

Planning Proposal

**Lot 1 DP827937
370 Ocean Drive,
West Haven**

April 2010



**PORT MACQUARIE
HASTINGS**

Table of Contents

Background	1
Property Details	1
Applicant Details	1
Land owners	1
Part 1 - Objectives or Intended Outcomes	4
Part 2 - Explanation of Provisions	4
Part 3 – Justification	4
Section A - Need for the planning proposal.	4
Is the planning proposal a result of any strategic study or report?	4
Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	4
Is there a net community benefit?	4
Section B - Relationship to strategic planning framework.	5
Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?	5
Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?	6
Is the planning proposal consistent with applicable state environmental planning policies?	6
Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?	10
Section C - Environmental, social and economic impact.	14
Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?	14
Section D - State and Commonwealth interests.	15
Is there adequate public infrastructure for the planning proposal?	15
What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?	15
Part 4 – Community Consultation	16
Contact Details:	17

Planning Proposal

Background

Proposal	Proposal to Rezone land from 1(a1) Rural to 2(a1) Residential, 6(a) Open Space and 7(d) Environmental Protection.
Property Details	Lot 1 DP827937 370 Ocean Drive, West Haven
Applicant Details	King and Campbell Consultants
Land owners	NA Tate, RW Fennell and DW Cafe

The site is 4.25ha in area and located approximately 2.5km from the Laurieton Town Centre and 2km to the Lakewood Shopping Centre. The site is largely cleared and there is one 2 storey building on the site. The building is currently used as a gym and has been previously used as a restaurant.



Figure 1: Location of site.



Figure 2: Site.



Plate 1: View from north eastern corner of the site



Plate 2: View from north eastern corner of the site.



Plate 3: Proposed location of the infiltration/detention basin.

The application to rezone land was lodged in April 2006. Council advised the applicant soon after, that consideration of the application would be delayed by the introduction of the Standard Instrument.

In August 2006 and October 2006 the applicant provided additional information supporting their application and addressing issues that Council had raised.

In July 2007 Council resolved to prepare a Draft Local Environmental Plan pursuant to s(54) of the Environmental Planning and Assessment Act 1979. Since that time the application has been further delayed for various reasons including the expectation that the application would be “rolled into” the Standard Instrument. There remained complex and unresolved issues which has meant that this is not appropriate.

On 23 April 2010 (in response to Council’s letter dated 13 April 2010), the Department advised that, as Council did not include notification for the subject land under former section 54 that a Planning Proposal under s55 of the Act is required to progress the application.

This submission is the Planning Proposal under s55 of the Act.

As this application was submitted under the previous planning regime there is extensive supporting information accompanying this planning proposal.

Council has received a submission for a proposed rezoning on the adjacent sites (Lots 2&3 DP1114325 and Lot 2 DP827937) identified in the Camden Haven Growth Strategy. Council has not prepared a planning proposal for these sites because there is a fundamental ecological issue that it has sought to resolve before progressing this application further. The applicant for that site has not provided Council with any timeframe to respond to Council’s initial assessment of their submission.

It would appear logical to progress both sites under one proposal however each site is very different in terms of the constraints and their resolution. Despite their adjacency the two areas are physically separated by a significant drainage corridor and existing vegetation. There is no opportunity to integrate the entire development as the drainage and habitat corridor cannot be crossed without significant engineering works and environmental impact. Access for each site is also from different points. The only shared infrastructure is a proposed sewerage pump station. Council will pursue an arrangement to ensure the capacity and access to this facility will be available to both development sites.

Despite Lot 2 DP827937 immediately adjoining the subject site it is included in the most recent application (with Lots 2&3 DP1114325) because different Consultants are representing different landowners. This relationship will not change however both Consultants and the landowners they represent are cooperating with access, roads and sewerage issues at this stage.

Each consultant has prepared significant supporting studies for each of their sites. To attempt to combine and rationalise each application and supporting material would only invite confusion and complexity to the progress of the each site.

There is no significant benefit in treating both areas under the one planning proposal.

Part 1 - Objectives or Intended Outcomes

To enable the development of land at 370 Ocean Drive, West Haven and described as Lot 1 on DP827937 for residential, open space and environmental protection purposes.

Part 2 - Explanation of Provisions

Amendment of the Hastings LEP 2001 Land Zoning Map affecting the area nominated as illustrated with on the attached plan.

Part 3 – Justification

Section A - Need for the planning proposal.

Is the planning proposal a result of any strategic study or report?

The site is identified in the Camden Haven Urban Growth Strategy (CHUGS) as suitable for investigation for urban purposes.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The site is currently zoned 1(a1) Rural which prohibits the subdivision of the site for lots less than 40Ha. The application to rezone the land from 1(a1) Rural to 2(a1) Residential, 6(a) Open Space and 7(d) Environmental Protection has merit, in that the site's small size and isolation from other rural land uses means that it is unlikely to be used for any viable agricultural purpose.

Residential development skirts the base of Dorrigan National Park (North Brother Mountain) along Ocean Drive. Residential use will be consistent with this established pattern of development subject to the consideration of the site constraints.

Is there a net community benefit?

The community benefit of the development will be neutral.

After subdivision, there will be a small number of residential lots made available in an area with a perceived shortage of residential lots. The construction and building works associated with a residential development will provide temporary employment.

Section B - Relationship to strategic planning framework.

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The site is identified in the Mid North Coast Regional Strategy as a proposed future release area and in the Camden Haven Growth Strategy as suitable for investigation for urban purposes.

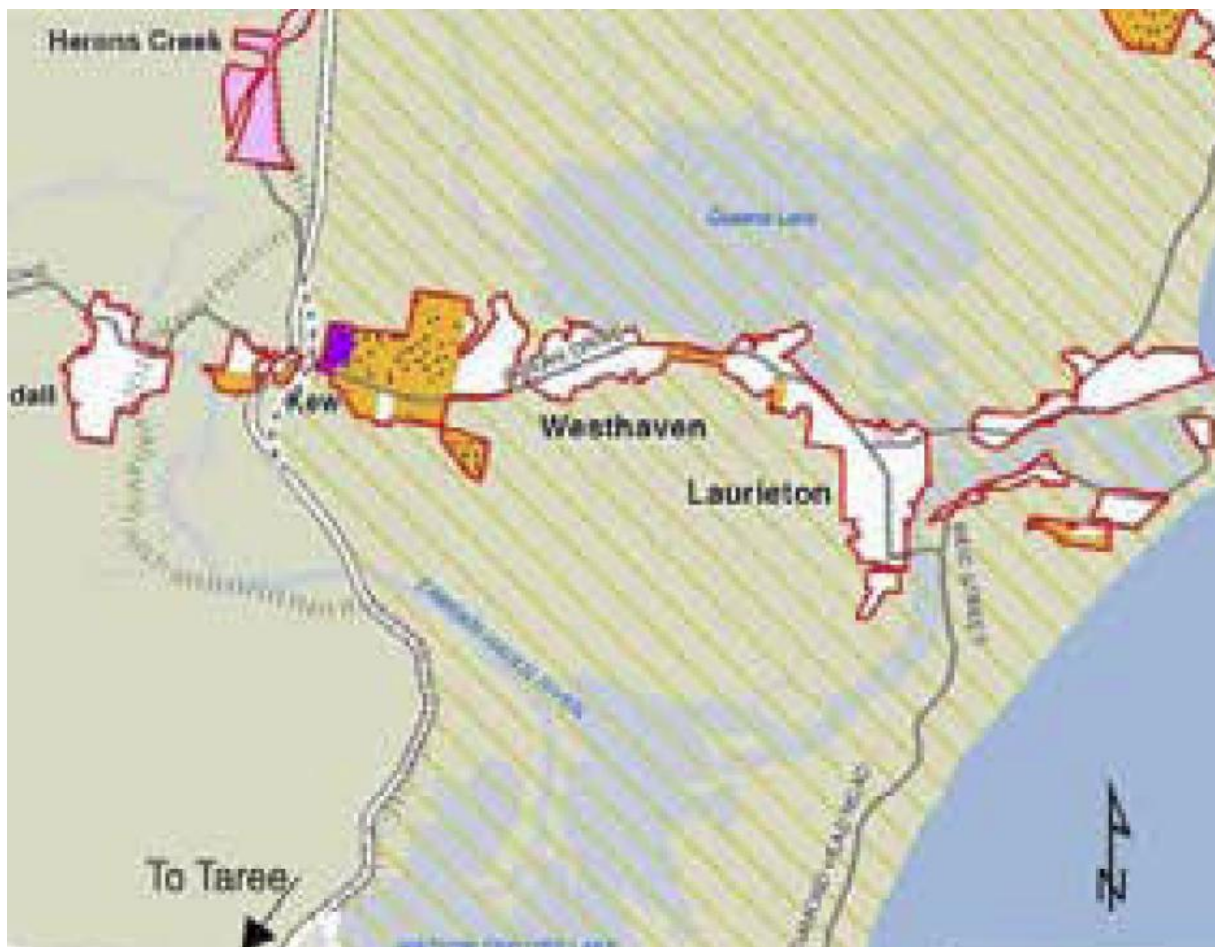


Figure 3: Extract from the Mid North Coast Regional Strategy that identifies the site as Proposed Future Urban Release Area.

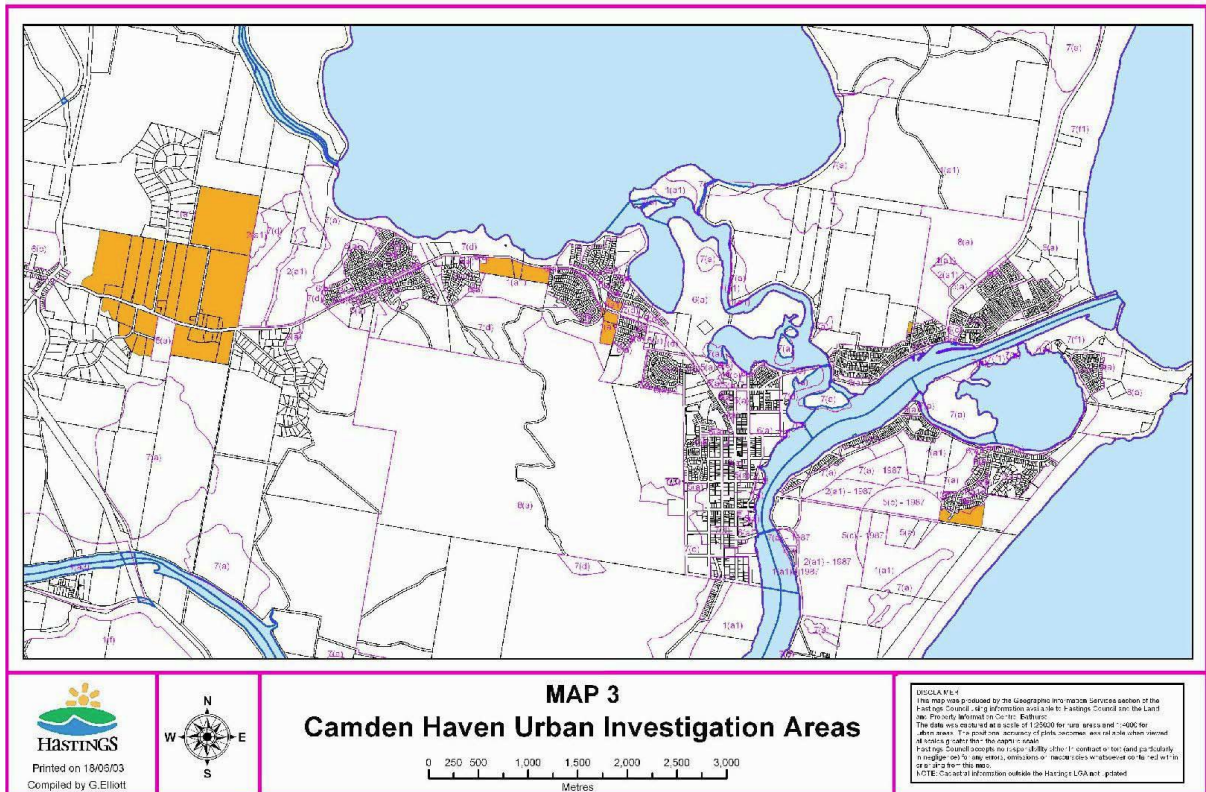


Figure 4: Extract of Camden Haven Urban Growth Strategy (CHUGS).

Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The site is identified in the Camden Haven Urban Growth Strategy as suitable for investigation for urban purposes. Refer Figure 4.

Is the planning proposal consistent with applicable state environmental planning policies?

SEPP 62 – Sustainable Aquaculture

The aims and objectives of SEPP 68 are:

- a) to encourage sustainable aquaculture, including sustainable oyster aquaculture, in the State, namely, aquaculture development which uses, conserves and enhances the community's resources so that the total quality of life now and in the future can be preserved and enhanced, and
- b) to make aquaculture development permissible in certain zones under the Standard Instrument, as identified in the NSW Land Based Sustainable Aquaculture Strategy, and
- c) to set out the minimum site location and operational requirements for permissible aquaculture development (the minimum performance criteria), and
- d) to establish a graduated environmental assessment regime for aquaculture development based on the applicable level of environmental risk associated with site and operational factors (including risks related to climate change, in particular, rising sea levels), and
- e) to apply the Policy to land-based aquaculture development and oyster aquaculture development in the State and to include facility for extension of the Policy to natural water-based aquaculture.

Any development proposed on the site will need to address Part 3A of the SEPP 62 (Sustainable Aquaculture). The rezoning application proposes a sewerage system that does not require access to the existing pump station adjacent to Queens Lake. This is consistent with Council's policy to divert pressure from this system to reduce the risk of a surcharge event occurring.

SEPP 71 – Coastal Protection

Clause 7 of the SEPP 71 states:

The matters for consideration set out in clause 8:

(a) should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, ...

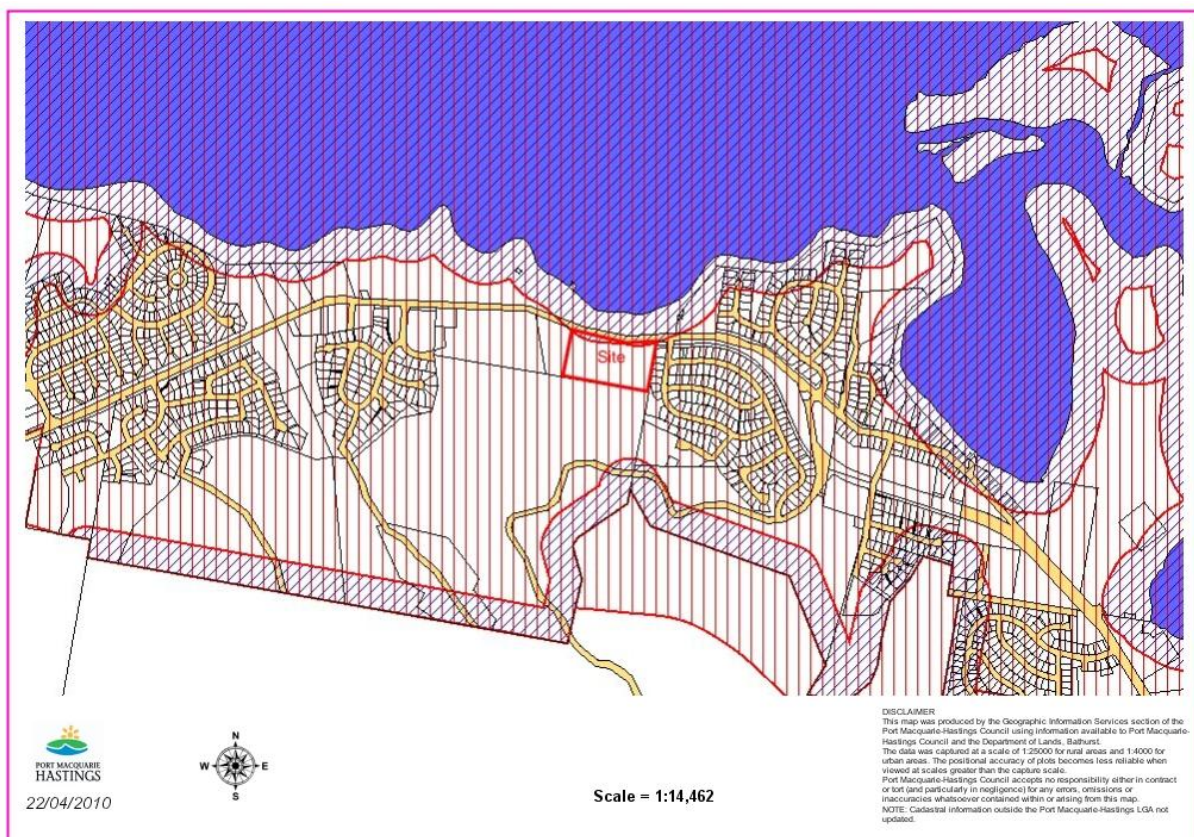


Figure 5: Coastal Protection Zone

This State Environmental Planning Policy 71 – Coastal Protection aims:

- To protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- To protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- To ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- To protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- To ensure that the visual amenity of the coast is protected, and*
- To protect and preserve beach environments and beach amenity, and*
- To protect and preserve native coastal vegetation, and*

- h) To protect and preserve the marine environment of New South Wales, and*
- i) To protect and preserve rock platforms, and*
- j) To manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
- k) To ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- l) To encourage a strategic approach to coastal management.*

The site is identified as future urban land. It is not viable for agriculture as it is a small, isolated pocket of rural land adjacent to an established residential area and close to other urban centres. The site is constrained by slope, drainage, bushfire and riparian vegetation issues however the proposed zoning plan addresses these constraints and the supporting information demonstrates that building may occur on the site with appropriate building controls. The site has been used for urban purposes (restaurant and gymnasium) previously.

It is an appropriate land use for the site and consistent with other areas skirting Doorigan National Park (North Brother Mountain) along Ocean Drive. There is no opportunity to affect public access to the foreshore in this location and it does not contribute to the aesthetic qualities of the coastline.

North Brother Mountain is a very significant geographic feature that contributes to the identity of the Port Macquarie-Hastings Local Government Area and in particular the Camden Haven. Views to the mountain will not be significantly, adversely affected by the site's proposed residential use. It will be consistent with existing development along the base of the northern edge of the mountain.

Queens Lake is an important recreational resource and commercial fishery (including oysters). Protection of this resource will be achieved by the retention of the drainage corridor and existing riparian buffer and sewerage will be excluded from the pump station adjoining Queens Lake.

SEPP - Rural Lands

Clause 7 of the SEPP sets out 8 "Rural Planning Principles" that must be considered in preparing any LEP amendments affecting Rural Lands.

- 1. The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- 2. Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- 3. Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- 4. In planning for rural lands, to balance the social, economic and environmental interests of the community,*
- 5. The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- 6. The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- 7. The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*

8. *Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The proposed rezoning is addresses these principles as follows:

- The site has not been identified in any planning document, including the NSW Mid North Coast Farmland Mapping Strategy as being “prime” agricultural land or of regional significance for farming activities;
- No natural resources or areas of significant biodiversity or native vegetation would be adversely impacted by the proposal;
- The site has no forestry value or forestry industry potential;
- The site is not identified as being significant, or potentially significant in terms of its agricultural value;
- The site is within an established residential location and is surrounded by other urban, non-rural land-uses.

Mid North Coast Farmland Mapping Project

The Mid North Coast farmland mapping project has sought to map and help protect the region’s most significant agricultural land. It identifies significant farmland parcels on a regional level in the local government areas on the Mid North Coast, including the Port Macquarie - Hastings.

The site is identified as Future Urban Land in the mapping project.

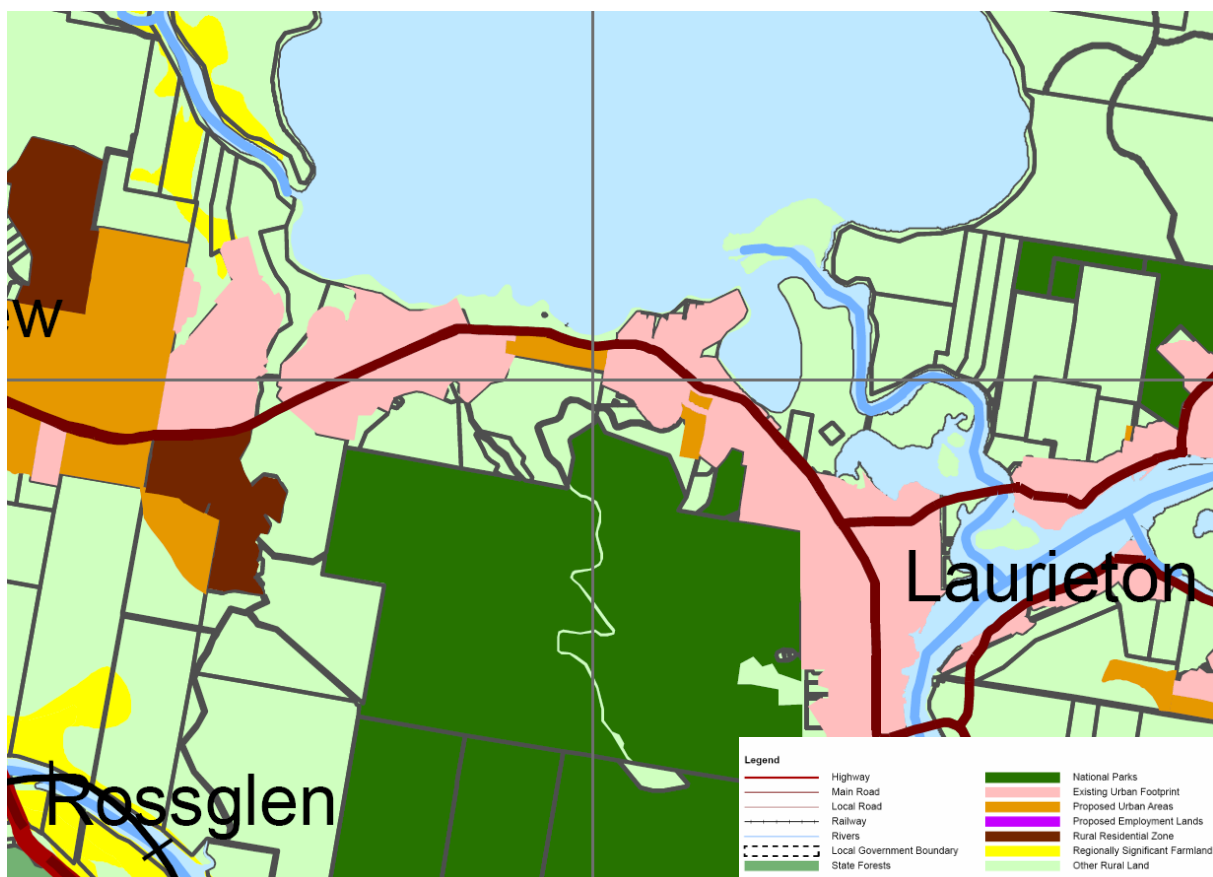


Figure 6: Mid North Coast Farmland Mapping Project

Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The relevant s117 directions are:

No 1.4 – Oyster Aquaculture

The objectives of this direction are:

- *to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal,*
- *to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.*

Any development proposed on the site will need to address Part 3A of the SEPP 62 (Sustainable Aquaculture). The rezoning application proposes a sewerage system that does not require access to the existing pump station adjacent to Queens Lake. This is consistent with Council's policy to divert pressure from this system to reduce the risk of a surcharge event occurring.

The detailed design of this infrastructure will be approved at DA stage.

No 1.5 – Rural Zones

This direction states that land shall not be rezoned from rural purposes without the land being identified in a strategy approved by Council and approved by the Director General.

The site is identified in the Mid North Coast Regional Strategy as land categorised as proposed future urban release area and in the Camden Haven Growth Strategy as suitable for investigation for urban purposes.

An assessment under the Mid North Coast Farmland Mapping Project and the SEPP (Rural Lands) 2008 has been provided above.

No 2.1 Environmental Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas.

The proposal includes a zone to protect the vegetated riparian corridor. This is a greater level of protect than provided under the existing rural zone.

No 2.2 – Coastal Protection

The site is mapped as part of the coastal zone and a small area is identified as being in a sensitive coastal location. Refer Figure 5.

A draft LEP shall include provisions that give effect to and are consistent with:

- (a) *the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997;*
- (b) *the Coastal Design Guidelines 2003; and*
- (c) *the Manual relating to the management of the coastline for the purposes of section 733 of the Local Government Act 1993 (the NSW Coastline Management Manual 1990)*

An assessment against the provisions of the SEPP71 (Coastal Protection) has been provided above.

Any development on the site will require a masterplan in accordance with the requirements of SEPP 71 – Coastal Protection.

No 2.3 – Heritage Conservation

The subject site is not within the vicinity of a designated heritage item under the Council's LEP 2001.

An assessment has been undertaken by Senior Sites Culture and Heritage Officer from the Birpai Local Aboriginal Land Council dated January 2005.

No artefact material was found on the site however the report notes that the land was highly disturbed.

A copy of the report is included in the applicant's supporting material.

No 3.1 - Residential Zones

The objectives of this direction are:

- a) to encourage a variety and choice of housing types to provide for existing and future housing needs,*
- b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- c) to minimise the impact of residential development on the environment and resource lands.*

The proposed rezoning will permit the use of the urban investigation area for residential purposes. The applicants will be required to justify the proposed development in terms of housing diversity at the detailed application stage. However, the slope constraint will require careful lot layout which may not support a diversity of housing types.

No 3.4 - Integrating Land Use and Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- a) improving access to housing, jobs and services by walking, cycling and public transport, and*
- b) increasing the choice of available transport and reducing dependence on cars, and*
- c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- d) supporting the efficient and viable operation of public transport services, and*
- e) providing for the efficient movement of freight.*

The site is located 2.5km from the Laurieton Town Centre and 1.5km to Lakewood Village. The 334 bus route travels along Ocean Drive between Kew and Port Macquarie via Laurieton.

Council has previously acquired a 10.0m buffer between other residential estates and Ocean Drive. In the most recent developments along Ocean Drive, this 10.0m buffer incorporates a dedicated pedestrian path. The proposed zoning plan identifies the 10.0m buffer as the 6(a) Open Space zone. The future configuration of Ocean Drive includes an on-road cycle lane.

Any future development proposal will be required to demonstrate the permeability of the estate to the transport assets of Ocean Drive and the provision of an off-street path for the full length of the frontage of the site.

No 4.1 – Acid Sulphate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

The residential development of the site is unlikely to intercept ASS however the sewerage pump station that will be required to service this site and the 2 adjacent sites will be located at a depth that will intercept ASS. A Preliminary ASS Assessment Report has been prepared by the applicant for the proposed sewer pump station. The report recommends that an ASS Management Plan accompany any future development application that includes the construction of the sewer pump station in the location proposed.

No 4.2 - Mine Subsidence and Unstable Land

The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

This direction applies to land that:

- is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or
- has been identified as unstable land.

The site ranges from 0-5% slope at Ocean Drive to 25% at the rear of the site. There is evidence in other housing estates in the area that creep is occurring leading to damage to pavements and in ground infrastructure. A Geotechnical Investigation prepared by Martens Consulting Engineers accompanies the application. The report states;

“The risk of site instability is considered to constitute a LOW RISK to property and a ACCEPTABLE RISK to life resulting from slope stability.”

This conclusion is subject to a number of recommendations relating to ‘good hill slope engineering practices’.

Council will be seeking a local exclusion for complying development on the site to ensure that residential dwellings are design and constructed in accordance with relevant industry guidelines.

Rock fall is also identified as a potential risk to development on the site and appropriate boulder management measures are to be considered at the subdivision stage.

No. 4.4 – Planning for Bushfire Protection

The site is subject to bushfire hazard. A Bushfire Protection Assessment accompanies the application. The assessment, based on the 2001 Planning for Bushfire Protection Guidelines, supports development on the site subject to a number of specific recommendations.

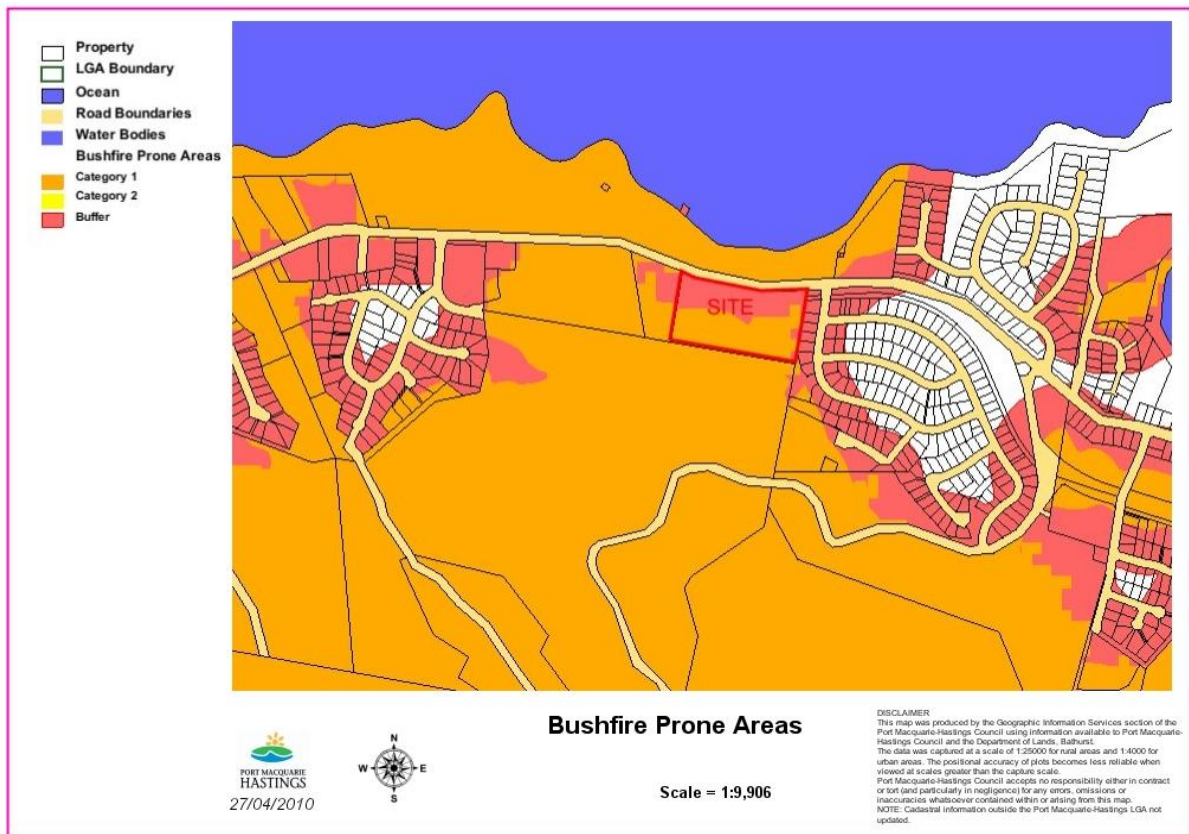


Figure 7: Bushfire Prone Areas.

A copy of the report and the recommendations can be found in section 3.3.2 of the applicants report.

No 5.1 - Implementation of Regional Strategies

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

The proposal is consistent with the Mid North Coast Regional Strategy that identifies the site as Future Urban Release Area.

No 5.3 - Farmland of State and Regional Significance on the NSW Far North Coast

The site is designated as Proposed Urban Area in the Mid North Coast Farmland Mapping Project. Refer Figure 6.

No 6.1 - Approval and Referral Requirements

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

The planning proposal will not be referred to any Minister or Public Authority or be exhibited prior to the gateway determination being issued under clause 56 of the Environmental Planning and Assessment Act 1979.

6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

It is considered appropriate to specifically zone this site because of the classification of the site as suitable for investigation for urban purposes in the Camden Haven Urban Growth Strategy and its identification as Future Proposed Urban Area in the Mid North Coast Regional Strategy.

Section C - Environmental, social and economic impact.

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

An Ecological Report accompanies the application. The conclusions of that report are:

"..while the site is generally evident of a substantial disturbance history, it has retained some significant ecological values.

Under SEPP44 assessment guidelines, the site qualified as Potential Koala Habitat. However the site failed to qualify as Core Koala Habitat as no koalas or evidence of occurrence was detected by this or the previous survey on-site, and there are no records of Koalas on site or in the general area.

This survey has identified that the site has value for a number of threatened species, with confirmation six occurring on/adjacent to the site: Yellow-Bellied Glider, Little Bent Wing Bat, Common Bent Wing Bat, Greater Broad-Nosed Bat and Powerful Owl. Several other species were consider potential occurrences mainly as foraging vagrants as part of their nomadic movements and/or larger range i.e Marked Owl, Glossy Black Cockatoo, Brush Tailed Phascogale, Squirrel Glider and Yellow-Bellied Sheath tail Bat considered at least marginally fair potential occurrences.

No threatened flora species were found and they are considered unlikely to occur due to the site's extensive disturbance history, failure to detect them by this and the previous survey, the lack of proximate records and/or the lack of potential habitat on site. No endangered populations or ecological communities were present on site either.

No EPBC Act listed migratory species were recorded on the site by this or the previous survey. Many migratory species have been recorded in the locality, and a few may use the site at some time. No threatened fauna species listed under the EPBC Act were recorded by this or the previous survey and only the Grey Headed Flying Fox was considered a likely potential occurrence. No threatened plants listed under the EPBC Act were found or considered potential occurrences. Overall, no EPBC Act list species or MNES was considered likely to be significantly affected by the proposal.

The proposed development will have some negative impact on the capacity of the site to support some of the recorded and potentially occurring threatened species as it will modify/remove known/potential habitat and habitat components (e.g. potential forage sources), and introduced /increase secondary impacts such as increased fire threat, increased human presence, etc. While negative, given the range and ecology of all

the threatened species known or considered potential occurrences on the site and/or in their lifecycle needs; the proposal is not considered likely to have an impact of sufficient order of magnitude to result in a significant impact as they will be able to meet these needs post-development utilising retained habitat on site, in the study area, and remaining within their local range. Furthermore the development is largely restricted to the areas of somewhat marginal habitat (garden/disturbed lightly wooded grassland and predominantly an under scrubbed area of dry sclerophyll forests) and the main areas of habitat on site (i.e. dry sclerophyll forest) as well as its potential functions (eg as foraging habitat and/or link) will be largely retained post development.

Hence the proposal is not considered likely to significantly affect any threatened species, endangered population or ecological communities.”

The proposed rezoning plan has retained the existing drainage corridor and riparian vegetation within a vegetated area with a width of between 80.0m to 40.0m.

The proposed zoning for the drainage corridor and buffer is 7(h) Environmental Protection.

Section D - State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

The application proposes a sewer strategy that is acceptable in its concept form to Council however more detailed design work will be required at development application stage. The applicant has provided a strategy that will service any potential development on the adjacent site without the need to connect into the existing pump station adjacent to Queens Lake. This is consistent with the Council's intention for that pump station.

Development on the site is constrained by water reticulation. CHUGS states;

“Ocean Drive – (Lot 1, DP 617405, Lot 1 and 2, DP 827937), between Mission Terrace & Waterview Crescent. No land above the 30 metre AHD contour should be developed for residential purposes”

The applicant is aware of this constraint and will be required to address this in any development application for the site.

All other utilities are available to the site.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No consultation with State Agencies has occurred at this stage.

Part 4 – Community Consultation

The proposal is not considered to be low impact. Therefore an exhibition period of 28 days is considered appropriate.

Consultation will be carried out in accordance with the statutory requirements set by the EP&A Act and its regulation.

The proposed consultation strategy for this proposal will be:

- Exhibition in a locally circulating newspaper.
- Notification of those landowners adjoining the site.

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