

# Joint Regional Planning Panel 23 January 2014

## JOINT REGIONAL PLANNING PANEL (Northern Region)

<b>JRPP No</b>	<b>2013NTH017 DA</b>
<b>DA Number</b>	<b>2013/0491</b>
<b>Local Government Area</b>	<b>Port Macquarie-Hastings Council</b>
<b>Proposed Development</b>	<b>Educational Establishment - Lake Cathie Primary School</b>
<b>Street Address</b>	<b>Lot 1232 DP 1142133, Rainbow Beach Drive, Lake Cathie</b>
<b>Applicant/Owner</b>	<b>NSW Public Works/St Vincent's Foundation Pty Ltd</b>
<b>Number of Submissions</b>	<b>Two (2) submissions</b>
<b>Recommendation</b>	<b>Consent subject to Conditions</b>
<b>Report by</b>	<b>Ben Roberts, Development Assessment Planner</b>
<b>Date</b>	<b>10 January 2014</b>

### RECOMMENDATION

That DA 2012/0381 for an educational establishment at Lot 1232 DP 1142133, Rainbow Beach Drive, Lake Cathie, be determined by granting consent subject to the recommended conditions if agreed to by the Applicant.

If the Applicant does not agree to the imposition of the recommended conditions, then the application be referred to the minister for direction in accordance with Part 4 Division 4 of the Act.

## Existing sites features and surrounding development

The site has a frontage onto Ocean Drive along its western boundary. The aerial photograph below provides an overview of the whole allotment involved in this application.



The site of the proposed educational establishment is located in the north-western corner of the site opposite the Houston Mitchell Drive intersection. The area of the proposed allotment to contain the school is approximately 3.905 hectares. See site location plan below.



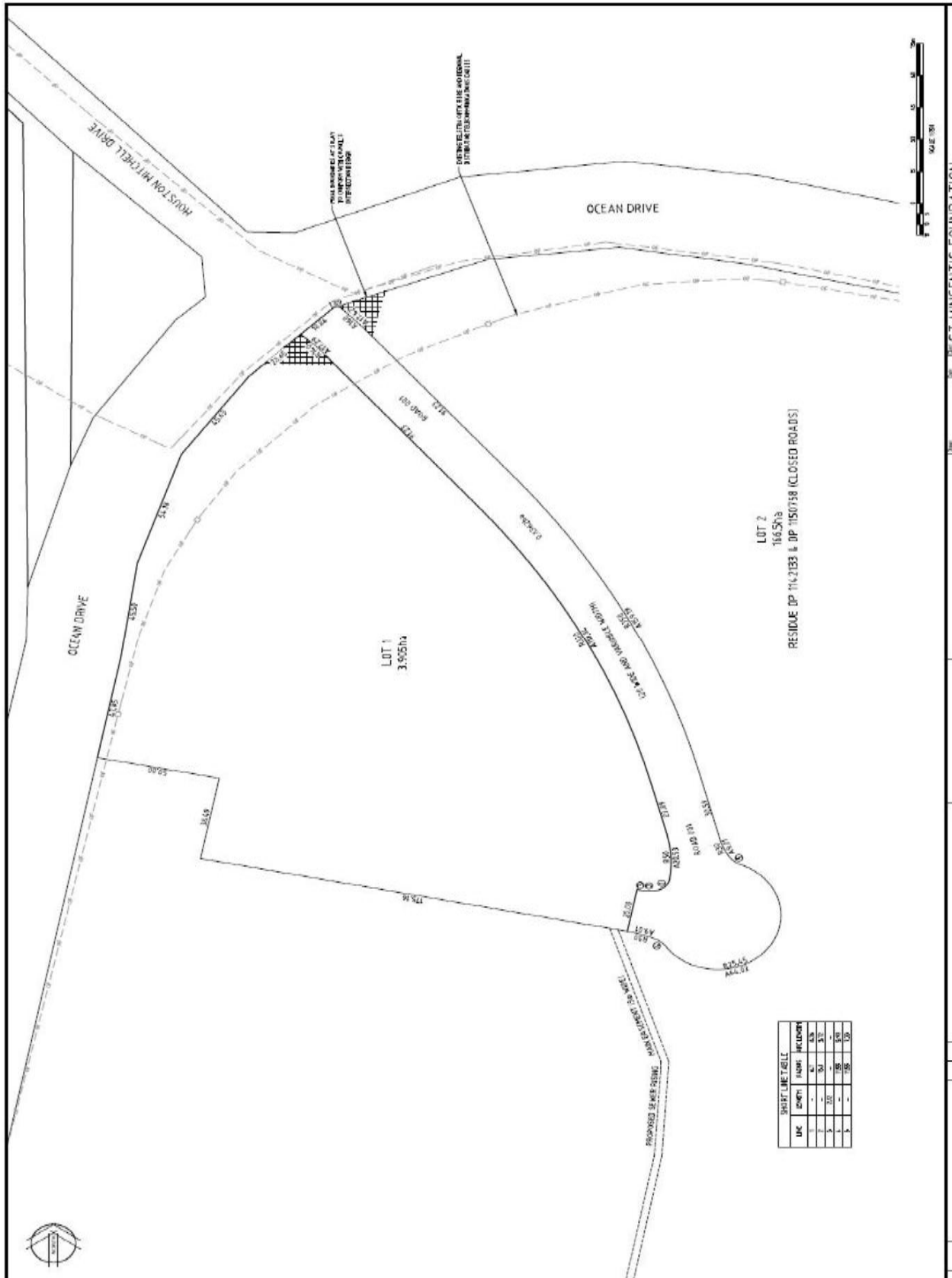
The site is predominantly cleared of vegetation but does contain scattered trees and a stand of approximately 1500m<sup>2</sup> of Swamp Sclerophyll Forest adjoining the southwest corner of the site alongside the Ocean Drive road reservation.

### Background and History to the development

There is an existing Part 3A Concept Plan approval for residential subdivision, village centre, two (2) school sites, playing fields, central open space/habitat corridor, three (3) intersections off Ocean Drive, constructed wetland system and associated infrastructure. There is also a Part 3A Project Approval for the development of a 84.7 hectare open space corridor including:

- 13 hectare constructed wetland system
- Playing fields
- Walkways
- Picnic areas
- Conservation of existing remnant bushland; and
- Deposition of approximately 430,000m<sup>3</sup> of fill onto future residential lots and playing fields.

The site has an approved subdivision consent (DA2013/0358) issued by Council on 4 December 2013 to create the allotment for the school site. This subdivision also includes the construction of collector road and earthworks. A copy of the approved subdivision plan is provided below.





## **2. DESCRIPTION OF DEVELOPMENT**

In summary the proposed development includes the following:

- Construction of a new primary school (educational establishment) to cater for an optimal enrolment of 291 students and up to 20 teaching and support staff. The plans show a number of buildings all single storey in height.
- Construction of a temporary access road and intersection to Ocean Drive in the western section of the site. The temporary access is to be closed upon construction of the collector road.

### **Application Chronology**

3 September 2013 - Application lodged.

6 September 2013 - Notification to Joint Regional Planning Panel.

6 September 2013 - Referral to NSW Rural Fire Service (RFS).

6 September 2013 - Referred to Roads and Maritime Services (RMS).

13-27 September 2013 - Public exhibition via advertising and neighbour notification.

1 November 2013 - RMS response provided.

6 November 2013 - Concerns to Applicant surrounding layout and traffic management issues.

November 2013 - Numerous teleconference meetings with Applicant and DEC representatives.

18 November 2013 - Revised plans and supporting documentation lodged incorporating a temporary access arrangement.

20 November 2013 - Amended layout referred to RMS.

26 November - 10 December 2013 - Re-exhibition of amended layout.

25 November 2013 - RMS Response received.

27 November 2013 - Amended layout referred to NSW RFS.

13 December 2013 - Draft conditions of consent provided to Applicant.

18 December 2013 - Applicant's comments on draft conditions provided.

3 January 2014 - RFS Bushfire Authority received.

## **3. STATUTORY ASSESSMENT**

### **Section 79C Matters for Consideration**

**(a) The provisions (where applicable) of:**

**(i) any Environmental Planning Instrument:**

#### **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 site is greater than one hectare in size and the Area 14 Koala Plan of Management (KPoM) applies. Hence the proposal must not be inconsistent with the provisions of the Area 14 KPoM.

Consideration and assessment of the provisions of this plan and policy were undertaken by Dark Heart Eco-Consultancy in their amended report dated 22 November 2013.

It is noted that part of the swamp forest located along the western side of the site is mapped as potential koala habitat within the KPoM. In achieving the required Asset Protection Zones (APZs) for both the school and temporary access road it was concluded that up to thirty-nine (39) Koala food trees could be removed from the mapped potential Koala habitat.

Part 3 of the Area 14 KPoM contains general provisions which apply to all land within the area covered by the KPoM. Part 4 of the KPoM contains provisions for development in areas identified as potential koala habitat. The ecological report prepared by Dark Heart Eco-Consultancy has addressed the relevant provisions of the KPoM and provides a number of actions required to comply with its requirements.

In summary the following actions are required under Part 3 of the KPoM:

- Pre-clearing checks to be undertaken by Koala specialist before vegetation removal.
- If Koala present in area to be cleared, work to be suspended unless 25m buffer can be achieved.
- Standard street lighting to be provided to ensure enhanced visibility along roads to minimise vehicle strike risk.
- The area of vegetation to be cleared is to be replaced via replanting and regeneration of cleared land. A location has been nominated in the north west corner of the site.
- In accordance with the provisions of the KPoM, the loss of 39 Koala food trees must be replaced at a ratio of 1:20. This equates to 780 koala food trees. The KPoM specifies that no less than 30% of the required plantings be Koala Food Trees, with the remainder being mid to understorey plantings to establish an ecologically functioning community. Hence at least 234 Forest Red Gum and Swamp Mahogany may need to be replanted. Koala food trees need to be replanted.
- Given the required planting density (1 tree per 10m<sup>2</sup>) and forest structure required (conflicts with bushfire provisions) the site is of insufficient size to accommodate all of the required replant area. The replant area required is approximately 2.3 hectares. The proponent intends to accommodate as many of the required replants within the school's landscaping and the remainder within a secure off-site location. The details of the off-site location are yet to be provided. Suitable conditions have been recommended requiring a Vegetation Management Plan (VMP) that is to demonstrate the location of the replant area and how it will be effectively secured.
- The plantings will be structured to result in a complete functioning vegetation community (preferably as the local Swamp Sclerophyll Forest EEC), hence mid and ground strata plantings will be provided as required by the KPoM.
- The costs of the above requirements to be borne by the proponent.
- Formal agreement between proponent and consent authority to ensure maintenance and management of the offset until established is required. It is considered that adequate details will be provided in the Vegetation Management Plan to Council's satisfaction.
- Agreement to include a Vegetation Management Plan. Noted and suitable recommended conditions applied.

In summary the following actions are required under Part 4 of the KPoM:

- Road and engineering design to limit speed to less than 50km/hr.
- Streetscaping can include a minimum of 30% Koala food trees.

Subject to the above actions being implemented it is considered that the proposal is capable of meeting the applicable provisions and objectives of the Area 14 KPoM.

It should be noted that the proponent has expressed concern over the replant ratio of 1:20 trees being excessive as contained within the Area 14 KPoM. The proponent has been advised that any reduction in this ratio would require amendment to the Area 14 KPoM. It is considered that suitable flexibility has been incorporated into the applicable recommended conditions should an amendment to this ratio be granted to the Area 14 KPoM by NSW Department of Planning.

### **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. The site is identified on Council's contaminated sites register based on previous land use history.

As part of the Part 3A Concept Plan the proponent undertook a preliminary site investigation. 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 school site.

The application is consistent with the Part 3A Concept Plan Approval and the site is considered suitable in its current state for use as an educational establishment. 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 location was suitable for a school site. 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 (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.

The provisions of this policy also provide that educational establishments may be carried out by any person with consent on land in a prescribed zone. The site is zoned R1 General Residential and is a prescribed zone for the purposes of this policy.

In accordance with clause 32 before determining a development application for the purposes of a school, the consent authority must take into consideration all relevant standards in the following State government publications:

- (a) School Facilities Standards—Landscape Standard—Version 22 (March 2002),
- (b) Schools Facilities Standards—Design Standard (Version 1/09/2006),
- (c) Schools Facilities Standards—Specification Standard (Version 01/11/2008).

It is considered that the school has been designed to meet these standards.

### **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, clauses 5 and 6(b) of schedule 4A identify the development for which a Regional Panel is authorised to exercise the consent authority function.

Clauses 5 and 6 reads as follows:

#### *5 Crown development over \$5 million*

*Crown development that has a capital investment value of more than \$5 million.*

#### *6 Private infrastructure and community facilities over \$5 million*

*Development that has a capital investment value of more than \$5 million for any of the following purposes:*

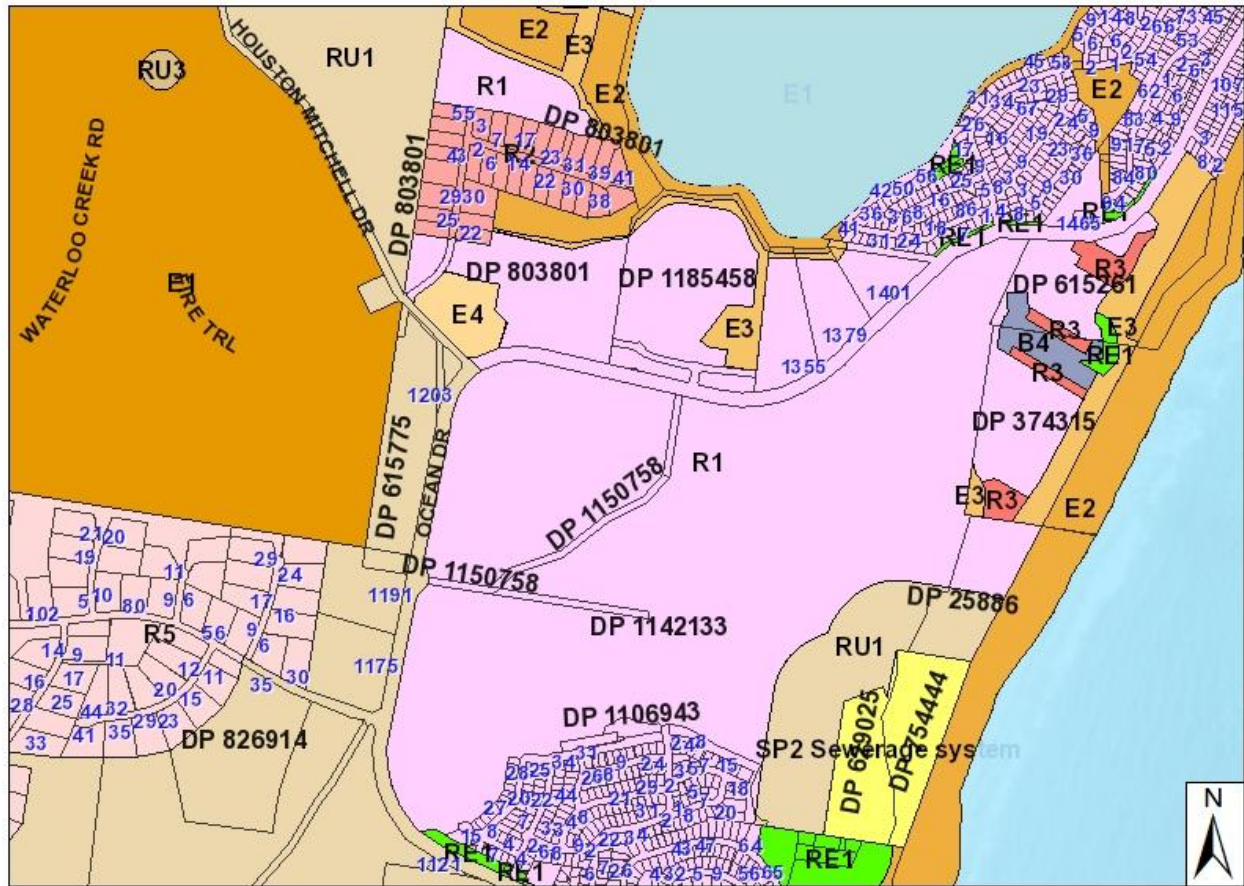
- (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*
- (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.*

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.

### **Port Macquarie-Hastings Local Environmental Plan 2011**

In accordance with clause 2.2, the subject site for the school is zoned R1 General Residential as shown in the following zoning plan.





In accordance with clause 2.3(1) and the R1 zone land use table, the proposed educational establishment is a permissible land use with consent.

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.

In accordance with clause 2.3(2), the proposal will be consistent with the relevant zone objectives, particularly as the proposal is a permissible land use and will provide a facility and service to meet the needs of residents within the locality.

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) noting the offset requirements required;
- 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 and 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 given the implementation of the recommended compensatory replanting measures. A 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.

Part of the site 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. Based upon the submitted details it is unlikely that excavations for the school buildings will extend more than 2m below the natural ground surface. The proposed development is unlikely to expose any acid sulphate soils on the site.

In accordance with clause 7.13, satisfactory arrangements are in place for the provision of essential public utility infrastructure, including telecommunication, electricity, sewer, water, stormwater and road access.

The requirements of this LEP are considered to be satisfied.

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

No draft instruments apply to the site.

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

**Port Macquarie-Hastings Development Control Plan 2011**

No specific building related provisions apply to this form of development. The following assessment checklist addresses the relevant general provisions of this plan.

<b>Provision</b>	<b>Requirements</b>	<b>Complies</b>
1.3 Community Participation	- Public advertising and notification of the proposal.	The application was advertised and notified in accordance with this provision.
2.2 Advertising and Signage	- Within property boundaries. - Relate to building onsite not product. - Not project above or to side of buildings.	No signage proposed. Condition recommended that further development consent may be required.
2.3 Environmental Management	- Cut & Fill Regrading. - Environmental Management Areas and Buffers. - Koala Habitat. - Hollowing Bearing Trees.	Consistent. Refer to comments in flora and fauna impact and SEPP 44 headings within the report.
2.4 Hazards Management	- Airspace Protection. - Bushfire Hazard Management. - Flooding. - Stormwater.	N/A. Report provide and Bushfire Authority provided from RFS. N/A. Can be adequately managed.
2.5 Transport, Traffic Management, Access and Car Parking	- Roads - Parking	Refer to roads, traffic, access and parking consideration within the report.
2.6 Tree Management	- Private Land - Council Land	Refer to comments in flora and fauna heading of report.
2.7 Social Impact Assessment & Crime Prevention	- Social Impact Assessment - Crime Prevention	Refer to relevant headings within report. Consistent.

The following relevant area based provisions for Rainbow Beach area addressed as follows. It is noted that specific provisions apply to precinct C which includes the site of this development:

<b>Provision</b>	<b>Requirements</b>	<b>Complies</b>
DP1.1	Road layout & open space consistent with figures 88 to 90.	Development is consistent with layout figures.
DP1.2	Precinct staging plan required or consistent with Part 3A approval.	Staging plan not required. School site consistent with Part 3A approval.
DP4.1	Signalised and roundabout intersection be provided in	No identified intersection works to be undertaken as

	accordance with figure 88.	part of this development.
DP5.1	Cycle ways and pedestrian facilities in accordance with figure 89.	Consistent. No requirements for this site.
DP6.1 Acoustic fencing or noise barriers.	Required on mapped areas within the LEP.	Not applicable. The site is not mapped within the LEP. Refer to further comments under noise and vibration heading.

**(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 current landowner has entered into a Voluntary Planning Agreement for the purposes of Section 93F of the Act in relation to the Part 3A concept plan and project application. The Rainbow Beach Central Corridor Planning Agreement is between Port Macquarie-Hastings Council and St Vincent's Foundation Pty Ltd. It was executed on 22 December 2011. The landowner has agreed to make Development Contributions in accordance with this agreement in connection with carrying out of the Part 3A development.

The VPA provides for the establishment and dedication of district sporting field, community park and provisions relating to environmental land. Council resolved at its the meeting of 18 December 2013 to prepare and notify a Deed of Variation to the Rainbow Beach Central Corridor Planning Agreement so that the development of the north western portion of the land for the purposes of a public school would not trigger obligations under the VPA.

It is noted within the VPA that options for alternative access road locations to the district sporting fields are specified within Figure 3. Location 1 is provided in a similar location to the proposed temporary access road to the school site. Potentially having two (2) temporary access arrangements within such close proximity to one another is not supported by Council or the RMS. Given the proximity of the two (2) accesses to one another it was suggested to the Applicant to consider allowing the temporary access road to serve as means of public access to the future sporting fields. This would allow use of the sporting fields if they were constructed prior to one of the other access options being available. The Applicant advised that providing public access to the sporting fields was a matter for the landowner (St Vincent's Pty Ltd) to resolve and that the school would not be able to accommodate public access due to security, work health and safety as well as child protection obligations.

It is considered reasonable to require the temporary access to serve as a legal right of public access to the sporting fields as it will provide consistency with an access option nominated in the VPA and allow use of the sporting fields should they come on line prior to one of the other access arrangements being available. A condition has been recommended requiring the temporary access to serve as a legal right of public access to the area of land adjoining for the purpose of providing access to the planned district sporting field. It is acknowledged that upon construction of the permanent road access from the intersection opposite Houston Mitchell Drive then the temporary access road will be abandoned and the school and sporting fields will have permanent public access via the collector road.

**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 situated between the coastal settlements of Bonny Hills to the immediate south and Lake Cathie to the north in a land release area. The site has a frontage onto Ocean Drive along its western boundary.

Adjoining the site to the north and west is Ocean Drive. Immediately adjoining the site to the east is undeveloped residential land. Adjoining the site to the south is undeveloped residential zoned land which has been reserved for district sporting fields.

The proposal is considered to represent a logical next step in the planning for Area 14. The proposal will provide an educational facility to serve the planned expansion of the greater Lake Cathie and Bonny Hills area. The proposal satisfies relevant planning controls and is not considered to be at odds with the context and setting of the locality. Adequate and suitable setbacks from boundaries and road networks have been achieved.

**Access, Transport & Traffic**

**Public Roads**

The proposed school fronts the future recently DA approved public road that gains access off Ocean Drive via the future proposed roundabout intersection with Houston Mitchell Drive. A conceptual plan for the proposed roundabout location has been completed by Council's design staff and has been distributed to the interested parties including the Department of Education and Communities, NSW Public Works, the landowner and subdivider. It is noted that the design/construction of the development road and allotment earthworks is the subject of a separate application DA 2013/358. The funding and responsibility for the provision of the roundabout off Ocean Drive has not to date been formalised.

**Traffic**

A traffic and parking study has been carried out for the proposed Lake Cathie Public School site by McLaren Traffic Engineering. The Traffic Impact Assessment component of the report states that the traffic volumes assessed relate to school generation only. There is some uncertainty therefore in regards to other traffic components such as subdivisional traffic and other traffic on Ocean Drive and Houston Mitchell Drive. Further consideration of traffic conditions will be required for any future applications to subdivide land from the parent lot.

**Access**

The DEC as a department of the Crown has declined responsibility for construction or funding of the roundabout at Ocean Drive & Houston Mitchell Drive, which was to be added to the road approved under DA 2013/0358. As an interim arrangement pending its construction by others, access to the school is proposed via a temporary seagull intersection on Ocean Drive from the west section of the site, about 200m south of the Houston Mitchell Drive intersection. This will lead into a proposed car park, with separate designated areas for staff car parking, parent drop-off, bus bays and access to waste retrieval services.



The Voluntary Planning Agreement between Council and the owner of the land contains provisions for future public sporting fields, including a temporary access to Ocean Drive. Refer to comments under VPA heading within the report. Roads and Maritime Services (RMS) and Council have raised concerns regarding multiple accesses being constructed along Ocean Drive, particularly as it is an arterial road.

### **Parking**

The school is proposed to cater for approximately 300 primary aged students. Comments in relation to the plans of separated parking areas are as follows.

- The staff parking bay has 26 spaces, allowing a ratio of 1 staff member per 11.5 students. It is proposed to be located at the southeast corner of the property in close proximity to the future public roundabout off the collector road to be used for school access. The access road to the staff parking aisle should be relocated on plans further west to prevent overflow of queuing vehicles into the school access road. A condition to this effect has been recommended.
- 32 kerbside spaces are provided for temporary parent drop-off, or 1 per 9 students. Two disabled access spaces are proposed.

### **Buses**

A bus turning circle and drop off is proposed with drop-off space for 3 queued buses. Upon completion of the proposed collector road, the developer will be required to relocate the bus lay-by from the temporary (western) area to the eastern boundary of the school site, adjacent to the future DA approved collector road. Conditions have been recommended to ensure this occurs.

### **Manoeuvring**

Car parking and access to the site has been provided on the plans, the detained designs need to be in accordance with AS2890. A condition to this effect has been recommended.

### **Pedestrians**

A 2.5m wide shared cycleway is to be provided along the full boundary of the school and the proposed Collector Road. This will be constructed with the future collector road works. The arrangement at the future bus lay by is to allow for public through traffic (including cyclists) to not interfere with children alighting from school buses, preferably by having the public not cross the boundary into the school.

Temporary arrangements for the site have not proposed any pedestrian access. As Ocean Drive is an arterial road with no pedestrian facilities and residential communities around the school are not currently within walking distance of the site, the site will be serviced for the interim by buses and vehicle access only. This is consistent with the Area 14 DCP provisions.

### **Public Domain**

No adverse impacts on the public domain. Positive public impact can be attributed to the construction of the educational establishment.

### **Sewer**

The proposal incorporates a pump station to be located within the confines of the site and new sewer rising main to the existing sewer pump station north of Bonny Hills.



The proponent is to include engineering design plans of both the sewer pump station and the rising main prior to works commencing. Suitable sewer conditions have been recommended.

### Utilities

Telecommunications and electricity are available and can be extended as required in accordance with the utility provider.

### Stormwater

A Stormwater Management Concept Plan (SMCP) has been submitted in support of the proposed school development demonstrating how the proposed development can comply with Council's water quality and quantity requirements as specified within AUSPEC D5 and D7.

The SMCP demonstrates that the site will be drained to a point of connection to be constructed within the proposed adjoining road reserve and includes:

- Stormwater detention facilities to detain post development site discharge to pre-development rates, and
- 'Enviropod' stormwater pit inserts as a means of ensuring gross pollutants are not discharged from the site.

### Water

Records indicate that the proposed development site does not currently have a water service. The nearest potable water main is a 300mm DICL main on the opposite side of Ocean Drive. Current modelling indicates that a 300mm potable water main and a 200mm reclaimed water main will be required across Ocean Drive and eventually align with the proposed new collector road. Final location of the Ocean Drive road crossings will be dependent on the intersection design at Houston Mitchell Drive. Direct service connection to the development site across Ocean Drive will not be permitted. Construction of the required water mains will allow for the provision of domestic, reclaimed and fire service metering in the vicinity of the north western corner of the site.

Reclaimed water is to be used for toilet flushing, irrigation and any other Health Department approved use. If it is not available at time that school is commissioned, then potable water will be provided to the reclaimed water mains in the area and thus to the school's reclaimed water meter, so for practical purpose, reclaimed water will be available.

The location of any fire hydrant booster for the property must be adjacent to the vehicle entrance to the property. It is noted that the proposed vehicle entry is now to be temporarily located near the south western corner of the site and ultimately at the south eastern corner of the site.

Final water service sizing for the proposed development will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development, as well as addressing fire service and backflow protection requirements. Any internal fire hydrant or fire sprinkler systems are to be metered with individual single detector check installations.

It is essential that the proponent's hydraulic consultant discuss the water supply requirements of the site with Council's Water Supply Development Engineer.

Suitable conditions addressing the above requirements have been recommended.

## **Soils**

The site will need further filling as part of this development proposal. Revised plans indicate levels to match up with those shown on DA 2013-0358. Depending on the scale of fill required a consent condition has been recommended to address details associated with the fill such as location, truck routes, access and number of movements.

Council records indicate that the site is affected by high and extreme soil erosion categories. Erosion and sediment control measures need to be incorporated at the site, prior to construction/filling works and need to be maintained until such times as the exposed areas are stabilised by vegetation. Suitable consent conditions have been recommended.

## **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**

The vegetation on the site largely consists of slashed exotic pasture with scattered trees. A small area of swamp forest occurs in the western side of the site.

Construction of the proposed development will require the modification/removal (mostly for access road and APZ purposes) of a section of swamp forest vegetation in the western section of the site.

The impacts upon flora and fauna associated with the vegetation removal were assessed by a qualified ecologist. The ecologists report dated 22 November 2013, prepared by Dark Heart Eco-Consultancy accompanied the development application.

In summary the report provided the following:

- Approximately 4500m<sup>2</sup> of Swamp Sclerophyll Forest EEC will be modified/removed (mostly for the access road and APZ). Under the PMHC LEP DCP 2011, this should require an offset although the UIA 14 Masterplan was approved before the DCP. It is proposed to combine this offset with the offset required by the UIA 14 KPoM in a priority location in the UIA 14 area that will maximise ecological outcomes.
- One (1) hollow-bearing tree will have to be removed, with another considered retainable in the APZ. Nest boxes will be required to offset the loss of hollows and the hollow-bearing tree felled under an ecologist's supervision.
- Depending on the extent of strategic retention possible in the APZ, an offset area will need to be replanted to offset removal of 39 Koala food trees in the Potential Koala Habitat, and comply with the UIA 14 KPoM.
- A Vegetation Management Plan is required by the DCP and KPoM to address the offset planting. The offset will also be located in a position where it can be permanently secured as an offset.
- The proposal is not considered likely to significantly impact any threatened species, population or EEC, hence a Species Impact Statement is not required.
- The proposal is not considered likely to significantly impact a Matter of National Environmental Significance, hence referral to DSEWPC is not required.

The report provides a number of mitigation measures and recommendations to be included as conditions of consent. They include selective tree retention, offset vegetation management, hollow tree removal protocol, sediment control, landscaping, artificial lighting and relocation of hollow-logs. The mitigation measures form part of the supporting documentation lodged and therefore will form part of any consent issued.

The report concludes that, subject to the implementation of the mitigation measures, the proposal is unlikely to have any significant impact on threatened species recorded in the region due to:

- Relatively small area of vegetation/potential habitat to be removed/modified, which is considered to be relatively insignificant in a home range, local and regional context.
- Loss of only a few hollows of low habitat value and no other critical habitat components to be removed. These hollows and food trees will be offset via nest boxes and up to 234 Forest Red Gums and Swamp Mahogany.
- Proposal will not effectively isolate known or potential habitat and connectivity will not be affected.
- The proposed development qualifies as a class of activity recognised as a threatening process and a Key Threatening Process, however is considered unlikely to contribute significantly to either process, and the contribution will be offset.

Having regard to the above findings and implementation of the recommended mitigation measures it is considered that there will be no significant adverse impacts on biodiversity or threatened species of flora and fauna and the provisions of Section 5A of the Act are satisfied.

### **Waste**

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

### **Energy**

No adverse impacts anticipated. Section J of the BCA will be required to be addressed.

### **Noise & Vibration**

Given the proximity of the site from Ocean Drive the applicant provided a Road Traffic Noise Intrusion Report prepared by Day Design Pty Ltd dated 21 August 2013. It was noted that the nearest school building will be setback approximately 100 metres from Ocean Drive and investigations found standard construction of the buildings with thicker glazed windows and doors will be acoustically sufficient to reduce the outside noise intrusion to within acceptable levels of Australian Standard AS2107:2000 *Acoustics - Recommended Design Sound Levels and Reverberation Times for Building Interiors*.

The applicant also provided an Environmental Noise Impact assessment to determine any noise impacts of the schools operation upon nearby residential receivers. This report was also undertaken by Day Design Pty Ltd dated 21 August 2013. The nearest residential receivers that may be affected by the noise from the proposed school is the undeveloped residential land across the proposed collector road to the north east of the site.

The measurements and calculations revealed that the anticipated noise emission from various aspects of the school can be controlled to meet the acceptable noise criteria of the NSW Noise Guide for Local Government and sound emitted from the development is able to be controlled to

not cause “offensive noise” as defined by the Protection of the Environment Operations Act 1997.

Based on the above findings there no adverse noise impacts anticipated.

### **Natural Hazards**

The site is mapped as bushfire prone land. The applicant has provided a bushfire assessment report prepared by Australian Bushfire Protection Planners Pty Ltd, dated 22 November 2013, supporting the application. Accordingly the application was referred to the NSW RFS as integrated development under section 100B of the Rural Fires Act 1997.

The NSW Rural Fire Service have assessed the application and issued a Bushfire Safety Authority consisting of a series of conditions that are recommended to be incorporated into the conditions of consent.

### **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.

A Crime Prevention Through Environmental Design Assessment was undertaken by the Mid North Coast Crime Management Unit. The assessment concluded that the design of the school when considered in conjunction with the sites location would result in no adverse social or crime opportunities.

The school has been designed to meet the relevant NSW School Facilities Standards and meets the relevant Principles of Crime Prevention Through Environmental Design.

### **Social Impact in the Locality**

Positive social impacts would result in the form of providing additional educational needs for the planned growth of immediate area and region.

Given the location and nature of the development there is unlikely to be any adverse social impacts.

### **Economic Impact in the Locality**

No adverse impacts. Likely short term positive impacts can be attributed to the building works component of the development.

### **Site Design and Internal Design**

The proposed development design 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. Construction works will be limited to standard 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, including bushfire risk, have been adequately addressed and appropriate conditions of consent recommended.

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

Two (2) written submissions were received following completion of the required public exhibition of the application. Copies of the submissions have been sent to the panel.

Key issues raised in the submissions received and comments in response to these issues are provided as follows:

Submission Issue / Summary	Planning Comment / Response
The design of the intersection with Houston Mitchell Drive needs to be of adequate capacity to cater for the future traffic volumes. Developers who will benefit from the intersection should be making appropriate contributions towards its cost.	Construction of the intersection is not proposed as part of this application. It is intended to provide a temporary access arrangement off Ocean Drive until such time as the intersection and future collector road are constructed. Suitable conditions have been recommended requiring the temporary access arrangement to be removed upon construction. Refer to further comments under roads, traffic and access heading within the report.
The fill platform approved under DA 2013/0358 (to create the lot) does not match up with the levels shown on the school's site plan. The changes in fill levels are significant and will impact on St Vincent's ability to proceed with the approved Part 3A development downstream of the site and may cause drainage issues in the long term.	The applicant has provided revised site plans to match the fill levels approved on the DA 2013/0358 plans which are considered to be consistent with the Part 3A approvals.
Potential conflict will exist between through traffic on the collector road, parent drop off and bus movements when the overall area is developed as per the concept plans.	The original plans lodged have changed significantly. The proposed temporary access road will now lead into a proposed car park, with separate designated areas for staff car parking, parent drop-off, bus bays and access to waste retrieval services. In the long term the bus bay will adjoin the eastern boundary of the site along the collector road and the car parking, parent drop off and waste service services accessed via the roundabout in the south eastern corner. This has been assessed as being acceptable. Refer to comments under roads, traffic and access heading within the report.
The current land owner has advised that it is not in a position to contribute to the intersection improvements of either DA2013/0358 (school site subdivision) or the	Noted this is considered to be a matter outside of the development application process.

current DA2013/0491 (educational establishment).	
The temporary access off Ocean Drive has not been discussed with current owner and is objected to as a sub-optimal access to an important facility for the local area. DEC should be made to access the school from the proposed collector road that is the proposed fourth leg of Council's concept roundabout for the upgrade of the Ocean Drive - Houston Mitchell Drive intersection. The school is but one public facility that will gain access from the new lead-in road and should the temporary access be allowed it will risk the delivery of the Lake Cathie District Playing Fields for a considerable time.	<p>Refer to comments under roads, traffic and access heading within the report. The proposed temporary access road has the ability to provide a suitable access until such time as the collector road is constructed.</p> <p>It is noted that a temporary access may jeopardise the delivery of the playing fields for a considerable time. However refer to further comments under VPA heading within the report and recommended condition requiring the temporary access to serve as a legal right of public access to the future playing fields. It is acknowledged that upon construction of the permanent collector road access the temporary access road will be abandoned and the school and sports fields will then have a permanent access arrangement.</p>
At no time did DEC advise the current owner of the changes involved in the re-notified material and we thank Council for the opportunity to provide further comment.	Noted.

#### **(e) The Public Interest:**

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

It is also considered significant and within the public interest to ensure access to the planned sporting fields adjoining the site is secured.

#### **4. DEVELOPMENT CONTRIBUTIONS**

- The Crown is exempt from paying section 94/94A contributions, as per Department Circular D6.
- The Crown is also generally exempt from developer charges (water and sewer) for essential community services including education facilities. Water utilities may charge Crown developments for that portion of the direct connection cost (eg. for a lead in main). It is noted that recommended condition A3 outlines that costs associated with providing such utilities will be at no cost to Council.

#### **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 not contrary to the public's interest, subject to the imposition of recommended conditions 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**

### **Reports**

### **Recommended conditions**