*, November 2009 and the proponent has proposed to contribute towards the infrastructure by way of a proportional contribution for the project, as follows:

- Payment of a cash contribution towards the provision of road infrastructure generally as identified in the Traffic Report - Settlement City Precinct Road Network Study Port Macquarie (TTM Consulting Pty Ltd - Nov 2009) at the following contribution rates for the project:

Retail: \$73.66 per m<sup>2</sup> Gross Leasable Floor Area (GLFA)

Cinema: \$294.65 per seat

Bowling: \$44.20 per m<sup>2</sup> GLFA

Commercial: \$29.47 per m<sup>2</sup> GLFA

- The contribution shall be paid to the Settlement City Road Infrastructure Precinct Trust Fund prior to the issue of any Occupation Certificate for each stage of the project.
- Should the project include additional GLFA or seats beyond that originally assessed, additional contributions shall be required in accordance with the above schedule of contribution rates.
- The contribution rate will be indexed quarterly (commencing with the December quarter 2009) in line with movements in the Producer Price Index (Output of the General Construction Industry – Road and Bridge Construction) for NSW as published by the Australian Bureau of Statistics.

The proponent's offer described above is reflected in Table 1 Reference T5 of the Statement of Commitments.

Section 94B of the Act (as amended) provides that in the case of a consent authority other than a council, the consent authority may impose a condition under section 94 or 94A even though it is not authorised (or of a kind allowed) by, or is not determined in accordance with, a contributions plan. In such cases, the consent authority must, before imposing the condition, have regard to any contributions plan that applies to the whole or any part of the area in which development is to be carried out.

In the absence of a section 94 Contributions Plan and on the basis of Council and the proponent's agreement on the matter, it is considered appropriate to exercise this power and reflect this agreed contribution in the recommended conditions of approval.

### 5.10.2 Section 64

A Development Servicing Plan (DSP) enables Council, under Section 64 of the *Local Government Act 1993*, to levy contributions where the anticipated development will or is likely to increase the demand for water supply and sewerage services.

Section 64 Development Servicing Plans:

- Port Macquarie-Hastings Development Servicing Plan: Water Supply Schemes 2006
- Port Macquarie-Hastings Development Servicing Plan: Sewerage Services 2005
- Hastings water Supply Administration Levy Development Servicing Plan Version 2, 2006

Prior to the endorsement of a Construction Certificate for each stage of the project, the Proponent must pay, in proportion to the additional development created by that stage, the following contributions outlined in Table 2 to Council pursuant to Section 64 of the *Local Government Act 1993*.

Table 2: Section 64 Contributions

STAGES	Water Supply Services			Sewerage Services		
	Units	Cost	Total	Units	Cost	Total
<b>Total: Stage 1A &amp; 1B</b>	27.83 ET	\$8,927	\$248,438.40	28.63 ET	\$3,715	\$106,360.40
<b>Admin Water Levy</b>	1.6% of Water Contribution		\$3,975.00			N/A
<b>TOTALS</b>			<b>\$252,413.40</b>			<b>\$106,360.40</b>

Note: The above rates apply to 30 April 2010. Contribution amounts are adjusted quarterly in accordance with the *Consumer Price Index All Groups Index Number for Sydney* as published by the Australian Bureau of Statistics.

## 5.11 BUILDING CODE OF AUSTRALIA

All "new" building work is to comply with the BCA.

The requirements set out in Schedule 3A of the *Environmental Planning & Assessment Regulation 2000* (the Regulation) are to be reflected in the conditions of approval for the use of part of the building (the cinema) as an entertainment venue.

Signage is to be provided at the building site in accordance with Clause 98A of the Regulation.

As the project includes a place of public entertainment, the cinema, a condition may be imposed that specifies the maximum number of persons permitted in the building. Given the complexity of the project including the use of the performance standards of the BCA to develop various alternative solutions, it would be difficult at this time to determine the proposed maximum number of occupants permitted to occupy the cinema at any one stage. Greater certainty in relation to the proposed capacity will be available at the time the construction certificate application is made. A condition is recommended that will link the maximum approved capacity for the cinema to the maximum occupancy considered under the construction certificate as determined under the Building Code of Australia. Following from this, in accordance with Clause 98D(2) of the Regulation, the condition will also include a requirement that a sign be displayed in a prominent position in the building stating the maximum number of persons that are permitted in the building.

In accordance with Clause 98E of the Regulation, where the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.

Due to the extent of works proposed to the existing shopping centre, Council must consider the application in terms of Clause 94 of the Regulation. Clause 94 requires that Council take into consideration whether the existing building should be brought into total or partial conformity with the BCA. Note the application does not propose any works in relation to the "Panthers Club" as this is fire separated from the remainder of the development (by upgraded fire walls/openings - refer to BM+G Report).

The "Preliminary BCA Assessment Report" prepared by Blackett Maguire + Goldsmith (BG+M) identifies the existing buildings forming part of the development will be fully upgraded to meet the current requirements of the BCA (refer to BCA Methodology in the report). The only exclusions to this as noted in the report are the existing Panthers Club and Parts J1, J2 & J3 of the BCA (see item 27 of the report). A condition is recommended to reflect this approach.

The "Preliminary BCA Assessment Report" prepared by Blackett Maguire + Goldsmith (BG+M) identifies the fire separation, egress provisions and fire safety measures to the existing building will remain in place for the duration of construction. Upgrading of these aspects of the development to meet current BCA standards will be completed during construction (refer to report).

The issues of non-compliance with the DTS provisions of the BCA identified in the BG+M report are noted as being subject to alternative solution reports to be submitted with the construction certificate application. As the assessment of compliance with the BCA is a function of the construction certificate application, this approach is acceptable. It is noted that the size of the fire compartment exceeds 5000m<sup>2</sup> in area and 30,000m<sup>3</sup> in volume. Under a DTS scenario this would require compliance with Parts C2.3 and C2.4 of the BCA. Vehicular access for the NSW Fire Brigades required under Part C2.4(b) "must be capable of providing continuous access for emergency vehicles to enable travel in a forward direction from a public road around the entire building". It must also be of certain width and wholly within the allotment except for a public road. The current proposal does not allow for this and any alternative solution would need to address this matter.

The proponent has provided details in the PPR that disabled access will be available to all proposed shops, cinemas and bowling alley and will comply with all relevant government authority requirements.

## **5.12 ABORIGINAL CULTURAL HERITAGE**

The proposal is unlikely to result in any disturbance of any items of Aboriginal Cultural Heritage. The Department of Environment, Climate Change and Water (DECCW) have provided advice that standard precautionary clauses be inserted into the Statement of Commitments to require that if remains are found that DECCW be contacted and works cease on the site. It is recommended that conditions be imposed in accordance with the advice provided from DECCW.

## **5.13 STRATEGIC PLANNING**

The proposal satisfies all statutory requirements of relevant State Environmental Planning Policies, the North Coast Regional Environmental Plan and the Hastings Local Environmental Plan 2001. Refer to comments provided in Section 3.5 of this report.

The proposal satisfies all other Local, Regional and State planning policies and strategies including the Port Macquarie-Hastings Development Control Plan 2006. Comments where relevant to particular environmental, social or economic impacts are provided in this Section where applicable to relevant additional policy and/or strategies.

As detailed in Appendix B, with the exception of sections of the building height, the project is generally consistent with the principles and provisions of the Settlement City Structure Plan. With regard to the matters of inconsistency with the Settlement City Structure Plan in relation to building height, refer to comments in Section 5.3.2 and 5.3.6.

The proponent's statement of commitments are recommended to be supported with additional conditions recommended.

# **6 CONCLUSION AND RECOMMENDATION**

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Port Macquarie-Hastings Council has assessed the EA and PPR and considered the submissions in response to the proposal. The key issues raised in submissions related to traffic and access, compliance with Settlement City Structure Plan, urban design and visual impacts, socio-economic impacts, noise impacts, stormwater and erosion control.

Council has considered these issues and a number of conditions are recommended in conjunction with the proponent's Statement of Commitments.

The preferred project will provide the following public benefits:

- Net addition 5,088m<sup>2</sup> of retail space with a wider range of shops and services serving residents and tourists



- addition of leisure centre, new bowling alley and cinemas
- addition of two new private streets through the site to improve access and permeability
- activation of Bay Street and Park Street by adding retail and commercial uses
- improved landscaping and pedestrian access through and around the centre, as well as improvements to route options for buses and taxis
- improved stormwater control and management
- generation of employment in the construction phase

Furthermore, the proposal has largely demonstrated compliance with the existing environmental planning instruments.

On these grounds, Council considers the site to be suitable for the proposed project and that it is in the public interest. Consequently, Council recommends that the project be approved, subject to the conditions of approval and the proponent's Statement of Commitments.

Prepared by:  
Patrick Galbraith-Robertson  
**Development Assessment Planner**  
**Port Macquarie-Hastings Council**

## APPENDIX A. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

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### General requirements

The Environmental Assessment (EA) for the **Project Application** must include:

1. An executive summary;
2. An outline of the scope of the project including:
  - any development options;
  - justification for the project taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest;
  - outline of the staged implementation of the project if applicable;
3. A thorough site analysis including constraints mapping and description of the existing environment;
4. Consideration of any relevant statutory and non-statutory provisions and identification of any non-compliances with such provisions, in particular relevant provisions arising from environmental planning instruments, Regional Strategies (including draft Regional Strategies) and Development Control Plans.
5. Consideration of impacts, if any, on matters of national environmental significance under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*;
6. An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project;
7. The plans and documents outlined in **Attachment 2**;
8. A signed statement from the author of the EA certifying that the information contained in the report is neither false nor misleading;
9. A Quantity Surveyor's Certificate of Cost to verify the capital investment value of the project; and,
10. An assessment of the key issues specified below and a table outlining where these key issues have been addressed.

<b>Key Issues</b>	
The EA must address the following key issues:	
<b>1. Strategic Planning</b>	
1.1	Justify the proposal with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies.
<b>2. Land Use Pattern and Adjoining Sites</b>	
2.1	Address the proposal in light of linkages to and development opportunities of adjoining sites and land uses; demonstrate that desirable reasonable planning outcomes can be achieved for the locality.
2.2	Address potential impacts such as access arrangements for each use, traffic, buffers, density controls and suitability of the proposed development with the surrounding area.
<b>3. Urban Design, Visual Impact and Sustainability</b>	
3.1	Demonstrate suitability of the proposal with the surrounding area in relation to bulk, scale, density, amenity (including noise) and visual amenity having regard to the <i>Coastal Design Guidelines of NSW</i> (2003) and the <i>NSW Coastal Policy 1997</i> .
3.2	Address the visual impact of the proposal in the context of surrounding development and relevant mitigation measures. In particular address impacts on the amenity of the foreshore, overshadowing of public reserves, loss of views from public places and cumulative impacts. Address visual impacts through design, use of appropriate colours and building materials, landscaping and buffer areas must be addressed.
3.3	Address details of the proposed streetscape improvements to the Precinct.
<b>4. Infrastructure Provision</b>	
4.1	Address existing capacity and requirements of the development for sewerage, water, electricity, waste disposal, telecommunications and gas in consultation with relevant agencies. Identify augmentation works necessary to fully service the project. Identify and describe staging, if any, of infrastructure works.
4.2	Address and provide the likely scope of any planning agreement and/or developer contributions with Council/ Government agencies.
<b>5. Traffic and Access</b>	
5.1	Prepare a traffic impact study in accordance with Council's relevant traffic and parking codes and Table 2.1 of the RTA's Guide to Traffic Generating Developments.
5.2	Protect existing public access to and along the coastal foreshore and provide, where appropriate, new opportunities for controlled public access. Consider access for the disabled, where appropriate.
<b>6. Hazard Management and Mitigation</b>	
<i>Contamination</i>	
6.1	Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of SEPP 55 – Remediation of Land.
<i>Acid Sulfate Soils</i>	
6.2	Identify the presence and extent of acid sulfate soils on the site and, where relevant, appropriate mitigation measures.
<i>Bushfire</i>	
6.3	Address the requirements of Planning for Bush Fire Protection 2006 (RFS).
<i>Geotechnical</i>	
6.4	Provide an assessment of any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations that address these limitations.
<i>Flooding</i>	
6.5	Provide an assessment of any flood risk on site (for the full range of floods including events greater than the design flood, up to probable maximum flood; and from coastal inundation, catchment based flooding or a combination of the two) and having consideration of any relevant provisions of the <i>NSW Floodplain Development Manual 2005</i> . The assessment should determine: the flood hazard in the area; address the impact of flooding on the proposed development, address the impact of the

6.6	development (including filling) on flood behaviour of the site and adjacent lands; and address adequate egress and safety in a flood event. Assess the potential impacts of sea level rise and an increase in rainfall intensity on the flood regime of the site and adjacent lands with consideration of <i>Practical Consideration of Climate Change - Floodplain Risk Management Guideline</i> (DECC, October 2007).
<b>Coastal Processes</b>	
6.7	Address coastal hazards and the provisions of the <i>Coastline Management Manual</i> . In particular, consider impacts associated with wave and wind action, coastal erosion, sea level rise and more frequent and intense storms.
<b>7. Water Cycle Management</b>	
7.1	Address and outline measures for Integrated Water Cycle Management (including stormwater) based on Water Sensitive Urban Design principles which addresses impacts on the surrounding environment, drainage and water quality controls for the catchment, including the identification of any on-site treatment of stormwater and wastewater, and erosion and sedimentation controls at construction and operational stages.
7.2	Address drainage and stormwater management issues arising from the development, including: <ul style="list-style-type: none"> <li>Demonstrating that drainage and stormwater runoff will not significantly impact on the surrounding environments downstream of the development, particularly the Hastings River.</li> </ul>
7.3	Assess the impacts of the proposal on surface and groundwater hydrology and quality during both construction and occupation of the site.
<b>8. Flora and Fauna</b>	
8.1	Outline potential impacts on aquatic and terrestrial flora and fauna and their habitats (within the meaning of the Threatened Species Conservation Act 1995 and the Fisheries Management Act 1994). Provide measures for their conservation, where relevant.
8.2	Outline measures for the conservation of existing wildlife corridor values and/or connective importance of any vegetation on the subject land.
8.3	Address measures to protect and manage the riparian corridor and adjacent aquatic habitats.
<b>9. Noise</b>	
9.1	Demonstrate that the project will be designed, constructed, operated and maintained so that there is no unacceptable level of noise impacts (including traffic noise) on amenity in the locality.
<b>10. Socioeconomic Impacts</b>	
10.1	Provide a socioeconomic impact assessment for the proposal in the context of the surrounding locality considering and addressing the outcomes and principles in the Settlement City Precinct Structure Plan, the Port Macquarie Foreshore Masterplan, the Retailing Review for the Port Macquarie-Hastings Local Government Area (Hill PDA, August 2007), the Retail Strategy Review (Leyshon Consulting, June 2004) and the draft Local Environmental Study for the St Joseph's School site, Warlters Street.
10.2	Provide an economic impact assessment of the proposed development, including justification for the additional floor space and its effect on the greater CBD area.
<b>11. Staging</b>	
11.1	Identify staging of the development and demonstrate that land supply and demand will be released in an orderly and coordinated manner. This is to be supported by plans prepared at an appropriate scale.
<b>Consultation</b>	
You should undertake an appropriate and justified level of consultation with the following agencies during the preparation of the environmental assessment:	
a) <i>Agencies or other authorities:</i>	
<ul style="list-style-type: none"> <li>Port Macquarie-Hastings Council;</li> <li>NSW Roads and Traffic Authority;</li> <li>Department of Water and Energy;</li> <li>Department of Environment and Climate Change;</li> <li>Department of Primary Industries (Port Stephens Fisheries Centre); and</li> <li>NSW Rural Fire Service;</li> <li>Department of Lands;</li> </ul>	

- NSW Police Service;
- State Emergency Service;
- Northern Rivers Catchment Management Authority;
- Relevant Local Aboriginal Land Council/s and other Aboriginal community groups; and
- Relevant infrastructure providers.

(b) *Public:*

Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.

The consultation process and the issues raised should be described in the Environmental Assessment.

**Deemed Refusal Period**

**60 days**

## APPENDIX B. COMPLIANCE WITH EPIs, DCPs AND OTHER PLANS AND POLICIES

### B1. State Environmental Planning Policies

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

This SEPP applies to the project as the site has an area greater than 1 hectare. Refer to comments made under Section 5.4 of this report. The proposal is consistent with the aims of this SEPP.

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

This SEPP applies to the project in accordance with clause 7 and potential land contamination is discussed in section 5.8.1 of this report. The requirements of this SEPP are satisfied.

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

This SEPP applies to the project as consideration is required to be given as to whether the proposal may have an adverse effect on oyster aquaculture or a priority oyster aquaculture area in the nearby Hastings River. Refer to comments provided in Sections 5.7.2 and 5.9 of this report. The requirements of this SEPP are satisfied.

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

The proponent provided details in the EA that signage and advertising within the proposal will be subject to detailed development approval at a later stage. It is recommended that a condition be imposed requiring separate development consent for any advertising signage other than signage which is exempt development. The requirements of this SEPP are satisfied.

#### *State Environmental Planning Policy No. 71 – Coastal Protection*

This SEPP applies to the project as the site is located directly adjacent to the Hastings River. The site is within a coastal zone in accordance with clause 4 and also partly within a sensitive coastal zone.

The Policy has been made to ensure that development in the NSW Coastal zone is appropriate and suitably located. The key themes of SEPP 71 relate to retention of visual amenity, protection of the coastal foreshore in relation to amenity, public access, wildlife corridors, water quality, views, items of heritage and suitability of development within the area. In this regard, as detailed below, the proposal is consistent with the provision of SEPP 71 subject to the Proponent's Statement of Commitments and recommended conditions of approval. The requirements of this SEPP are satisfied.

The following table provides an assessment of the Preferred Project against the provisions (as applicable) of this SEPP (Part 2 and 4).

Provision	Proposed	Complies
(a) the aims of this Policy set out in clause 2,	Proposal is consistent with aims of this SEPP.	Yes
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	No significant change to existing public access along foreshore of Governors Way.	Yes
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	No significant change to existing public access along foreshore of Governors Way.	Yes



(d) the suitability of development given its type, location and design and its relationship with the surrounding area,	On balance of all factors considered in this report, the site is suitable for the proposed development.	Yes
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	No adverse amenity or view impacts identified.	Yes
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	No adverse impacts identified to scenic qualities of this section of coast line.	
(h) measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i> ) and marine vegetation (within the meaning of that Part), and their habitats	No adverse impacts identified to fauna.	Yes
(i) existing wildlife corridors and the impact of development on these corridors,	No adverse impacts identified to fauna.	Yes
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	No adverse coastal hazard impacts identified.	Yes
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,	No potential conflicts identified.	Yes
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	No site significance identified.	Yes
(m) likely impacts of development on the water quality of coastal waterbodies,	No adverse impacts identified on water quality of nearby Hastings River.	Yes
(n) the conservation and preservation of items of heritage, archaeological or historic significance,	No site significance identified.	Yes
(p) only in cases in which a development application in relation to proposed development is determined:		
(i) the cumulative impacts of the proposed development on the environment, and	No cumulative adverse impacts identified and water and energy efficient measures proposed.	Yes
(ii) measures to ensure that water and energy usage by the proposed development is efficient.		
14 Public access – A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or	No adverse impacts to public access to any foreshore identified.	Yes

diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.

16 Stormwater – The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.

Refer to Section 5.4.2

Yes

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

In accordance with SEPP Infrastructure 2007, the application was referred to the New South Wales Roads and Traffic Authority (RTA) due the proposal having commercial floor area and parking spaces above the thresholds listed in Schedule 3.

The application has been referred to the RTA and the comments provided from the RTA require consideration under clause 104(b)(i). Other matters requiring consideration under clause 104(b)(ii) and (iii) are considered in the assessment of access, traffic and parking impacts addressed in Section 5.3. The requirements of this SEPP are satisfied.

#### **B2. North Coast Regional Environmental Plan**

This REP applies to the project. In accordance with clause 2B and 32B, the project will not contravene any of the aims of this REP, not contravene any of aims, objectives or requirements of the NSW Coastal Policy 1997, the Coastline Management Manual, and the North Coast: Design Guidelines. The proposal will not impede public access to the nearby foreshore or result in any of the adjacent open space to the east being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time). In accordance with clause 81, the site is within 100m of the Hastings River and the following comments are provided under clause 81:

- The proposal will not affect the existing amount of foreshore open space adjacent to the east of the development.
- The proposal will not adversely detract from the existing amenity of the adjacent Hastings River waterway.
- To the east of the site on the opposite side of Park Street is an existing reserve zoned 6(a) open space which is subject to the Port Macquarie Foreshore Masterplan. The site itself is not subject to this Masterplan and will not affect any intentions of the Masterplan. If additional off-set plantings are proposed to be placed within this reserve the plantings will be required to be consistent with the Masterplan.

The requirements of this REP are satisfied.

#### **B3. Hastings Local Environmental Plan 2001**

As discussed in section 3.2, the subject site is zoned 3(t) Tourist Business under the Hastings LEP and is permissible with consent in this zone.

The objectives of the 3(t) zone are as follows:

- (a) *To permit development appropriate to the status and function of the particular business centre.*
- (b) *To permit a range of tourist developments which take advantage of the tourism potential of the centre.*
- (c) *To enable appropriate development where allowed with consent.*

The proposal satisfies the objectives of the zone. The land uses is permissible with consent in the zone and the proposal will support the current zone objectives by providing additional retail, commercial uses, tourist activities and amenities such as a cinema, bowling alley and new restaurants.

In accordance with clause 13, satisfactory arrangements are available for water supply and facilities for removal/disposal of sewage and drainage to the proposal. Refer to Sections 5.4.2 to 5.4.4 of this report.

In accordance with clause 25, the site is identified as flood liable land. Flooding issues relating to the site and proposal are discussed in Sections 5.6.5 and 5.6.6 of this report. The flooding requirements of this clause are satisfied.

In accordance with clause 26, the site has potential class 3 acid sulfate soils. Issues relating to addressing acid sulfate are addressed in Section 5.6.2 of this report. The requirements of this clause are satisfied.

The requirements of this LEP are therefore satisfied.

#### **B4. Port Macquarie-Hastings Development Control Plan 2006**

The following table provides an assessment of the Preferred Project against the applicable provisions of this DCP.

Provision	Proposed	Complies
Where a proposed development is seen to fall in more than one category (eg bowling club with licensed premises) a parking study will be required to assess the peak parking demands for the overall development. Council's assessment will be based on this study.	Refer to comments provided in Section 5.5.	Yes
Where no parking study is undertaken and there is more than one category of development, Council will require the total parking provision for each category.		

#### **B5. Settlement City Structure Plan 2009**

The following table provides an assessment of the Preferred Project against the applicable provisions of this Settlement City Structure Plan.

Provision	Proposed	Complies
Uses and ground floor activation are to be provided within the Precinct in accordance with Figure 15: Uses and Activation Map.	Additional ground floor retail tenancies proposed with frontage to Bay and Park Streets.	Yes
Diverse range of uses are encouraged above the ground floor including commercial, professional services, tourism accommodation, leisure and recreational uses and residential.	Range of commercial uses on upper levels.	Yes
Larger floor plate retail uses are only appropriate to the south and west of the Precinct with access and frontage to Warlters Street and Bay Streets.	No additional large retail floor plate uses proposed to that of the existing supermarket and discount department store.	Yes
	Park Street provided with active use which will exceed 70% of the new building frontage.	Yes
	Additional retail tenancy added to existing multi-level car park with frontage to Bay Street.	N/a
Active ground floor uses are to occupy at least 70% of the building frontage.	Approximately only 50% of new building frontage to Park Street is active use with southern elevation at ground floor of the south-east ground floor retail tenancy having	No. Recommend condition to require

	a solid wall rather than glazing and physical connectivity.	active use frontage in this location.
Provide shop front widths to the public domain of 15 – 20m maximum. Where large format retail is proposed this frontage may be increased to 30m.	Shopfront widths range to 30m width.	Yes
Blank walls and inactive areas are to be minimized to all public domain areas and streets. Where they are unavoidable, high quality design, building articulation and materials are to be used to minimize their visual impact.	Blank walls and inactive areas minimised subject to compliance with requirements for south-east ground floor retail tenancy to have glazing and physical connectivity.	Yes
Where decked car parking exists or is proposed and loading and service uses are proposed, then 70% of that frontage must be sleeved with other uses or in the short term with landscaping/amenity solutions. High quality architectural screens and/or landscaping must be provided to the exposed 30% of the car parking frontage. This 30% is to be provided as vertical "slots" along the frontage length rather than as one long unbroken area of screening.	Architectural screening proposed to existing multi-level car park and retail tenancy added to existing multi-level car park with frontage to Bay Street.	Yes
Any redevelopment for major retail uses must allow for the sleeving of large box retail, cinemas, decked car parking or service areas by active commercial, residential, retail or tourist frontages to streets, squares and laneways, unless as otherwise outlined above.	New building sleeved with active uses to Bay and Park Streets.	Yes
Vehicle and service driveways are to be kept to the minimal possible width and the throat of these entries is to be treated with high quality materials where visible from the street/public domain.	Vehicle and service driveways kept to minimum practical width and the throat of these entries will be treated with high quality materials where visible from the street/public domain.	Yes
Any future redevelopment of the Settlement City shopping centre, Panthers Club, McDonald's restaurant or Port Shores development is to provide for mixed use development with retail or commercial ground floor and other mix of uses, including residential, commercial or residential/tourist uses above.	Mixed use development proposed	Yes
There is sustainable demand for the provision of additional retail floor area within the entire Settlement City Precinct. The Structure Plan study confirmed Council's previous retail studies/policy and that the provision of additional retail space can be staged appropriately as per Council's retail policy to ensure compatibility with the Port Macquarie CBD.	Additional retail floor space proposed.	Yes
Maintain or create view corridors as shown in Figure 16 - Views and Flooding Map.	Key public domain view along Bay Street maintained.	Yes
Maintain and enhance long street views:	Key public domain views along Bay and Park	Yes

Along Park Street and Hastings Ave north to the water. Streets maintained.

Along Bay Street towards the water with potential redevelopment of the Sails Resort to facilitate water and foreshore glimpses from Bay Street at the intersection with Park Street.

Maintain Park Street view corridor	Park Street view corridor maintained.	Yes
Maintain and enhance existing public domain views from the surrounding context to, and over, the Settlement City Precinct including: - From the foreshore and breakwall footpath of the CBD, - From the Church forecourt as indicated in View A within DCP 20 to ensure the massing does not unreasonably interrupt the tree canopy and distant views to the hills beyond.	- Views from foreshore and breakwall addressed in Section 5.3.2 of this report. - Quality of views from Church forecourt identified in DCP 20 will not be unreasonably interrupted. Refer also to Section 5.3.2 of this report.	Yes and No Yes
New development is to provide photomontages demonstrating the impact of the proposal on the identified views in this structure plan.	Photomontages provided to identify view impacts.	Yes
New streets and laneways should have a simple linear alignment and be oriented to provide direct views to the water rather than to development. The view also enhances linkages and way finding.	New private streets dissecting site are simple in linear alignment.	Yes
Development should be designed to minimise the impact on any existing private views on the Westport Ridge to the south of the study area.	Visual impact from Westport Ridge not adverse.	Yes
Any parking areas located within, or close to, view corridors are to be designed to be visually appealing using high quality materials such as cobbles, landscaping and small unit pavers to minimise the impact of vehicles and trailers.	High quality materials proposed.	Yes
Development is to be designed to create visually pleasing roofscapes when viewed from the south and in profile from the water, foreshore or Westport Park	Roofscape design acceptable given generous setback from street frontages.	Yes
Development is to be designed to located habitable uses above the 1:100 flood line and likely future sea level rise. The floor level is to allow a freeboard of 0.8m.	Floor levels can comply with flooding requirements.	Yes
Uses are to be located at the following levels to allow for likely sea level rise and 1:100 flooding impacts:  Residential or tourist apartments – Floor level AHD 3.35 for habitable rooms  Retail uses and commercial uses - Floor level AHD 2.55 for 75% of the retail or commercial floor with 25% provided above at AHD 3.35 for	Floor levels can comply with flooding requirements.	

storage of material, furniture etc if required.

Car parking – can be below flood level subject to being able to demonstrate that the vehicles will not be a flood hazard i.e. debris, damage structures, property or harm people.

The transition between the designated floor levels (as outlined above) and the existing public domain i.e. foreshore, verges, streets etc is to be designed to create a positive streetscape.

Transition between each floor level satisfactorily addresses Bay and Park Streets which will provide a positive streetscape. Yes

For streets, active uses must relate to the street and footpath level. The change in level should be provided within the retail tenancy or commercial/residential foyer rather than as a level change in the street.

Active uses relate to footpath level within Bay and Park Streets. Yes

The heights of new development are to comply with the heights shown in Figure 17 Heights Map.

Heights are provided in AHD to ensure consistency with the draft comprehensive LEP. The AHD's generally equate to the following number of storeys subject to final uses.

AHD 7 – 1 Storey

AHD 9 – 2 Storeys

AHD14 – 3 Storeys

AHD 19 – 4 Storeys

ADH 22 – 5 Storeys

Heights in Section 2.1 – Table 1.

No. Refer to comments in Section 5.

The height in metres is a total height as an AHD above sea level. The height is a total height to the top of all structures, plant and roof elements.

No development is to exceed the height of the top of the wave roof on the Panthers Building as this height creates an inappropriate response to the natural setting.

New building roof height is no higher than Panthers wave roof. Yes

Provide and design for decreased building height towards the waterfront. Along the foreshore side of Park Street - a higher height (AHD 19) along Park Street with a maximum AHD 14 to foreshore edge, subject to view impacts and scale

Decreased building height from centre of new building to Park Street site frontage. Central building heights do not comply. Refer to Section 5.3.2 of this report. Yes/No

All new development, where indicated on the map is to provide a 3 storey street wall height with floors above this height setback a minimum of 5m from the building edge to achieve a lower human scale, provide sunlight, daylight and air to the laneway network and achieve continuity in the height to the public domain with the foreshore development.

3 storey street wall height with floors 5m setback. Yes



Retail, commercial and Soho uses are to be aligned to the property boundary to reinforce the street edge.	Retails and commercial uses with frontage to bay and Park Streets have been aligned with the existing alignments of the streets.	Yes
Floor to ceiling heights for new development is to be measured from finished floor to finished ceiling heights. For all buildings containing retail, commercial or residential and tourist accommodation in this Precinct the following minimum ceiling heights are to apply: Ground floor 3.4m First floor 3.2m if commercial, 2.7m if tourist or residential  Other floors above 2.7m for habitable rooms and 2.4m for non habitable rooms.	All new tenancies proposed comply with minimum floor to ceiling heights.	Yes
The street hierarchy and movement network is to be in accordance with Figure 18 - Street hierarchy and movement network map.	New private streets dissecting site in part comply with the street hierarchy and movement network concepts envisaged.	Yes
Bay Street -  Bay Street is to be widened as necessary to provide 2 lanes in each direction with kerbside lanes as clearways.	Refer to Section 5.5 of this report.	Yes
Street trees are to be provided within the verges of both sides of the street.	No embellishment works proposed.	Yes
The road is classified by Council as a local road and is to be upgraded to the street plan and section shown in Figure 20.	Refer to Section 5.5 of this report.	Yes
The street is to provide a traffic lane in each direction with a lane on the near side which will provide on street parking other than during clearway conditions in peak times.	Refer to Section 5.5 of this report.	Yes
Clear way conditions will apply 8:30am-9:30am and 4:00pm – 6:00pm depending on the direction of travel.	N/a	N/a
The design of Bay Street is to slow vehicle speed and prioritise pedestrians as a future retail main street.	Refer to Section 5.5 of this report.	Yes
Development is to provide continuous awnings for pedestrian comfort and amenity.	Continuous awnings provided.	Yes
Park Street -  Park Street is to become a continuous foreshore promenade street.  The road is classified by Council as a sub arterial and is to be upgraded to the street plan and section shown in Figure 19.  The road will be developed as a lower order road generally providing a generous footpath with 2 lanes of traffic in each direction and a centre	Refer to Section 5.5 of this report.	Yes

median island in the street. Both sides of the street and the boulevard verge will have high quality street tree planting.

The nearside lanes are to provide on street parking other than during clearway times – 8:30am to 9:30am and 4:00pm to 6:00pm.

Right and left hand turning is to be accommodated in the centre median island.

Provide bus stops to both sides of Park Street near the intersection with the new main street to provide easy access to public transport.

Refer to Section 5.5 of this report.

N/a

Potential access laneways / areas are indicated on Figure 18 with the objective to minimise pedestrian / vehicular conflict, minimise impacts to surrounding uses (e.g. noise, smell), and to ensure good traffic movement and management, and efficient access points for truck manoeuvring.

New private streets dissecting site in part comply with the street hierarchy and movement network concepts envisaged.

Yes

Service and access areas should be designed to be attractive as possible with lighting and high quality design/architectural outcomes.

Design of new service and access area acceptable. Note: no change to main loading area at rear as part of PPR.

Yes

Pedestrian laneway network -

This laneway network is intended to be an open air pedestrian space that links the western end of the Precinct through to the northern end of the Precinct.

It should have a minimum width of 10m at the ground plane widening to 12m above ground floor.

Fabric or modern material type awnings are to be provided to shop fronts – these awnings are not to bridge fully across the laneway.

The laneways are to have active retail uses, residential and commercial lobbies along their lengths to encourage activity 24 hours and 7 days a week.

These places are to be lively networks making connections through the larger commercial blocks.

New private streets dissecting site in part comply with the street hierarchy and movement network concepts envisaged. New private streets greater than 10m wide.

Yes

As part of any future development of the Panthers and shopping mall site, the open air network of laneways is to be continued to link to the north, east and west foreshores.

New private streets dissecting site in part comply with the street hierarchy and movement network concepts envisaged.

Yes

No share way link is proposed along western side of site.

N/a

If required small lengths may be closed outside retail opening hours but this is not to occur for any south to east links connecting Warlters Street to Park Street.

No proposal to have private streets closable outside of business operating hours.

Yes

Signalised intersections are to be provided at the following locations including pedestrian crossings:

Walters and Park Street

Walters and Aston Street

Aston Street and Hastings River Drive

The new main street and Park Street

Bay Street and Park Street (currently roundabout controlled).

Refer to Section 5.5 of this report.

N/a

The intersections of Park Street with Bay Street and the new main street should be clearly designed as pedestrian priority zones by the use of raised or small unit pavers within the carriageway linking both sides of the roadway.

Refer to Section 5.5 of this report.

N/a

The design of the streets, squares and laneways in the Precinct are to include high quality materials, landscaping and street trees, public art, street furniture and lighting.

Landscaping and street trees, street furniture and lighting to be provided to new private streets.

Yes

Ensure that any new pedestrian paths are clear and direct, generous in width and with good sightlines to minimize opportunities for concealment and to promote a sense of safety and security that encourages their use.

New pedestrian paths in Park and Bay Streets and within site satisfactory.

Yes

Provide convenient and lockable bicycle storage at commercial and maritime developments and residential developments.

Bicycle parking facilities proposed at ground floor level as part of new building.

Yes

On grade or decked car parking is to be concealed behind active frontages or visually screened from the public realm (refer to height and activation), where it is not possible to locate it underground/undercroft.

New car parking areas concealed behind active frontages and visually screened from public realm where it fronts part of Park Street.

Yes

The visual and acoustic impacts of servicing areas are to be minimised by shared servicing lanes and areas, sleeving of servicing areas and ensuring servicing areas do not have a direct interface with residential uses e.g. across Walters Street.

New specialty formal loading bay servicing areas (not loading zones within streets) located within the building.

Yes

For parking requirements refer to Councils DCP 18 – Off Street Parking Code for appropriate uses. It should be noted that the parking ratios for the Precinct are maximum rates due to the mixed use nature of the Precinct. The preference is for parking bays and ratios to indicate multi-functional use of parking within the Precinct.

Refer to assessment table above in accordance with Port Macquarie-Hastings DCP 2006

Yes

Provide street trees to all new and existing streets.

Landscaping and street trees to be provided to new private streets.

Yes

Provide high quality landscape plans and designs for all open space areas that celebrate

Landscaping proposed is satisfactory.

Yes

the natural setting, heritage and character of the area.

New developments should include the design, good quality and attractive pedestrian arrivals points at the locations indicated in Figure 24.	Design of pedestrian arrival point from Bay Street satisfactory.	Yes
Use colours, materials and finishes that are predominantly pale or neutral in colour.		
Use textures, tones and different natural materials to create visual interest and variation.	Variety of external textures, tones and different natural materials proposed.	Yes
Dark, saturated and synthetic colours are to be reserved for small areas of drama and contrast or for occasional architectural element such as blades.	Variety of external textures, tones and different natural materials proposed with limited use of dark saturated colours.	Yes
Natural materials associated with maritime uses and structures are encouraged.	Use of natural materials proposed in architectural elements.	Yes
Architecture should celebrate and respond to the maritime character of the area.	Architecture acceptable and interesting.	Yes
Minimise the intrusion of service elements by integrating them into the design of the roof forms including lift overruns, service plant, vent stacks, telecommunication infrastructure, gutters and downpipes.	Service elements integrated into design of buildings works.	Yes
Sustainability elements should be incorporated into the design as much as possible.	Sustainability mitigation measures have been proposed in the EA to address energy and water reductions measures and use of construction materials.	Yes
Encourage the interpretation or celebration of indigenous or European history in the built form or adjacent public domain.	No history interpreted with exception of retention of existing large Australia flag pole.	N/a
Expression of bold structural elements is encouraged.	Architecture acceptable and interesting.	Yes
Elements such as sails and lightweight timber shading structures are encouraged particularly along the foreshore.	Lightweight structures proposed along Governors Way foreshore.	Yes
Build to the street or town square boundary to Park Street, Bay and the new Main Street and to Warlters Street to spatially define the streets and reinforce view lines to the water/foreshore.	New building generally built to the street alignments of Bay and Park Streets.	Yes
Provide articulated building forms.	Articulation provided in architecture of building works.	Yes
Ensure that highly visible buildings on the main intersections, park and foreshore edges are high quality.	Architecture acceptable and interesting and corner of building at intersection of Bay and Park Streets defined.	Yes
Design buildings to provide their main entries to the streets or pedestrian laneways. Buildings are to overlook the public domain.	Building works provide their main entries to the streets, pedestrian laneways or private streets. Buildings are to overlook the public domain.	Yes

Ensure the roof form of the development is integrated into the architectural concept.	Roof form design acceptable and interesting.	Yes
Development in the Precinct is to have a holistic signage strategy that minimizes the visual intrusion of signage on building facades.	Proponent has provided details that signage and advertising within the proposal will be subject to detailed development approval at a later stage.	N/a
Signage is to be generally under awning signs.	Proponent has provided details that signage and advertising within the proposal will be subject to detailed development approval at a later stage.	N/a
Development is to be designed to achieve a minimum 4.5 star ABGR rating for commercial base buildings and fit out. Retail development should seek to achieve a similar standard of sustainability.	Proposed sustainability mitigation measures acceptable as detailed in EA and Section J of Building Code of Australia.	Unknown
Development should capture and reuse/reclaim water from roof structures and the public domain for irrigation and toilet flushing.	Rainwater harvesting is proposed to be used for irrigation and toilet flushing.	Yes
For non-residential development, developer contributions can be based on contribution rates under the Section 94A The Port Macquarie-Hastings Council S94A Levy Contributions Plan 2007.		
The application of s94 is potentially problematic for the implementation of any option within the Precinct given it is hard to determine exactly when development will occur. In this respect, the use of voluntary planning agreements (VPA) provides more certainty, and could be more beneficial to implementing the Precinct. The cost and staging of facilities through a VPA are committed up front, thus providing certainty to obtain the outcomes.	No VPA offered. Section 94A contributions required together with contributions towards road improvements as detailed in Section 5.5 of this report.	N/a
MacroPlan proposes that if agreement can be obtained between Council and the landowners/developer, there is significant benefits to Voluntary Planning Agreements (VPA) within the Precinct. The use of Voluntary Planning Agreements provides more certainty to all parties, and could be more beneficial to implementing the Precinct. The cost and staging of facilities through a VPA are committed up front, or staged funding is known upfront, thus providing certainty to achieve the outcomes. If VPAs are entered into between landowners/developers and council, the following aspects could be considered:-  Public domain and streetscape benefits to the Precinct and to Port Macquarie Greater CBD area;  Road and Intersection upgrades (for example:	No VPA offered. Section 94A contributions required together with contributions towards road improvements as detailed in Section 5.5 of this report.	N/a

redesign of Park Street resulting in slower traffic speed and improved pedestrian connections and linkages, widening of Walters Street on the northern side, creation of boulevard street and more activation within the area);

Pedestrian and cycleway linkages;

Public open space improvements and benefits (for example: continuous foreshore promenade with a plan of management to ensure security, activation, and surveillance for the public's benefit, creation of public squares with corresponding off-site offsets, registration of public squares as public places and pedestrian laneways)

Car parking

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## **APPENDIX C. ENVIRONMENTAL ASSESSMENT**

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## **APPENDIX D. PREFERRED PROJECT REPORT**

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