

**Rezoning of Area 14 SVF ("Saint Vincents Foundation") land at Lake Cathie Urban Release
Area for Urban and Environmental Protection/Management Purposes**

Proposal Title :	Rezoning of Area 14 SVF ("Saint Vincents Foundation") land at Lake Cathie Urban Release Area for Urban and Environmental Protection/Management Purposes		
Proposal Summary :	The planning proposal seeks to rezone land at Ocean Drive Lake Cathie from RU1 Primary Production and R1 General Residential to B2 Local Centre, R1 General Residential, R3 Medium Density Residential		
PP Number :	PP_2012_PORTM_001_00	Dop File No :	12/02891

Proposal Details

Date Planning Proposal Received :	09-Feb-2012	LGA covered :	Port Macquarie-Hastings
Region :	Northern	RPA :	Port Macquarie-Hastings Council
State Electorate :	PORT MACQUARIE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Ocean Drive		
Suburb :	Lake Cathie	City :	Port Macquarie
		Postcode :	2444
Land Parcel :	Part Lot 1232 DP 1142133, Lots 1, 2, 3 and 4 DP 1150758 and Lot 5 DP 25886		

DoP Planning Officer Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes

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MDP Number :

Date of Release :

Area of Release (Ha) **177.40**

Type of Release (eg **Both**
Residential /
Employment land) :

No. of Lots : **0**

No. of Dwellings **0**
(where relevant) :

Gross Floor Area : **0**

No of Jobs Created : **0**

The NSW Government **Yes**
Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been **No**
meetings or
communications with
registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting Notes : **A Project Application/Concept Plan (under the former Part 3A of the planning legislation) is being assessed by the Department. The planning proposal seeks to rezone the land in accordance with the Concept Plan.**

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The Statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to amend the Port Macquarie Hastings LEP 2011 to enable the development of the subject land at Ocean Drive Lake Cathie for urban purposes, environmental management/conservation and public recreation uses.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposed amendment constitutes an amendment to the Port Macquarie Hastings LEP 2011 maps. This is the most appropriate method to achieve the objective of the proposal.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

6.2 Reserving Land for Public Purposes

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Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

**SEPP No 26—Littoral Rainforests
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection
SEPP (Major Projects) 2005**

e) List any other
matters that need to
be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The Council does not consider the planning proposal to be "low impact" and believes that an exhibition period of 28 days is necessary. However given that the public exhibition of the Concept Plan has already taken place, it is considered that an exhibition of 14 days is adequate in this case.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

Port Macquarie Hastings LEP 2011 was published in February 2011

Assessment Criteria

Need for planning
proposal :

The planning proposal results from the endorsed Hastings Urban Growth Strategy (HUGS) which identified the land within the Area 14 investigation precinct as suitable for urban purposes.

The Lake Cathie and Bonny Hills Urban Design Master Plan and Environmental Study identified preferred outcomes for the Area 14 land and examined the broad constraints and opportunities for urban development.

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The Mid North Coast Regional Strategy identifies the land within the Growth Area of Lake Cathie and Bonny Hills due to its current residential zoning. The site was rezoned in the 1980's but has remained undeveloped due mainly to previous servicing issues.

The planning proposal to rezone land to relect the land uses proposed by the Part 3A Concept Plan is the only option to allow the intended outcome. Several studies and investigations over the land have been prepared as part of the development of the Part 3A application. The current blanket residential zoning of the site does not relect the site's natural values or provide opportunity for planned urban growth. The planning proposal relects the investigations undertaken to identify land constraints; support the use of the land for the proposed urban purposes and identify areas of the coastal environment for environmental conservation and management.

The community benefit of the proposal is that land intended for urban use and land of environmental significance will be appropriately zoned.

The planning proposal will contribute to the continued supply of land for residential purposes to meet the expected demands of population growth in the area. Development of the site will include a village centre B2 Local Centre zone expected to provide a range of community facilities and neighbourhood level commercial and retail facilities. The proposal will therefore contribute to the supply of vacant residential land, supporting the local construction industry and providing employment options for future residents, producing positive effects in the local community.

Council's views on these issues are supported.

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Consistency with strategic planning framework :

REGIONAL STRATEGY:

The Mid North Coast Regional Strategy (MNCRS) is the applicable regional strategy. The planning proposal is generally consistent with the aims and desired outcomes of the MNCRS.

The subject land is located within the urban release area of Area 14 at Lake Cathie identified as the sub-precinct of St Vincent's Foundation (SVF). The Part 3A application identifies the land as Rainbow Beach.

The land is located south of Ocean Drive and the existing Lake Cathie village that provides some limited services. The site is approximately 12kms south of the major regional centre of Port Macquarie.

The master planning study for the Area 14 release area identified land south of Ocean Drive as an urban release area to include business, school, recreation and residential zones. Much of this area has been zoned for residential purposes since the 1980s, but has not been developed.

The planning proposal seeks to establish zoning of land consistent with the Part 3A Concept Plan presently under consideration and is the final stage of Area 14 to be rezoned. Land known as Area 14-1B, adjoining the site to the north-east was zoned for urban use in September 2011 by Amendment 6. Land across Ocean Drive to the north is being zoned residential by Amendment 5 which has recently received an opinion from the Parliamentary Counsel.

The planning proposal is also consistent with the Port Macquarie Hastings Urban Growth Management Strategy 2010, prepared to align with the MNCRS objectives to manage the spread of urban development, allow efficient utilisation of existing services and infrastructure and protect areas of high conservation value.

SEPPS:

SEPP (Major Development). A Part 3A application/concept plan is being assessed for the site. Preliminary discussions with the D&P I Assessment team indicate that some minor alterations to the concept plan will be recommended. To ensure that the rezoning proposal remains consistent with the concept plan when approved, Council will need to resubmit the proposal before exhibition (s57(2)) to ensure the form and content of the plan is accurate/consistent for community consultation.

SEPP 26 Littoral Rainforest. The buffer provisions of the Policy do not apply to residential land (because it was zoned residential when the SEPP was implemented in 1988). The site adjoins the southern extension of Littoral Rainforest No 116. An informal access track exists through the site and the rainforest to the beach (eastern boundary of Lot 5 DP 25886). Council has determined that vegetation south of the access track also constitutes littoral rainforest/vine thicket under the Federal Environment Protection and Biodiversity Conservation (EPBC) Act, and notes that the ecological report considers impact of the development on the littoral rainforest. Future assessment will include requirements for the interface between the development and the adjoining rainforest, including a buffer between 26 and 51 metres.

SEPP 44 Koala Habitat Protection applies to the land which contains both primary and secondary koala habitat and provides an important linkage between adjoining sites, the Lake Innes Nature Reserve and the Queens Lake State Forest (to the north and west) for the koala population on the site. A Koala Plan of Management (KPoM) is presently being considered by the Department. The draft plan proposes to zone corridors identified through the site by the KPoM as E2 Environmental Conservation.

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SEPP 55 Remediation of Land. The SEPP requires that Council be satisfied that the land is suitable, or will be suitable after remediation, for the proposed development before development consent is granted. A Preliminary Site Investigation has been undertaken due to previous agricultural activity on the land. Site contamination was identified and related to small areas of waste oil spillage. The report concluded that only a minor level of contamination exists which can be readily treated during the development of the land.

SEPP 71 Coastal Protection. The land is within the coastal zone. An assessment against clause 8 matters and the aims of the Policy has been undertaken. This assessment and comprehensive investigation undertaken to support the proposal indicates that the future development of the land provides an opportunity to rehabilitate and enhance land within the sensitive coastal zone. It is proposed 86ha of land will be retained/rehabilitated for open space, drainage and wildlife purposes to be secured in public ownership. Public access through the site to the coast will be formalised to protect littoral rainforest and an opportunity exists to continue the coastal walk through the site.

117 DIRECTIONS:

Several S117 Directions are applicable to the planning proposal. Inconsistencies exist with Directions 1.2, 1.5, 3.4, 4.4 and 6.2. These inconsistencies can be justified as follows:

Direction 1.2 Rural Zones. Direction 1.2 provides that a planning proposal shall not rezone land from rural to residential nor contain provisions which will increase the permissible density of land within a rural zone. The planning proposal seeks to rezone a small area of land from rural to residential. Direction 1.2 provides that a planning proposal may be inconsistent with this direction if the provisions which are inconsistent are justified by a strategy, a study or a regional strategy or are of minor significance. The subject land is located within a proposed future urban release area as identified by the MNCRS. Therefore the inconsistency of the planning proposal with the direction is justified.

Direction 1.5 Rural Lands provides that a planning proposal should not affect land within a rural or environmental protection zone or reduce the minimum lot size applying to land unless consistent with the Rural Planning Principles or Rural Subdivision Principles in SEPP (Rural Lands). The planning proposal seeks to rezone rural land for urban use. The direction provides that a draft plan may be inconsistent with this direction if the land is identified in a strategy which considers the objectives of this direction and is approved by the Director General of the Department or the rezoning is of minor significance. In this case the land is identified as a proposed future urban release area in the MNCRS and is of minor significance. The inconsistency of the proposal with the direction is therefore justified.

Direction 3.4 Integrating Land Use and Transport provides that a planning proposal shall locate zones for urban purposes and include provisions that give effect to and are consistent with the Department's Improving Transport Choice Guidelines for planning and development and the Right Place for Business and Services Planning Policy. The planning proposal seeks to allow residential zoning of land where employment opportunities and services will not be available in the immediate future. While a regular public bus system operates along the northern boundary of the site, it is not clear whether it will reduce the dependence on cars to provide access to jobs and services in Port Macquarie, 12km to the north. However walking and cycling infrastructure is proposed throughout the site and planned upgrades to the Ocean Drive corridor for dedicated cycle and pedestrian routes will link with adjoining areas.

The Direction provides that an inconsistency can be justified if the land is identified in a strategy which considers the objectives of the direction and is approved by the Director General, is justified by an environmental study, a regional strategy or is of minor significance. The subject land is identified as a proposed future urban release area in the MNCRS. The inconsistency of the proposal with the direction is therefore justified.

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Direction 4.4 Planning for Bushfire Protection applies as the land is mapped as bushfire prone land. A Bushfire Hazard Assessment has been prepared to support the proposal in accordance with the Planning for Bushfire Protection Guidelines and identifies mitigation measures to be implemented on the land. Council is required to consult with the NSW Rural Fire Service and the proposal remains inconsistent with the Direction until this occurs.

Direction 6.2 Reserving Land for Public Purposes provides that a planning proposal shall not create, alter or reduce existing zonings or reservations for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning, unless the provisions of the proposal that are inconsistent, are of minor significance. The proposal includes a park at the village centre and playing fields at the western boundary of the site to be zoned RE1 Public Recreation. These areas of land will be dedicated to Council. Port Macquarie Hastings LEP 2011 clause 5.1 is the "standard" clause for acquisition of land zoned RE1, which will be applied in this instance at the appropriate stage. In the circumstances the inconsistency is considered to be of minor significance.

Environmental social
economic impacts :

The site is predominately cleared pasture with isolated areas of swamp forest and dry sclerophyll forest. Landform modification associated with a former development approval in the 1980's has resulted in the creation of artificial drainage lines and a 6ha lagoon on the southern boundary of the site.

The eastern boundary of the site adjoins the southern extension of Littoral Rainforest Area No 116. Provisions to minimise impacts on the rainforest are proposed as part of the Concept Plan and for consideration during the development application stage. Existing access through the site and the rainforest to the beach will be formalised to further protect the coastal environment.

A Koala Plan of Management (KPoM) has been prepared and is being assessed by the Department. The planning proposal includes corridors identified in the KPoM in environmental conservation zones.

The planning proposal has not identified any significant social or economic effects. Extensive community consultation has occurred as part of the Area 14 Master Planning process to guide development of the area and more recently as part of the Part 3A Concept Plan process.

The proposal is expected to have a positive impact on the local environment.

The proposed development will allow a substantial increase in economic activity as a result of increased construction industry activity and employment opportunities.

The planning proposal should proceed without variation for the following reasons:

1. The site is suitable for the proposed urban development as identified by the strategic planning framework.
2. The land is adjacent existing urban residential land and can be serviced with the necessary infrastructure.
3. Areas of significant vegetation/koala habitat and corridor linkages are proposed to be protected by environmental zoning.

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Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **12 Month** Delegation : **DG**

Public Authority : **Office of Environment and Heritage**
 Consultation - 56(2)(d) : **NSW Rural Fire Service**
 : **Transport for NSW - Roads and Maritime Services**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

Part 3A

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Port Macquarie Hastings Council_09-02-2012 00_00_00_Pt Lot 1232 DP 1142133 Lots 1 2 3 4 DP 1150758 Lot 5 DP 25886 Ocean Dr Lake CCathie - PP_.pdf	Proposal	Yes
6380_COM_LSZ_013E_020_20120206.pdf	Map	Yes
6380_COM_LSZ_014B_020_20120206.pdf	Map	Yes
SVF Locality Map.doc	Photograph	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.2 Rural Zones**
1.5 Rural Lands
3.4 Integrating Land Use and Transport
4.4 Planning for Bushfire Protection
6.2 Reserving Land for Public Purposes

Additional Information : **It is Recommended that:**

1. the planning proposal proceed as a routine planning proposal;

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2. the planning proposal be exhibited for 14 days;
3. the planning proposal should be completed in 12 months;
4. consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Transport Roads and Maritime Services
 - Environmental Protection Authority
 - NSW Rural Fire Service
 - Local Aboriginal Land Council
5. Council be required to lodge the plan under section 57(2) for the approval of form and content prior to community consultation.
6. the Director-General (or delegate of the Director-General) agree that inconsistencies with Section 117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.4 Integrating Land Use and Transport, 4 and 6.2 Reserving Land for Public Purposes are justified in terms of the Directions.
7. the Director General (or delegate) note that the inconsistency with Direction 4.4 Planning for Bushfire Protection will be justified when Council consults with the Rural Fire Service.

Supporting Reasons :

1. The planning proposal will generate new employment opportunities with the future construction of homes and further living opportunities in the Port Macquarie area.
2. The planning proposal will protect and enhance land with significant natural values within the sensitive coastal environment by environmental conservation zoning.
3. The proposal is not inconsistent with both State and local strategic framework and is likely to have positive social and economic impacts on the locality.

Signature: _____

Printed Name: _____

JIM CLARK

Date: _____

17 October 2012