

Joint Regional Planning Panel 21ST February 2013

JOINT REGIONAL PLANNING PANEL (Northern Region)

JRPP No	JRPP Reference Number
DA Number	2012/0381
Local Government Area	Port Macquarie-Hastings Council
Proposed Development	176 Lot Subdivision and Associated Infrastructure
Street Address	Lot 4 DP 615261, Lot 1 DP 374315, Lot 1232 DP 1142133, Lot 5 DP 25886, Ocean Drive, Lake Cathie
Applicant/Owner	King and Campbell Pty Ltd
Number of Submissions	No submissions
Recommendation	Consent subject to Conditions
Report by	Ben Roberts, Development Assessment Planner
Date	5 February 2013

RECOMMENDATION

That DA 2012/0381 for a 176 Lot Subdivision and Associated Infrastructure at Lot 4 DP 615261, Lot 1 DP 374315, Lot 1232 DP 1142133, Lot 5 DP 25886, Ocean Drive, Lake Cathie, be determined by granting consent subject to the recommended conditions.

1. BACKGROUND

Existing sites features and surrounding development

The site is approximately 33.42 hectares in size and located within the recently rezoned 'Area 14' planning area. The aerial photograph below provides an overview of the site:



The site is located on the southern fringe of the coastal village of Lake Cathie. The coastal village of Bonny Hills is located approximately 1km further south. The site has a frontage onto Ocean Drive along its north western boundary.

Adjoining the site to the north is predominately residential land with medical centre immediately opposite on Ocean Drive. Immediately adjoining the site to the south and west is undeveloped residential land. Adjoining the site to the east is Rainbow Beach separated by a corridor of Littoral Rainforest.

The site is undulating with two notable peaks which provide an outlook to the ocean. An informal pedestrian access to Rainbow Beach currently exists through the site (private land) and corridor of littoral rainforest. To the west and south-west corner of the site is Duchess Gully, an intermittent watercourse that extends through to the adjacent land to the south.

Background and History to the development

There are existing Part 3A Concept Plan and Stage 1 Project Approvals for residential, commercial, tourist/mixed uses and environmental works applicable to the site.

The concept plan and project approvals were issued by the Planning Assessment Commission (PAC) on 28th November 2011. The terms of the approval included one (1) modification, fourteen (14) environmental assessment requirements for the future stages and twenty-six (26) proponent commitments. The Part 3A concept approval and Stage 1 project approval are provided as attachments to this report.

Part 3A of the Environmental Planning and Assessment Act, 1979 (the Act) was repealed on 26 August 2011. The Part 3A application was undetermined at the time of these changes. Schedule 6A of the Act established the transitional arrangements and subject to clause 2 of this schedule the project is a 'transitional Part 3A project'. Accordingly Part 3A of the Act as existed, prior to its repeal, continues to apply to the project.

Under the terms of the concept plan approval future approval to carry out the project, other than 'Stage 1 Environmental Works', are subject to Part of the Act. Accordingly the subject application has been made under Part 4 of the Act.

2. DESCRIPTION OF DEVELOPMENT

In summary the proposed development includes the following:

- A boundary adjustment between Lot 1 DP 374315 and Lot 4 DP 615261 to align the common boundary with the development lots and land uses approved under the Part 3A Concept Plan Approval;
- The subdivision of the R1 General Residential areas into individual allotments (stages S2 to S4 and M2 to M6);
- The subdivision to create development lots in the R3 Medium Density Residential and B4 Mixed Use zones (stages S5 to S8 and M7 to M10);
- The dedication of the foreshore public reserves (stages M2, S2 and S5);
- The dedication of the riparian public reserve (stage M2 - proposed Lot 182);
- The dedication of the drainage reserve (stage S2 - proposed Lot 70);
- A boundary adjustment with the adjoining landowner (Lot 1232 DP 1142133) to facilitate the dedication of the entry road and intersection at Ocean Drive;
- The construction of a sewer rising main connection through Lot 5 DP 25886 to the Lake Cathie / Bonny Hills Sewerage Treatment Plant.

Application Chronology

1 August 2012 - Application lodged

14 August 2012 - Notification to Joint Regional Planning Panel

14 August 2012 - Referred to Roads and Maritime Services (RMS)
16 - 30 August 2012 - Public Exhibition via neighbour notification
2 October 2012 - RMS response provided
31 October 2012 - Request for tree removal plan
27 November 2012 - Tree removal plan and updated groundwater monitoring advice provided.
6 December 2012 - Advice from NSW Planning & Infrastructure that satisfactory arrangements for State infrastructure have been resolved for the Area 14 urban release area.
24 January 2012 - Meetings and correspondence with applicant regarding draft conditions.

3. STATUTORY ASSESSMENT

Section 79C Matters for Consideration

- (a) The provisions (where applicable) of:**
(i) any Environmental Planning Instrument:

State Environmental Planning Policy 26 - Littoral Rainforest

This policy aims to preserve and protect littoral rainforests in their natural state. This policy applies to land within 100m of the marked boundaries identified in a series of maps marked "*State Environmental Planning Policy No. 26 - Littoral Rainforest (Amendment No.2)*".

The eastern boundary of the site forms part of the mapped Littoral Rainforest. Consideration to the potential impacts upon the Littoral Rainforest was considered by the Department in their assessment of the Part 3A Concept Plan. The relevant matters for consideration as required by this policy were addressed in Part 5 of the Director-General's Environmental Assessment Report (Appendix F).

The application is consistent with the Part 3A Concept Plan Approval and further consideration of this policy is not deemed necessary.

State Environmental Planning Policy 44 - Koala Habitat Protection

This policy aims to encourage proper conservation and management of natural vegetation areas that provide habitat for koalas. The policy applies to land parcels of more than one hectare.

The area of the site is greater than 1 hectare and this policy applies. Consideration and assessment of the site was undertaken as part of the Part 3A Concept Plan. The assessment determined that no core or potential koala habitat existed on the site. As such a Koala Plan of Management was not required.

The application is consistent with the Part 3A Concept Plan Approval and further consideration of this policy is not deemed necessary.

State Environmental Planning Policy 55 - Remediation of Land

This policy requires a consent authority to consider the potential for a development site to be contaminated and therefore whether it is suitable for the use for which is proposed. If the land is unsuitable, remediation must take place before land is developed.

As part of the Part 3A Concept Plan the proponent undertook a preliminary site investigation notwithstanding that the site is not identified on Council's contaminated sites register. The investigations confirmed that the site is suitable in its current state for urban development.

The adjoining land to the west of the site (Lot 1232 DP 1142133) of which the access road is to be constructed is listed on Council contaminated sites register. Review of the preliminary site investigation undertaken by Environmental Resources Management (ERM) for St Vincent's Foundation Pty Ltd Investigations dated November 2007 revealed that localised spots of contamination exist in locations well clear of the proposed access works.

The application is consistent with the Part 3A Concept Plan Approval and further consideration of this policy is not deemed necessary.

State Environmental Planning Policy 71 - Coastal Protection

The policy applies generally to development in the coastal zone. Clause 2 sets out the aims of the policy which includes the protection, preservation and effective management of coastal areas and natural resources including vegetation, beaches and amenity. Clause 8 sets out the matters for consideration by a consent authority when determining a development application in the coastal zone.

As part of the Part 3A Concept Plan the Department considered these matters and concluded that the project would improve public access to the coastal foreshore, demonstrates due regard to its environmental setting and surroundings, is not detrimental to the scenic amenity of the coastal foreshore, includes measures to protect and regenerate existing coastal habitats and includes measures to protect and conserve items of Aboriginal cultural heritage.

In obtaining the Part 3A Concept Plan Approval for the development, the applicant is not required to obtain a Master Plan (or waiver) from the Department under SEPP 71. The application is consistent with the Part 3A Concept Plan Approval and further consideration of this policy is not deemed necessary.

State Environmental Planning Policy (State and Regional Development) 2011

This policy aims to identify state and regional significant development or infrastructure and confer functions on joint regional planning panels.

In accordance with clause 20 of this policy, clause 9(b)(i) and (i) of schedule 4A identifies the development for which a regional panel is authorised to exercise the consent authority function.

Clause 9 reads as follows:

Coastal subdivision

Development within the coastal zone for the purposes of subdivision of the following kind:

- (a) subdivision of land for any purpose into more than 100 lots, if more than 100 of the lots will not be connected to an approved sewage treatment work or system,*
- (b) subdivision of land for residential purposes into more than 100 lots, if the land:*
 - (i) is not in the metropolitan coastal zone, or*

(ii) is wholly or partly in a sensitive coastal location,

(c) subdivision of land for rural-residential purposes into more than 25 lots, if the land:

(i) is not in the metropolitan coastal zone, or

(ii) is wholly or partly in a sensitive coastal location.

In accordance with clause 21 of this policy the purpose of this report is to provide an assessment of the development application in accordance with section 79 (C) of the Act.

State Environmental Planning Policy (Infrastructure) 2007

This policy aims to assist in effective infrastructure delivery. Schedule 3 of the policy requires the consent authority to give written notice to the Roads and Maritime Service (RMS) and take into consideration any comments the RMS provides.

The application was referred to the RMS and considerations of their comments have been addressed in the access, transport and traffic section of this report.

It is considered that the proposal satisfies the objectives of this policy in that effective infrastructure delivery is capable being provided to the site.

Port Macquarie-Hastings Local Environmental Plan 2011

In accordance with clause 2.6 subdivision of the land is permissible subject to development consent.

In accordance with clause 2.2 the subject site is zoned R1 General Residential, R3 Medium Density Residential, B4 Mixed Use, RE1 Public Recreation, E2 Environmental Conservation and E3 Environmental Management. The zoning map is overlayed on the subject property as provided below:



In accordance with clause 2.3(3) the consent authority must have regard to the objectives of a zone when determining a development application.

The objectives of the R1 General Residential zone are as follows:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The objectives of the R3 Medium Density Residential zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The objectives of the B4 Mixed Use zone are as follows:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To ensure that new developments make a positive contribution to the public domain and streetscape.

The objectives of the RE1 Public Recreation zone are as follows:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The objectives of the E2 Environmental Conservation zone are as follows:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect coastal wetlands and littoral rainforests.
- To protect land affected by coastal processes and environmentally sensitive land.
- To prevent development that adversely affects, or would be adversely affected by, coastal processes.
- To enable development of public works and environmental facilities where such development would not have an overall detrimental impact on ecological, scientific, cultural or aesthetic values.

The objectives of the E3 Environmental Management zone are as follows:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.

In accordance with clause 2.3(2), the proposal will be consistent with the relevant zone objectives, particularly as the proposal aims to protect, conserve and manage ecological biodiversity and surrounding natural environment; manages the orderly, equitable and economic use and development of the land; considers and adapts for natural hazards and risks including flooding, erosion, land stability, bush fire risk and acid sulphate soils; reinforces the area's settlement hierarchy and does not conflict with the hierarchy of business and retail centres in the area; and identifies and protects features of environmental, cultural and visual importance within the area. It is considered that the proposal will directly facilitate orderly, efficient and sustainable development of the land.

In accordance with clause 4.1 the size of any lot resulting from the subdivision is not to be less than the minimum size shown on the Lot Size Map in relation to that land. The minimum lot size map is overlaid on the subject property as provided below:



The lot size map requires a minimum lot size of 450m² for land illustrated as green and 1000m² for the land illustrated as red. All of the proposed lots exceed the minimum lot size provisions. It is noted that no minimum lot size provisions apply to the land illustrated as white.

In accordance with clause 5.5(1) the site is located within a coastal zone. The objectives of this clause are as follows:

- (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,
- (b) to implement the principles in the NSW Coastal Policy

It is considered that the proposed development will not result in any of the following:

- a) any restricted access (or opportunities for access) to the coastal foreshore;
- b) any identifiable adverse amenity impacts along the coastal foreshore and on the scenic qualities of the coast;
- c) any identifiable adverse impacts on any known flora and fauna (or their natural environment);
- d) subject to any identifiable adverse coastal processes or hazards;
- e) any identifiable conflict between water and land based users of the area;
- f) any identifiable adverse impacts on any items of archaeological/heritage; and
- g) reduce the quality of the natural water bodies in the locality.

In particular, the site is predominately cleared and located within an area zoned for future development. The development is considered to satisfy the objectives of this clause.

In accordance with clause 5.9 the removal of trees or vegetation is proposed. The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation. Impacts of vegetation removal are discussed in detail under the flora and fauna heading of this report. In summary there is no significant impact likely to result from the removal of the trees nominated on the tree removal plan. The vegetation management plan and associated environmental works will preserve the amenity and biodiversity of the area.

Clause 5.10 of the plan aims to conserve the heritage significance of items, areas and objects within the area. No items of heritage significance contained within the plan are located on the site. As part of the rezoning and Part 3A Concept Plan a Cultural Heritage Assessment was undertaken. The assessment made the following two recommendations:

1. *a 5m buffer zone sparing development related ground disturbance along Duchess Gully.*
2. *The scarred mature Bruch Box tree detected to be preserved in its current rainforest context.*

The part 3A Concept Plan approval required that a Cultural Heritage Management Plan be prepared by a suitably qualified person and submitted for future development applications for subdivision. A Cultural Heritage Management Plan (appendix J) has been submitted to manage both points 1 and 2 above and future urban development of the site.

In summary the Part 3A Concept Plan Approval provides for an average 30 metre buffer to Duchess Gully. The management plan provides further measures to minimise potential disturbance of cultural materials that have not been detected to date in the surveys of Duchess Gully. The scarred tree is being preserved in its current rainforest setting and will form part of the foreshore reserve proposed to be dedicated to Council. Access to the scarred tree will be further minimised by the establishment of the pedestrian boardwalk link to Rainbow Beach in a location remote from the tree as part of the Part 3A Stage 1 Project Approval.

The site is located within the Lake Cathie / Bonny Hills Area 14 Urban Release Area and part 6 of the plan applies. Clause 6.1 applies and the objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.

The Department of Planning and Infrastructure have advised that satisfactory arrangements for State Infrastructure have been resolved in relation to the subject land and that the Department raises no objection to determination of any applications located within the urban release area. A copy of the Director General's Certificate certifying that satisfactory arrangements are in place for the provision of State public infrastructure for the Area 14 Urban Release Area at Lake Cathie / Bonny Hills has been provided to Council and is dated 6 December 2012.

Clause 6.2 of this plan provides that development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required. Council's engineering staff have assessed the application and confirmed that adequate public utility infrastructure exists and adequate arrangements are in place for further infrastructure when required (refer to recommended conditions of consent addressing servicing requirements).

Clause 6.3 of this plan provides that development consent must not be granted for development on land in an urban release area unless a development control plan has been prepared for the land. On 24 August 2011, Council resolved to prepare and exhibit draft development control plan provisions for Rainbow Beach (Area 14). A draft plan has been prepared and the public exhibition period closed on Wednesday 19th December 2012. At the time of preparing this report the Council were yet to consider a report regarding the recent public exhibition of the draft DCP. The Council meeting for consideration of the area based DCP provisions is scheduled for 6 February 2013. The recommendation by Council staff is to adopt the Rainbow Beach (Area 14) Development Control Plan. If the plan is adopted the requirements of this clause will be satisfied.

Part of Lot 1 DP 374315 (southern boundary) is mapped as potentially containing class 4 and 5 acid sulphate soils. Clause 7.1 of this plan applies and the objective of the clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The applicant provided an Acid Sulfate Soils Assessment prepared by Martens & Associates dated July 2012. The assessment revealed that the soil properties necessitate the development of an Acid Sulfate Soil Management Plan for the works proposed on the site. The ASS assessment report includes a preliminary ASS Management Plan and a preliminary dewatering plan.

It should also be noted that commitment 10 of the Part 3A Concept Plan Approval requires the preparation of an Acid Sulfate Soil Management Plan at the Construction Certificate stage if excavation works associated with the bio filtration basin in the south-western corner exceed 2 metres in depth.

In accordance with the requirements of the Part 3A Concept Plan Approval the final ASS management plan and if necessary, the associated Dewatering Plan is to be prepared and submitted in conjunction with the Construction Certificate stage once the extent of excavations and trenching are known. It is considered that subject to the implementation of the measures contained within the ASS Management Plan the development will not disturb acid sulphate soils to the extent that it would cause any environmental damage.

In accordance with clause 7.2, the following comments are provided with regard to the likely earthworks proposed to be undertaken as part of the proposal:

- the works will be unlikely to lead to any significant identifiable adverse effects upon existing drainage patterns, soil stability of the site or adjoining/adjacent sites, any nearby water course or known environmental sensitive area within the immediate locality.
- the works will be unlikely to adversely affect potential additional future land uses on the site.
- the existing soil quality and structure will not present an identifiable constraint to the construction of the proposal on the site.
- the likely change in levels associated with the proposed development will not have any identifiable adverse effect on the amenity of adjoining/adjacent properties to the site.

It should also be noted that a Construction Management Strategy to manage potential environmental impacts during the construction phase of the development has been submitted as a supporting documentation to the application. The implementation of the plan and measures outlined within will form part of any consent issued for the development.

In accordance with clause 7.9 development on affected parts of the site are subject to acoustic controls. The objective of this clause is to ensure that development for residential or tourist purposes, or for any other purpose involving regular human occupation, on land subject to significant exposure to noise (including road traffic noise or extractive industry crushing plant operation noise) incorporates appropriate mitigation measures.

Before granting development consent to development on land to which this clause applies, the consent authority must:

- (a) consider the location of the development in relation to the relevant criteria set out in:
 - (i) Environmental Criteria for Road Traffic Noise published by the NSW Environment Protection Authority in May 1999, and
 - (ii) NSW Industrial Noise Policy published by the NSW Environment Protection Authority in January 2000, and
- (b) be satisfied that the occupants of the development will not be subject to excessive noise, and
- (c) be satisfied that appropriate noise mitigation measures will be incorporated into the development to reduce noise to an acceptable level.

A Traffic Noise Impact Assessment was undertaken Heggies Pty Ltd, dated 5th July 2010, as part of the Part 3A Concept Plan application. The assessment recommended the following mitigation measures be incorporated to meet the relevant noise criteria requirements:

- The provision of a 2m high noise barrier on Ocean Drive for external noise reduction; and
- Architectural treatments for dwellings with frontage to Ocean Drive for internal noise reduction.

It should be noted that the relevant noise criteria at the time of the Part 3A Concept Plan consideration were Australian Standard 2107:2000 and the Environmental Criteria for Road Traffic Noise, DECCW, May 1999 (ECTRAN).

The Department in their approval of the Part 3A Concept Plan considered a 2m high noise wall was premature at the Concept Plan stage and that further consideration be given at the Development Application stage.

On the 1st Jul 2011 the ECTRAN was replaced with the NSW Road Noise Policy with noise goals for new residential development near busy roads set out in SEPP (Infrastructure) 2007. The SEPP applies to residential development near major roadways where the annual average daily traffic volume exceeds 40,000 vehicles. Heggies Pty Ltd in their report indicates average daily traffic volume will be substantially less than 40,000 vehicles along Ocean Drive within a developed Area 14. Accordingly the provisions of the SEPP do not apply and the NSW Road Noise Policy need not be considered.

Heggies have advised that the relevant current Australian Standards are an appropriate tool in the assessment of road traffic noise where the SEPP (Infrastructure) 2007 provisions do not apply. The relevant standards are as follows:

- AS 2107:2000 - Acoustics - Recommended design sound levels and reverberation times for building interiors; and
- AS 3671:1989 - Acoustics - Road traffic noise intrusion - Building siting and construction.

Construction categories 1 and 2 contained within AS 3671:1989 can provide an internal noise reduction of between 10dBA to 25dBA respectively. In relation to the predicted noise levels within the Heggies report, the incorporation of category 2 construction measures as follows would satisfy acceptable internal noise level criteria:

- Category 2 construction measures for dwellings with a direct frontage to Ocean Drive;

It is also proposed as part of this application that allotments with direct frontage to Ocean Drive will incorporate lapped and capped boundary fencing 1.8m in height erected upon a 0.4m high earth mound. The proposed treatment will extend approximately 360m along the Ocean Drive frontage. This treatment will provide for additional noise mitigation.

It is recommended that a condition of consent be imposed requiring a restriction as to user under Section 88B of the Conveyancing Act, 1919 be placed on the titles of the lots with a direct frontage to Ocean Drive. The restriction shall specify that prior to Council or the Principal Certifying Authority issuing a Construction Certificate or Complying Development Certificate a report shall be submitted to the Principal Certifying Authority certifying that the building design incorporates category 2 construction measures and will achieve the acceptable daytime and night time noise levels contained within AS/NZS 2107:2000 - Acoustics - Recommended design sound levels and reverberation times for building interiors.

Subject to the addition of the 88B restriction and incorporation of category 2 construction measures future occupants will not be subject to excessive noise impacts and it is considered that the requirements of this clause are therefore satisfied.

In accordance with clause 7.13, satisfactory arrangements are in place for the provision of essential public utility infrastructure.

The requirements of this LEP are considered to be satisfied.

Any draft instruments apply or on exhibition pursuant to Section 47(b) or 66(1) (b):

A draft development control plan for Rainbow Beach (Area 14) has been prepared, including a draft Koala Plan of Management. The public exhibition period closed on Wednesday 19th December 2012 for the draft development control plan. At the time of preparing this report the Council were yet to consider the draft area based DCP provisions. The Council meeting of 6 February 2013 will consider the draft DCP provisions. As part of the report to the upcoming Council meeting the recommendation by Council staff is to adopt the Rainbow Beach (Area 14) Development Control Plan subject to minor amendments.

The proposed development is consistent with the draft development control plan provisions and draft Koala Plan of Management for Rainbow Beach (Area 14).

(iii) any Development Control Plan in force under Section 72:

Port Macquarie-Hastings Development Control Plan 2011

Residential Subdivision Checklist:

Requirements	Complies	Comment
DP1.1 Provision of suitable site analysis in accordance with listed requirements.	Yes	The applicant has submitted a Statement of Environmental Effects, including detailed plans, which adequately addresses site constraints and opportunities.
DP2.1 Min. 15m width measured at 5.5m from front boundary; Min. width of 7m when side boundaries are extended to kerb line Min. depth 25m; If avg. slope equal to or greater than 16 degrees, road and driveway grades provided.	Yes	All lots comply apart from proposed Lot 157 which has a 8.28m width along the frontage. Lot depths >25m. Capable of being provided.
DP2.2 Lots smaller than 450m created only through community or strata title scheme, or integrated Torrens housing	N/A	Each lot exceeds minimum area requirement of 450m ² for the subject site.

development					
Note: All newly created lots meet minimum lot size in accordance with Cl. 4.1 of LEP					
DP3.1 Battleaxe lots discouraged, and if applicable, justified in accordance with DP3.2				Yes	No battle axe lots proposed.
DP4.1 Lots designed to create dwellings with no more than 1m cut and fill outside building walls.				Yes	The subject site is unlikely to require any significant cut and fill.
DP4.2 Lot area and width created in accordance with slope category (prevails over zoning)				Yes	The subject site is considered to be classed as category A sloping land, therefore not requiring greater lot areas.
Slope %	Category	Min lot area (m2)	Min width in any (m)		
0-10	A	450	15		
11-15	B	600	18		
16-20	C	1000	20		
21-25	D	1200	25		
>25	Subdivision discouraged				
In addition to DP1.1, information provided regarding slope in accordance with Table 5.					
DP5.1-5.2 Solar access considered through: Minimal creation of narrow north facing blocks; Blocks generally created with north-south orientation & in accordance with fig. 12;				Yes	The lots will cater for passive solar design for future dwellings.
DP5.3 Lots ensure future dwelling has ample opportunity for solar passive design.				Yes	Opportunity for solar passive design exists.
DP6.3 Kerb and guttering provided, or alternative solution demonstrated. Acceptable drainage techniques demonstrated				Yes	Kerb and guttering will be provided to the street network.

It is noted that the draft provisions contained within the draft DCP (Area 14) were not formally adopted at the time of preparing this report and that the draft area based provisions do not apply to the extent they are inconsistent with State Government approvals (Part 3A Projects).

The site is located within precinct B of the draft plan. The following table provides consideration of the relevant draft provisions:

Requirements	Complies	Comments
Urban Structure & Service Provision		
DP1.1 Road layout, open space and commercial and residential generally in accordance with figures.	Yes	The proposed road network and layout is consistent with the figures provided in the plan.
DP1.2 First application in each precinct demonstrate stages in accordance with Part 3A Approval.	Yes	Staging consistent with Part 3A Concept Plan.
DP2.1 Development yields achieve those in figure 1.	Yes	Consistent with Project Approval.
DP3.1 Demonstrate development consistent with a current VPA.	Yes	Consistent with current VPAs entered into for the site.
DP4.1 Signalised and roundabout intersections be provided in accordance with figure 2.	Yes	Signalisation proposed at intersection with Abel Tasman Road.
DP4.2 Ocean Drive treatments in accordance with figure 5.	Yes	Ocean Drive treatments consistent with figure 5 providing a 5m buffer.
DP5.1 Cycle ways, share ways and pedestrian facilities in accordance with figure 3.	Yes	Consistent with figure 3 and concept plan approval.
DP5.2 Pedestrian link path provided to Rainbow Beach Drive.	Yes	Linkage provided in accordance with figure 3.
Noise & Visual Amenity		
DP6.1 Development subject to acoustic controls to comply with AS3671.	Yes	Affected properties to contained 88B restriction requiring category 2 construction requirements.
DP6.2 Subdivision layout avoid need for acoustic fencing or noise barriers.	Yes	Adequate buffer from Ocean Drive provided with addition of 1.8m rear boundary fencing along 0.4m high earth mound.
DP6.3 Acoustic fences if unavoidable be incorporated within or on boundary of private property.	Yes	Fencing to be erected along rear boundary of lots adjoining Ocean Drive road reserve.
DP6.4 Acoustic fences or noise barriers not used on significant corner sites.	N/A	N/A
DP6.5 First subdivision adjoining Ocean Drive provide a plan for an integrated fencing solution for residential noise attenuation.	Yes	Lapped and capped 1.8m high fencing on 0.4m earth mound to be provided along all affected properties adjoining Ocean Drive.

DP6.6 Fences and associated landscaping adjoining ocean Drive.	Yes	Fencing and treatment consistent with provisions.
DP6.7 Landscape buffer as indicated on figure 4.	Yes	5m buffer proposed and consistent with Part 3A Concept Approval.
Environmental Management Areas & Buffers - Littoral Rainforest		
DP7.1 Appropriate fencing consistent with figure 6.	Yes	Fencing proposed and design consistent with Part 3A Concept Plan Approval.
DP7.2 Elevated pedestrian access boardwalk to Rainbow Beach in accordance with figure 7.	Yes	Boardwalk proposed and approved under Part 3A Project Approval.
DP7.3 Detailed design of fence, beach access boardwalks and educational signage with CC.	Yes	Capable of being managed and details to be provided at CC stage. Details also outlined in VMP.
DP7.4 DAs including fence or boardwalks adjacent to Littoral Rainforest accompanied by Construction Management Plan.	Yes	Consistent with Part 3A Project and Concept Approvals.
Urban Design		
DP8.1 Special Treatment Areas in figure 4 provide tree planting.	N/A	Site does not include a significant corner site.
DP8.2 Setbacks within special treatment areas.	N/A	N/A
DP8.3 Local road in location shown on figure 4.	Yes	Consistent.
DP9.1 Subdivision designed so zone changes occur at rear of lots.	Yes	Consistent.
DP9.2 DAs that include first stage of development in business zone accompanied by Streetscape Strategy.	N/A	First stages include residential subdivision only consistent with Part 3A Concept Approval.
DP9.3 Development to be consistent with Streetscape Strategy if its exists.	N/A	See above. N/A
Urban Design Significant Corner Lots	N/A	N/A
Precinct B		
Water Cycle Management DP16.1 Stormwater and groundwater works undertaken in accordance	Yes	Consistent with plan and Part 3A Concept Plan Approval

with Total Water Cycle Management Plan.		
DP17.1 DAs for each stage include a detailed Stormwater Management Plan.	Yes	Overall stormwater management plan provided and consistent with Part 3A Concept Plan Approval.
DP17.2 Groundwater management and monitoring plan to satisfaction of Council.	Yes	Consistent with provision and Part 3A Concept Plan approval.
DP18.1 North-western sub-catchment (Lake Cathie) in accordance with figure 13.	Yes	Consistent with Part 3A Concept Approval.
DP18.2 South-western sub-catchment (Duchess Creek) in accordance with figure 13	Yes	Consistent with Part 3A Concept Approval.
DP19.1 Subdivision applications adjoining Duchess Creek to include VMP.	Yes	VMP provided.
Traffic Management and access		
DP20.1 Road network consistent with provisions of plan.	Yes	Consistent with provisions and Part 3A Concept Plan Approval.
DP21.1 Village square provided in accordance with figure 18.	Yes	Consistent with plan and Part 3A Concept Plan Approval.
DP21.2 Pocket park provided in accordance with figure 19.	Yes	Consistent with plan and Part 3A Concept Plan Approval.
DP22.1 Land uses mixed vertically or horizontally on adjacent sites.	Yes	Consistent with plan and Part 3A Concept Plan Approval.

(iia) any planning agreement that has been entered into under Section 93f or any draft planning agreement that a developer has offered to enter into under Section 93f:

The landowners entered into Voluntary Planning Agreements for the purposes of Section 93F of the Act in relation to the rezoning of the land. The Seawide Area 14 Stage 1B Planning Agreement and the Milland Area 14 Stage 1B Planning Agreement between Council and the landowners were executed on 14 September 2011. The landowners agreed to make Development Contributions in accordance with the VPAs in connection with carrying out of development permitted by the LEP.

The VPAs provide for the carrying out of works by the landowners including establishing and maintaining environmental lands, road works, local park embellishment, pedestrian beach access and dedication of land to Council. The agreements also include arrangements for payment of development contributions towards management of environmental lands, administration levy contribution, open space and roads contributions.

iv) any matters prescribed by the Regulations:

The proposed development is consistent with the objectives and strategic actions of the NSW Coastal Policy.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality:

Context & Setting

The site is located on the southern fringe of the coastal village of Lake Cathie. The coastal village of Bonny Hills is located approximately 1km further south. The site has a frontage onto Ocean Drive along its north western boundary.

Adjoining the site to the north is predominately residential land with medical centre immediately opposite on Ocean Drive. Immediately adjoining the site to the south and west is undeveloped residential land. Adjoining the site to the east is Rainbow Beach separated by a corridor of Littoral Rainforest.

The proposal is considered to represent a logical next step in the planning for Area 14. The proposal will facilitate a range of housing options and provide service opportunities not dissimilar to existing development coastal settlement pattern. The proposal satisfies relevant planning controls and is not considered to be at odds with the context and setting of the locality

Access, Transport & Traffic

Council's Development Engineer has provided the following detailed comments in relation to the access transport and traffic impacts of the proposed development:

Consistent with the DCP 2011 and draft DCP area provisions for Rainbow Beach (Area 14), Ocean Drive is subject to be widened to a four-lane divided road with and shared pedestrian cycleway path and proposes future signalisation with intersection upgrades at the Ocean Drive & Abel Tasman Road intersection.

Although the site has direct frontage to Ocean Drive, all vehicular access is proposed through the Ocean Drive & Abel Tasman intersection, consistent with the Part 3A project approval and draft DCP Rainbow Beach (Area 14) provisions. As the adjacent land at this intersection is located within Lot 1232, DP 1142133, owner's consent and a boundary adjustment forming the road reserve for access will be required for the creation of this intersection and future access.

As the demand for intersection improvements (including signalisation) are directly tied to the traffic demands associated with relevant stages of development, future intersection upgrades (including signalisation) associated with the development can be staged with development construction.

All intersection and road improvements along Ocean Drive require the concurrence of the RMS, prior to the issue of Roads Act and/or Construction Certificate approval for subdivision works by Council. Signalisation shall require RMS approval. Bond securities and Works Authorization Deed (WAD) will be required from Council and/or RMS prior to construction works, as appropriate.

Council sought comment from the RMS as part of this development application. The comments provided by RMS are summarised as follows:

- RMS notes that the Port Macquarie LEP requires that a Development Control Plan (DCP) be in place prior to the approval of any subdivision under the master plan approval.

Acknowledged. A draft DCP for Area 14 is currently on exhibition and is required to be approved prior to issuing any development consent.

- RMS acknowledges that Ocean Drive & Abel Tasman Drive intersection shall be signalised prior to the completion of the development

Acknowledged. Conditions of consent have been drafted requiring signalisation when warranted with the development.

- Traffic analysis shall be conducted prior to the completion of the first stage of the subdivision so as to determine the likely final intersection layout and to permit the staging of intersection improvement (AUSTROADS CHR and AUL turn lane improvements).

Acknowledged. Conditions of consent have been drafted to address RMS requirements.

- RMS accepts approach to permit signalisation to be monitored with each Construction Certificate application and installed when warranted

Acknowledged. Conditions of consent have been drafted to require signalisation of intersection with the Construction Certificate warranting signalisation and prior to the final Construction Certificate associated with the development.

- The developer shall be required to enter into a Works Authorisation Deed (WAD) with RMS prior to signal plan construction approval.

Acknowledged. Conditions of consent shall require WAD and RMS approval for signalisation

- The RMS shall not consider granting concurrence to any interim or final subdivision certificate until it is satisfied all documentation and works under the WAD have been completed

Acknowledged. Conditions of consent shall require RMS concurrence prior to any acceptance of works associated with signalisation.

- Authorisation to commence construction for Traffic Control signals will only be granted when RMS is satisfied that all requirements under the WAD have been met by the developer, including fees and charges, an unconditional bank guarantee for the full value of the work, detailed design documentation, environment assessment, road occupancy licence and any other matters deemed necessary by the RMS project manager.

Acknowledged. Conditions of consent shall require RMS authorisation prior to construction of any works associated with signalisation.

- Any acquisition/dedication required to accommodate traffic control signals associated with the proposed development shall be at full cost to the developer (no cost to RMS or Council), including all legal and survey cost. The land to be dedicated to by the developer as public road reserve in favour of the Council, as the owner.

Acknowledged. Conditions of consent shall require dedication of any road widening at developers cost.

- The RMS recommends the developer use a design consultant with the experience and knowledge of RMS design requirements. In addition, traffic control signals shall require engagement of an RMS pre-qualified contractor.

Acknowledged. Conditions of consent shall require RMS approval for signalisation.

In summary RMS advised that they had no objection in principle to the proposal subject to the consideration of the above matters. The matters have been considered and the requirements incorporated into the draft conditions attached to this report. It should be noted that Council staff have drafted the conditions of consent to permit flexibility in the construction and timing of road and intersection improvements along Ocean Drive.

The development proposes the creation of thirteen (13) development roads over the course of development stages. The road layout is consistent with the Part 3A Concept Approval Plan and Council's draft DCP 2011 Rainbow Beach (Area 14). In general, Roads 1, 6, 7, and 14 are to create the significant ("collector") road network, and the remainder of the roads are to create the other ("local") street network. In addition, the application proposes two lanes between either side of Road 7 ("Hilltop Village" Main Street).

Construction of all subdivision roads are proposed to be constructed consistent with each stage of development. However, the "Lead-In" between the Ocean Drive & Abel Tasman Road intersection and Road 7, ("Hilltop" village main street) inclusive of the intersection roundabout shall be constructed as part of the first stage of the development (Seawide (S2) or Milland (M2)). All roads shall be constructed consistent with the Council's standards (AUSPEC and Australian Standards), as appropriate.

Traffic

Traffic impacts associated with the development proposal rely on a previous Traffic Impact Assessment prepared for Council by RoadNet Pty Ltd used in the Area 14 rezoning proposal. Current intersection geometry proposed for the Ocean Drive & Abel Tasman Road intersection proposes Ocean Drive to be a four-lane (dual carriageway) divided road with exclusive left and right turn lanes and the minor streets (Abel Tasman and the Lead In Road) to have a minimum of two (2) approach lanes and one departure lane. Council is currently revisiting this intersection as part of a formal update of the Ocean Drive corridor plan. Findings of this analysis are not anticipated to significantly change intersection improvement requirements.

In addition, King & Campbell has provided a traffic management analysis with the application to project the ultimate traffic generation for the proposed development in an effort to ensure that the intersection capacity is not exceeded. Results of this analysis appear to show adequate intersection capacity can be achieved with the proposed development. However, it is noted that this assessment requires additional review and analysis and needs to reflect additional traffic impacts associated on adjacent lands.

Consistent with the draft conditions of consent, further analysis will be required to address these impacts, and can be done by a suitably qualified traffic engineering consultant prior to the first Construction Certificate for subdivision works. Additional analysis will need to be done in conjunction with Council and the RMS as the ultimate design of the signalised intersection will require Council concurrence and RMS approval.

Subsequent Construction Certificates for subdivision works will need to update traffic modelling assumptions to reflect actual intersection and road conditions and to determine required improvements to be constructed toward the ultimate intersection geometry. Concurrently with the final stage of the development, the Ocean Drive & Abel Tasman Road intersection shall be fully constructed to the ultimate design requirements.

Buses

The collector roads are to be suitable for internal bus services, with bus stops to be spaces consistent with Council standards (i.e. 400m walking distance to each stop) with periodic bus bays provided at major locations within the development (i.e. hilltop village, recreation areas). Details of bus stops and bays can be addressed with each Construction Certificate for subdivision works.

The primary vehicle access to the site is proposed via a "lead-in road" through the adjacent property (Lot 1232 DP 1142133) connecting to the forth (eastern) leg of the Ocean Drive & Abel Tasman Road intersection. Future connection to the west shall provide an alternative access for vehicles. Use of this road is anticipated to be limited to local use and more for connectivity between properties.

Additional pedestrian connectivity is proposed through the development though a north-south pedestrian shareway located along the foreshore of the development connecting to Ocean Drive north of the drainage reserve.

Desire lines for pedestrian movements from existing residential development and bus facilities to the foreshore and the hilltop village. A condition of consent has been recommended requiring an additional public pedestrian access way (4m wide) be provided connecting the existing bus bays (and pedestrian refuge located along Ocean Drive with Road 3 pedestrian network).

Parking

Parallel on-street parking and car park facilities are proposed along the eastern parameter road (Road 6). Parking facilities are to be provided as part of the first development stage for both Milland (M2) and Seawide (S2). All parking shall be designed in accordance with Council standards (AUSPEC and Australian Standards), as appropriate. Parking with the Hilltop Village shall be subject to future development applications for this village.

Manoeuvring

All roads shall be design in accordance with Council standards and current AUPSEC Design and Construction Specifications. Each development stage shall have adequate sealed turning facilities to enable public garbage collection through the public street network in a forward manner. Sealed temporary turning facilities (9m radius) are to be provided, as appropriate, for each development stage. Minor changes to the staging boundaries may be required to minimise the need for temporary turning circles.

It is noted that adjacent to the Hilltop Village lots (rear of properties), the development proposes two laneway facilities for access to the rear of village lots and medium density residential lots. These laneways are to be public. Laneways shall be designed in accordance with Council standards (AUSPEC and Australian Standards) to facilitate the intended purpose and design vehicles. Council expressed some concern that adequate width needs to be provided to facilitate manoeuvring of service vehicles through 90 degree bends as appropriate, and shall comply with Council's AUSPEC requirements as appropriate. In response to these concerns the applicant has provided amended plans illustrating splay corners on the laneways.

Pedestrians

In accordance with the Part 3A Concept Plan Approval, the elevated boardwalk through the rainforest shall be constructed as Part of the Stage 1 Project Approval (Environmental Works).

In addition, a shared cycleway/pathway (along with a 2m high fence) shall be constructed along the eastern parameter road adjacent to the environmental conservation lands with the first development stages of development (M2 and S2) and both stages will provide public pedestrian linkages to the foreshore works.

Pedestrian facilities are to be provided for all subdivision stages in accordance with current and draft DCP requirements. Collector roads are to have pedestrian facilities both sides of the roads. Hilltop Village pedestrian facilities subject to special treatments defined within draft DCP area provisions.

Public Domain

No adverse impacts on the public domain. Positive public impact can be attributed to the construction of the boardwalk access to Rainbow Beach and dedication of public reserve areas.

Utilities

No existing gravity sewer connection is available on the development lots. Two sewer rising mains and a 300 diameter gravity trunk main skirt the west boundary of the site.

The trunk main is available to receive sewage from a future pump station located in the general area and gravity feeds from some future stages.

An updated overall sewer strategy is required for development of the whole area. This will involve a hydraulic analysis. Consideration also has to be given to the possible connections

from adjoining land. The draft conditions require a revised sewer strategy plan be provided prior to any works commencing on the sewer infrastructure.

The existing sewer easement will be required over both the sewer rising mains and the trunk sewer.

If stage S2 proceeds it may be necessary for the developer to construct the Sewer Pump Station and rising main in conjunction with the sewer mains. Stage S5 Medium density will also drain to the pump station. There is a limited capacity on the existing network before the sewer bypass is required. Council staff have determined that the existing system has the capacity to accept 20 more residential lots before these works are required. The draft conditions reflect this requirement.

In summary the sewer plans submitted with the application are generally in accordance with the strategy agreed by Council sewer design staff. Final sewer strategy and engineering plans are to be submitted with the application for the Construction Certificate.

Telecommunications and electricity are available and can be extended as required in accordance with the utility provider. All new utilities are to be located underground and existing overhead electricity to be relocated below ground.

Stormwater

The stormwater management strategy for the proposed development is generally consistent with that presented within the Part 3A Concept Plan Approval and Stage 1 Project Approval issued by the State Government.

The largest modification to the proposal from a stormwater perspective consists of the deletion of the previously proposed deep groundwater recharge 'wells' within the eastern basins in response to further detailed groundwater monitoring and assessment. No objections are raised towards these changes as the reasons for these modifications are well justified and demonstrated by the consultant reports submitted with the subject application.

From a long term maintenance perspective, the modified proposal is likely to require lower maintenance, and therefore be more cost effective to maintain in the long term.

Water

Existing water main is a 450mm MSCL trunk main adjacent to the main part of the development site. This main will become a trunk distribution main in conjunction with this development and is able to have connections provided to service the development.

The water main layout proposed with the development application as well as proposed water main adjustments are acceptable in principle. The water main layout shown is to also include parallel reclaimed water mains. Final details and water main sizings are to be addressed with the engineering plans.

The local water supply reticulation mains are to loop within the subdivision to eliminate dead ends. This will help to improve the quality and security of supply to the development site and could reduce some main sizes.

Soils

Site works will create potential for transport of spoil and sediment from the site. Conditions will be included to ensure adequate erosion and sedimentation control measures are implemented prior to commencing works and maintained until the site has stabilised.

Air & Micro-climate

The operations of the proposed development will be unlikely to result in any adverse impacts on the existing air quality or result in any pollution.

Flora & Fauna

Construction of the proposed development will require the removal of some isolated trees within the existing cleared pasture area. All vegetated areas are to be retained and primarily exist within the environmental protection zones.

The application was accompanied by an updated Flora and Fauna Survey dated July 2012, prepared by Peter Parker Environmental Consultants Pty Ltd.

It should be noted that an extensive flora and fauna assessment was prepared and submitted with the Part 3A Concept Plan application. The report which accompanied the Concept Plan application included a statutory assessment of the proposal which concluded that the proposed development would not have a significant effect on Threatened Species or Endangered Ecological Communities.

The proposed subdivision is consistent with the Part 3A Concept Plan Approval in this regard and therefore will be unlikely to have any significant adverse impacts on biodiversity or threatened species of flora and fauna. Section 5A of the Act is considered to be satisfied.

It should also be noted that the application is accompanied by a Vegetation Management Plan (VMP) that details extensive vegetation management works proposed to be undertaken to enhance and preserve existing vegetation and revegetation additional buffer areas of the SEPP 26 Littoral Rainforest and Duchess Gully.

Waste

Satisfactory arrangements are available to each lot for proposed storage and collection of waste and recyclables. No adverse impacts anticipated.

Energy

No adverse impacts anticipated.

Noise & Vibration

No adverse impacts anticipated. Condition recommended restricting construction to standard construction hours.

Natural Hazards

The site is mapped as bushfire prone land. The applicant has submitted that in accordance with Clause 75P(2)(b) of the Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005 (being Part 3A of the Act as in force immediately before its repeal) the application is not integrated development for the purposes of Part 4 of the Act. Accordingly the application was not referred to the NSW RFS for bushfire safety authority under section 100B of the Rural Fires Act 1997.

It is noted that the NSW Rural Fire Service reviewed the Part 3A Concept Plan application and subsequently provided a requirement that future development applications for subdivisions include a detailed bushfire assessment prepared by suitably qualified person(s) in accordance with the requirements of Planning for Bushfire Protection 2006.

The applicant has submitted an updated bushfire assessment report, prepared by Australian Bushfire Protection Planners, dated 23 March 2010 (Appendix K). Exhibit DA08 sets out the bushfire protection requirements for the site. The report addresses the requirements of Planning for Bushfire Protection 2006 and the recommendations of the report are to form part of the conditions of consent.

It is considered that the proposed development is consistent with the Part 3A Concept Plan Approval and satisfies the requirements of Planning for Bushfire Protection 2006.

Safety, Security & Crime Prevention

The proposed development will be unlikely to create any crime spots that would result in a loss of safety or security in the area.

Social Impact in the Locality

Given the nature of the proposed development and its location the proposal is unlikely to result in any adverse social impacts.

Economic Impact in the Locality

No adverse impacts. Likely positive impacts can be attributed to the construction of the development.

Site Design and Internal Design

The proposed development design is satisfactorily responds to the site attributes and will fit into the locality. No adverse impacts likely.

Construction

No potential adverse impacts identified to neighbouring properties with the construction of the proposal. Works will be limited to reasonable hours.

Cumulative Impacts

The proposed development is not expected to have any adverse cumulative impacts on the natural or built environment or the social and economic attributes of the locality.

(c) The suitability of the site for the development:

The proposal will fit into the locality and the site constraints have been adequately addressed and appropriate conditions of consent recommended.

(d) Any submissions made in accordance with this Act or the Regulations:

No written submissions were received following completion of the required public exhibition of the application.

(e) The Public Interest:

The proposed development satisfies relevant planning controls and is expected to provide a public benefit by providing additional housing opportunities.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply and head works and sewer services headworks under Section 64 of the Local Government Act 1993.
- Development contributions will be required under Section 94 of the Environmental Planning and Assessment Act 1979 and the Seawide Area 14 Stage 1B Planning Agreement and the Milland Area 14 Stage 1B Planning Agreement towards roads, open space, environmental land management, community cultural services, emergency services, administration building and administration levies.

Refer to recommended contribution conditions.

5. CONCLUSION

The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

Issues raised during assessment of the application have been considered and where relevant, conditions have been recommended to manage the impacts attributed to these issues.

The site is suitable for the proposed development, is consistent with the Part 3A Concept Plan Approval, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. Consequently, it is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.

ATTACHMENTS

Plans

Recommended conditions