

JOINT REGIONAL PLANNING PANEL (Northern Region)

JRPP No	2016NTH006
DA Number	DA2016 - 88.1
Local Government Area	Port Macquarie-Hastings
Proposed Development	Residential Subdivision (151 lots plus public reserve)
Street Address	Lot 34 DP 803801 (now known as Lot 8 DP 1210904) & Lot 1 DP 1185458, Corner of Ocean Drive, Houston Mitchell Drive and Forest Parkway, Lake Cathie
Applicant/Owner	RTS Super Pty Ltd, Stacks Super Pty Ltd & TJS Super Pty Ltd c/- King & Campbell Pty Ltd (Applicant) RTS Super Pty Ltd, Stacks Super Pty Ltd & TJS Super Pty Ltd with Gwynvill Trading Pty Ltd (Owners)
Number of Submissions	One (1)
Regional Development Criteria (Schedule 4A of the Act)	Clause 9(b) - Coastal subdivision Development within the coastal zone for the purposes of subdivision of the following kind: (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,
List of All Relevant s79C(1)(a) Matters	• State Environmental Planning Policy No. 44 - Koala Habitat Protection • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy No. 62 – Sustainable Aquaculture • State Environmental Planning Policy No. 71 – Coastal Protection • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Rural Lands) 2008 • State Environmental Planning Policy (State and Regional Development) 2011 • Port Macquarie-Hastings Local Environmental Plan 2011 • Development Control Plan 2013 • The Area 14 Stage 1A Sydmart Planning Agreement and Area 13, 14 & 15 Local Roads Contributions Plan • NSW Coastal Policy 1997
List all documents submitted with this report for the panel's	1. Developer contributions estimate 2. Recommended consent conditions 3. Bushfire Safety Authority 4. Plans

consideration	5. Vegetation Management Plan
Recommendation	That DA 2016/0088.1 for Residential Subdivision (151 Lots plus a Public Reserve) at Lot 34 DP 803801 (now known as Lot 8 DP 1210904) & Lot 1 DP 1185458, Corner of Ocean Drive, Houston Mitchell Drive and Forest Parkway, Lake Cathie, be determined by granting consent subject to the recommended conditions.
Report by	Clinton Tink - Development Assessment Planner
Report date	17 August 2016

Executive summary

This report considers a development application for a staged residential subdivision that will create 151 lots and a public reserve. Proposed staging is as follows:

- Stage 1 Road 3 (constructed in conjunction with the adjoining landowner, Ocean Club Resort), Road 5, Part Roads 2 & 4; and Proposed Lots 1 to 32.
- Stage 2 Road 6, Part Roads 2 & 4 and Proposed Lots 33 to 61.
- Stage 3 Road 7, Part Roads 2 & 4; and Proposed Lots 62 to 87.
- Stage 4 Road 1, Road 8, Part Roads 2 & 4 and Proposed Lots 88 to 128.
- Stage 5 Proposed Lots 129 to 134.
- Stage 6 Road 9 and Proposed Lots 135 to 151.

The proposal is integrated development requiring a bushfire safety authority from NSW Rural Fire Service.

This report provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition of the application, one (1) submission was received.

It should be noted that during the assessment the property description of Lot 34 DP 803801 changed to Lot 8 DP 1210904 to deal with road acquisitions/widening. The road acquisitions/widening do not impact on the development footprint, which had factored in the change.

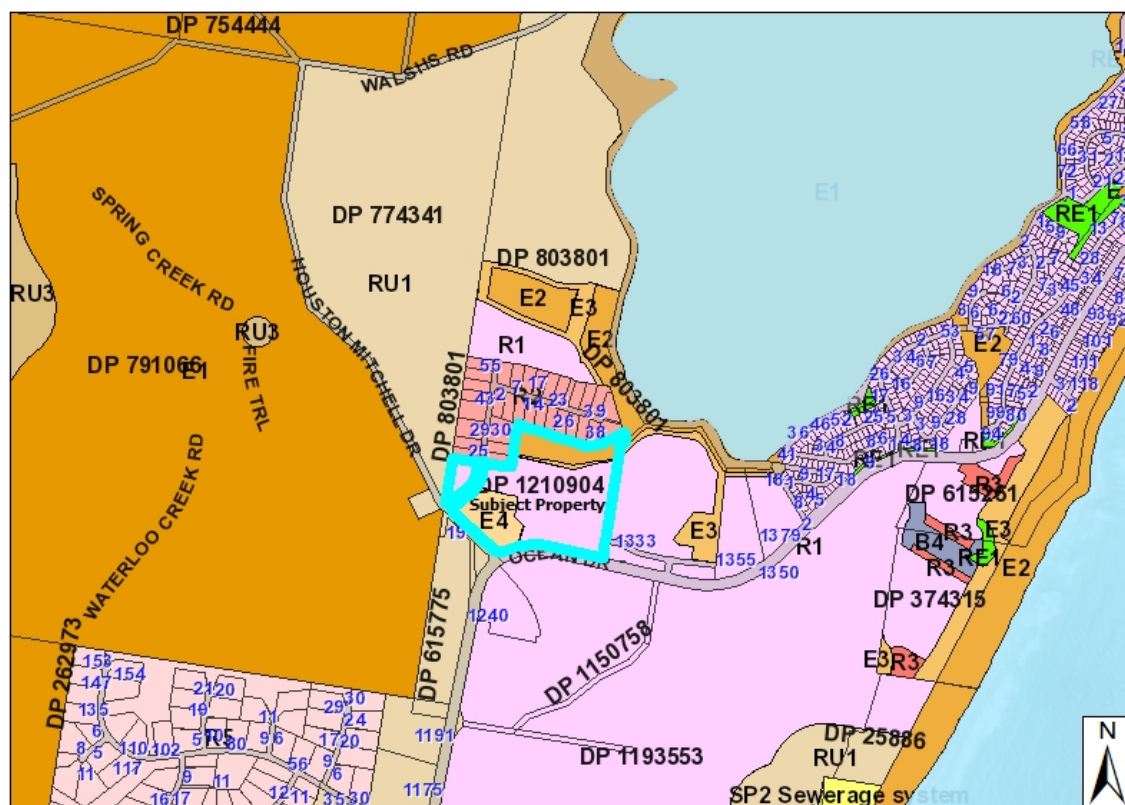
In addition, Lot 1 DP 1185458 is only included in the property description as proposed Road 3 is to be built on the common boundary with Lot 34. Owners consent has been provided and such works (the road) have been factored into the development of each property. In particular, Lot 1 DP 1185458 also relies on the road being built as part of an approval under DA2007/620.

1. BACKGROUND

Existing sites features and surrounding development

The site has an area of 21.16 hectares.

The site is zoned R1 General Residential, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



The site is located on the corner of Ocean Drive, Houston Mitchell Drive and Forest Parkway, Lake Cathie. The property is vacant and contains sections of cleared and timbered land. The site gently slopes downwards to the north.

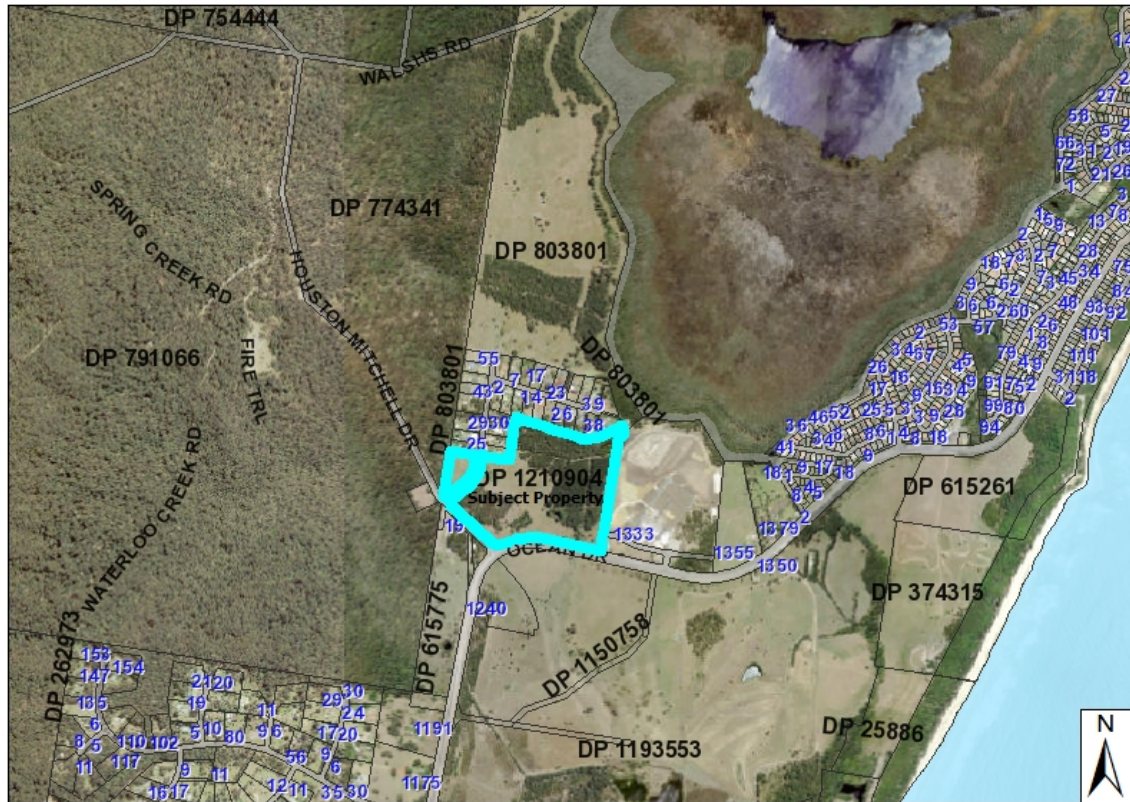
Adjoining the site to the north is an existing large lot residential subdivision with associated housing. Further north is the Lake Innes Nature Reserve and land recently approved under DA2016 - 87 for 68 residential lots. It should be noted that the land involved in DA2016 - 87 & 88 is owned by the same group and that the two applications share the same Vegetation Management Plan (VMP).

Adjoining the site to the east is an approved manufactured housing estate that is partially complete with further sites to be created.

Adjoining the site to the west is timbered rural land.

Adjoining the site to the south is the Lake Cathie Primary School and the remaining Area 14 residential area. There is currently a separate DA2016 - 465 in with Council for approximately 700 lots to be located in the Area 14 land to the south of DA2016 - 88. The application is still being processed but is likely to be presented to the Joint Regional Planning Panel at a later date.

The existing subdivision pattern and location of existing development within the locality is shown in the following aerial photographs. The second aerial photograph below is the more recent, taken in July 2016:



2. DESCRIPTION OF DEVELOPMENT

The proposal relates to a staged 151 lot residential subdivision. Lot sizes will range from 535.5m² to 1537.5m² within the R1 zoned land and 2000.4m² to 2518m² within the E4 zoned land. A 3.86ha public reserve is also to be created and will contain the E2 and E3 zoned land.

Access to the development will occur from Forest Parkway and future public road connections to the east that are being created concurrently with the adjoining manufactured housing estate.

A voluntary planning agreement and vegetation management plan will direct compensatory plantings throughout the subdivision and also on a residue property to the north (Lot 33 DP 803801).

The development is also 'integrated development' as it involves subdivision of bushfire prone land that could lawfully be used for residential purposes and requires a Bushfire Safety Authority under section 100B of the Rural Fires Act 1997.

Application Chronology

- 24 September 2015 - Application presented to Council's Pre-lodgement meeting.
- 17 February 2016 - Application lodged with Council.
- 22 February 2016 - Application registered with Joint Regional Planning Panel (JRPP).
- 24 February to 8 March 2016 - Notification period.
- 25 February 2016 - Applicant advised of potential flood conditions. Copy of subdivision plan provided to a neighbour.
- 29 February 2016 - Information on the proposal provided to a neighbour. Furthermore, additional information requested from the applicant regarding a title search to help address Clause 45 of SEPP (Infrastructure) 2007.
- 1 March 2016 - Title searches provided by the applicant, which were forwarded onto the Electricity provider.
- 2 March 2016 - Electricity provider raised no objection to the subdivision.
- 16 & 17 March 2016 - Council's assessing officer provided comment to Department of Planning and Environment regarding SEPP 71 Masterplan waiver.
- 18 March 2016 - Council Bushfire Management Officer raised concerns with the bushfire report and possible conflicts with future replanting and management. Advice was forwarded to the applicant on 23 March 2016. However, matter was subject to NSW RFS input that was not yet known (ie Bushfire Safety Authority had not be received).
- 22 March 2016 - Follow up sent to NSW RFS confirming they had received all the reports.
- 23 March 2016 - SEPP 71 Masterplan waiver received.
- 24 March 2016 - JRPP acknowledged application.
- 31 March 2016 - Meeting was held with Council staff and the applicant regarding potential bushfire issues.
- 5 April 2016 - Applicant sought advice/discussion on proposed street trees.
- 6 April 2016 - Meeting was held between Council Engineers and the applicant regarding the proposed vegetated road median. Council staff also provided JRPP with update on status of the DA.
- 11 April 2016 - NSW RFS requested additional information, which was forwarded to the applicant on 13 April 2016.
- 27/4/2016 - Council staff provided JRPP with an update on the status of the DA.
- 4 to 10 May 2016 - Discussion between Council staff and the applicant on street trees to be used.
- 11 May 2016 - Council staff provided JRPP with an update on the status of the DA.

- 3 June 2016 - Applicant responded to NSW RFS issues and provided revised vegetation management plan addressing changes to street trees.
- 6 June 2016 - Additional information forwarded to NSW RFS. Council's Engineering section requested clarification on detailed design of swales etc.
- 8 June 2016 - Applicant provided amended Engineering detail.
- 14 June 2016 - Council staff provided JRPP with an update on the status of the DA.
- 4 July 2016 - NSW RFS Bushfire Safety Authority received. Copy provided to applicant on 6 July 2016.
- 6 July 2016 to present - Council staff have provided applicant and JRPP updates on status of DA being reported to August meeting.

3. STATUTORY ASSESSMENT

The provisions (where applicable) of:

(a)(i) Any environmental planning instrument

State Environmental Planning Policy No. 44 - Koala Habitat Protection

The site is subject to an existing Koala Plan of Management (Area 14 KPOM). The application has been considered against the provisions of the KPOM and deemed to be consistent, which has been further reiterated by Council's Natural Resources Section. In summary, the development will:

- Use koala food trees throughout the site and be implemented via a Vegetation Management Plan (VMP).
- Separation of key koala areas from busier residential development/roads.
- Retention of koala food trees where possible.
- Buffering of koala habitat areas.
- Revegetation of buffers/habitat linkages that are devoid of vegetation.
- Conditions being imposed to manage fauna/koalas during clearing process.
- Covenants being placed on the title of properties regarding pool design being koala friendly.
- Standard street lighting being conditioned.
- Compensatory plantings in accordance with the KPOM.
- A VPA being in place for the management of environmental land and vegetation management.
- Core koala habitat areas being retained/untouched.
- Creation of habitat linkages consistent with the KPOM.

It should be noted that koala food trees were originally proposed along the Ocean Drive frontage, but these were later removed on the basis that Council did not want to be enticing koalas towards a busy road such as Ocean Drive.

Based on the above, the proposed development is consistent with the requirements of the SEPP.

State Environmental Planning Policy No.55 – Remediation of Land

Following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated and is suitable for the intended use.

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

Given the nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries within the Lake Innes Nature Reserve.

State Environmental Planning Policy No. 71 – Coastal Protection and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011

The site is located within a coastal zone noting clause 4 of the SEPP.

The site is further identified as being within a sensitive coastal location. In accordance with clause 18, subdivision of land within a residential zone containing sensitive coastal land requires one of the following:

- The Minister adopt a Masterplan for the subject land and the proposed subdivision be consistent with the Masterplan.
- The Minister assess the development and waive the need for a Masterplan.

In this case, the Minister has waived the need for a Masterplan.

In accordance with clause 5, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

Having regard for clauses 2, 8 and 12 to 16 of the SEPP and clause 5.5 of the Port Macquarie Hastings Local Environmental Plan 2011, the proposed development will not result in any of the following:

- a) any restricted access (or opportunities for access) to the foreshore
- b) any adverse amenity impacts along the foreshore and on the scenic qualities of the coast;
- c) any adverse impacts on flora and fauna;
- d) the development being subject to any adverse coastal processes or hazards;
- e) any significant conflict between water and land based users of the area;
- f) any adverse impacts on any items of archaeological/heritage;
- g) reduction in the quality of the natural water bodies in the locality (due to effluent & stormwater disposal, construction impacts, landuse conflicts);
- h) adverse cumulative impacts on the environment;
- i) a form of development that is unsustainable in water and energy demands;
- j) development relying on flexible zone provisions.

The site is partially cleared and located within an area zoned for residential purposes. The development protects and enhances key coastal areas via the design and replacement plantings.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45, no objection was raised from the relevant electricity supplier regarding the proposed development.

Clause 101, the development has frontage to a classified road (Ocean Drive). However, the proposed development will not impact on the functioning of the road for the following reasons:

- Access to the site has been provided by an alternative (i.e. no new access direct onto Ocean Drive is proposed).
- Erosion and sediment control measures will be in place during construction to ensure no adverse dust impacts on road users.
- The road layout was considered throughout the rezoning and DCP process and deemed acceptable from a functionality aspect.
- A noise impact assessment was completed and reviewed by Council Environmental Health Officer. The findings of the report were accepted by Council's Environmental Health Officer subject to conditions. It should be noted that some lots closer to Ocean Drive will need Category 2 construction, which can be reinforced in the 88B instrument.
- A vegetated buffer area separates the subdivision from the road to eliminate impacts from emissions.
- Council Engineers have assessed the traffic volumes and impacts and deemed the site suitable.

Clause 102, Ocean Drive does not carry an annual average daily traffic volume of 40,000 vehicles and therefore further consideration is not required in this case. It should be noted that impacts from road noise are still considered later in this report as a site specific constraint outside the SEPP.

Clause 104, the subdivision does not propose 200 or more lots or 50 or more lots where connection to a classified road is within 90m of the access to the subdivision.

State Environmental Planning Policy (State and Regional Development) 2011

Clause 20 regional development is triggered by the development. In particular, Schedule 4A, Clause 9(b) of the *Environmental Planning and Assessment Act 1979* states as follows:

9 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.*

The proposed development meets Clause 9(b) as more than 100 lots are proposed outside the metropolitan coastal zone and the site is partially located within a sensitive coastal location.

Clause 21, the Northern Joint Regional Planning Panel is to exercise the consent authority function.

State Environmental Planning Policy (Rural Lands) 2008

The following assessment table provides an assessment against specific requirements of this SEPP:

SEPP requirement	Comment	Complies
Objectives		
2(a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,	The proposed development is occurring within an area that has been strategically zoned for urban purposes. Furthermore, rural zoned land to the south west is separated by roads, vegetation and screening. In terms of the rural zoned land to the west, the applicant proposes larger lot sizes to enable greater chance of separation and buffering. The larger lots also continue along a similar setback to the existing estate (ie no new conflict to that existing at present). Based on the above, the proposed development will not impact on the orderly or economic use of adjoining rural land.	Yes
2(b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,	Planning principles noted and not considered to be compromised by the proposal.	Yes
2(c) to implement measures designed to reduce land use conflicts,	Refer to comments on 2(a) above.	Yes
2(d) to identify State significant agricultural land for the purpose of ensuring	State significant agricultural land will not be impacted. Proposal is to develop urban	Yes

the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,	zoned land with measures in place to protect adjoining agricultural land.	
2(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.	Not relevant.	N/A
Rural Planning Principles		
7(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,	Use of rural zoned land will not be restricted.	Yes
7(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,	Importance noted and will not be impacted.	Yes
7(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,	Noted and remain unaffected.	Yes
7(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,	Land has already been zoned accordingly. Design acceptable.	Yes
7(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,	Key natural areas/habitat have been identified and protected.	Yes
7(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural	Development allows suitable housing/settlement without compromising rural zoned areas.	Yes

communities,		
7(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,	Services etc will not impact on agriculture.	Yes
7(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.	The proposed development is not inconsistent with any strategy.	Yes
Rural Subdivision Principles	No rural subdivision proposed.	N/A
Matters to be considered in determining development applications for rural subdivisions or rural dwellings		
10(1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone. 10(2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes: (a) subdivision of land proposed to be used for the purposes of a dwelling, (b) erection of a dwelling. 10(3) The following matters are to be taken into account: (a) the existing uses and approved uses of land in the vicinity of the development, (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the	Refer to comments on 2(a) above, which support the proposed development design.	Yes

development, (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b), (d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone, (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).		
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Port Macquarie-Hastings Local Environmental Plan 2011

The proposal is consistent with the LEP having regard to the following:

- Clause 2.2, the subject site is zoned R1 General Residential, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living. It should be noted that no works are proposed within the E2 and E3 zones except for some vegetation planting associated with the VMP. For this reason, the report will not focus on the controls relative to these zones as vegetation planting is permissible.

In accordance with clause 2.3(1) and the R1 and E4 zone landuse table, the proposed development for a residential subdivision is a permissible landuse with consent.

The objectives of the R1 and E4 zones are as follows:

R1 zone

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

E4 zone

- o To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- o To ensure that residential development does not have an adverse effect on those values.

In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives having regard to the following:

- o The proposal is a permissible landuse.

- o The development provides land for future housing to meet the needs of the community.
- o The development will be low impact within the E4 zone through site controls.
- o The development will not create an adverse impact on the ecological values of the E4 zone.
- Clause 4.1, the proposed R1 zoned residential lots comply with the 450m² minimum lot size standard and the E4 lots comply with the 2000m² minimum lot size.
As has been done in previous subdivisions, the undersized E2 and E3 zoned lots to be dedicated to Council for public purposes/drainage (eg proposed Lot 152) are done using Clause 2.75(f) of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- Clause 5.5, development within the coastal zone (relevant objectives of this clause are addressed by SEPP 71 section - see above).
- Clause 5.9 listed trees in Development Control Plan 2013 are proposed to be removed. The tree removal process, value and replacement plantings have been assessed in the application and deemed acceptable. A VMP is to be put in place to manage the tree removal/replacement process.
- Clause 5.10, the site does not contain or adjoin any known heritage items or sites of significance. The applicant also produced a heritage report looking into Aboriginal archaeology. The report found no evidence but did suggest a precautionary condition to cover the possibility of something being found during work (i.e. work to cease if items found). Condition will be incorporated into the recommended consent.
- Clause 6.1, arrangements for designated State public infrastructure on urban release areas has been resolved previously as per the letter from the Department of Planning to Council dated 6 December 2012.
- Clause 6.2, satisfactory arrangements are in place for provision of essential public utility infrastructure including stormwater, water and on-site sewage management/sewer infrastructure to service the development within an urban release area.
- Clause 6.3, a compliant DCP is in place for the Area 14 urban release area and has been considered - see DCP assessment below in this report.
- Clause 7.1, the property is mapped as potentially containing class 5 acid sulfate soils. The actual area to be developed is predominately not mapped and no major excavations proposed that are likely to create an acid sulphate soil issue onsite. Further consideration of this clause is not required in this case.
- Clause 7.2, no major earthworks proposed.
- Clause 7.3, the site contains land within a mapped "flood planning area". The application was referred to Council's Flood Officer who raised no objection, subject to imposition of conditions. In this regard, the following comments are provided which incorporate consideration of the objectives of Clause 7.3, Council's Flood Policy 2015, the NSW Government's Flood Prone Lands Policy and the NSW Government's Floodplain Development Manual (2005):
 - o The proposal is compatible with the flood hazard of the land taking into account projected changes as a result of climate change;
 - o The proposal will not result in a significant adverse affect on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties;

- o The proposal incorporates measures to minimise & manage the flood risk to life and property associated with the use of land;
- o The proposal is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses;
- o The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- Clause 7.4, flood risk management land applies to the site. However, this clause only applies to the following development with particular evacuation or emergency response issues – caravan parks, aged care facilities, correctional facilities, emergency services facilities, group homes, hospitals & tourist & visitor accommodation. The proposal does not constitute such development and no further consideration of this clause is required.
- Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development. Provision of electricity and telecommunications will be subject to obtaining satisfactory arrangements certification prior to the issue of a Subdivision Certificate as recommended by a condition of consent.

(a)(ii) Any proposed instrument that is or has been placed on exhibition

No draft instruments apply to the site.

(a)(iii) Any DCP in force

Port Macquarie-Hastings Development Control Plan 2013:

<i>DCP 2013: Chapter 3.6 - Subdivision</i>			
DCP Objective	Development Provisions	Proposed	Complies
3.6.3.1	A site analysis is required for all development and shall illustrate: • microclimate; • lot dimensions; • north point; • existing contours and levels to AHD; • flood affected areas; • overland flow patterns, drainage and services; • any contaminated soils or filled areas, or areas of unstable land; • easements and/or connections for drainage and utility services;	A suitable site plan addressing key requirements was submitted.	Yes

	• identification of any existing trees and other significant vegetation; • any existing buildings and other structures, including their setback distances; • heritage and archaeological features; • fences; • existing and proposed road network, including connectivity and access for all adjoining land parcels; • pedestrian and vehicle access; • views to and from the site; • overshadowing by neighbouring structures; and • any other notable features or characteristics of the site.		
3.6.3.2	Torrens title lots minimum width of 15m when measured at a distance of 5.5m from front property boundary.	All lots comply with the minimum of 15m width requirement.	Yes
	Minimum width of 7m when boundaries are extended to kerb line.	Standard lot sizes proposed.	Yes
	Minimum depth of 25m.	All lots comply with the minimum 25m depth requirement.	Yes
	For lots where average slope of the site is equal to, or exceeds 16%, indicative road and driveway grades are required demonstrating satisfactory access.	Grades acceptable for future development.	Yes
	Subdivision of dual	Not applicable.	N/A

	occupancy development or multi dwelling housing where permissible in the LEP may create allotments smaller than 450m² if: • Each lot to be created is part of a community or strata title scheme, or • Is part of an integrated Torrens title housing development.		
3.6.3.3	Battleaxe lots discouraged in greenfield development.	Battleaxe lots have been reserved for the E4 subdivision area. There are only 3 proposed and they are more in response to maximizing the development potential of the land while also aiding in the retention of vegetation, not creating adverse servicing costs or impacts on amenity. The battleaxe lots do not have long handles, which results in the building areas adjoining the standard lots - no privacy issues. In addition, the larger lots sizes also still create a wide frontage (minimum 5m), which will limit impact on streetscape, garbage collection and crossover domination.	No, but acceptable
	Council may consider permitting Torrens Title battleaxe allotments for —infill development where it is demonstrated that; • a Torrens Title lot, that is <i>not</i> a battleaxe lot, <i>cannot</i> be achieved; and • the number of crossovers do not reduce the amenity of the street or on street parking; and • the impact of noise,	Refer to above.	Refer to above.

	dust and headlights on the land owners adjoining the driveway is addressed by the construction of an acoustic fence for the full length of the driveway; and • addresses privacy between the rear lot and the rear open space of the front lot by the provision of • adequate screening, larger lot size and setbacks; and • extends utilities to the end of the axe handle; and • there is sufficient space for garbage collection on the frontage.		
3.6.3.4	Lots are to be designed to allow the construction of a dwelling, which does not involve more than 1m cut, or fill, measured from natural ground level, outside the dwellings external walls.	Proposed lots are capable of allowing dwellings with minimal cut and fill.	Yes
	Lot sizes increased for sloping sites in accordance with Table 3.6.1.	Lot sizes are acceptable and comply with LEP 2011.	Yes
	Additional information provided for slope categories in accordance with Table 3.6.2.	Not required. Slope is acceptable.	Yes
3.6.3.5	Wherever possible orientate streets to maximise the number of east, west and south facing lots and to minimise the number of narrow north facing lots. Residential street blocks should preferably be orientated north-south with dimensions generally limited to 60-80m by 120-150m as illustrated	Proposed lot design is acceptable for maximising solar orientation.	Yes

	in Figure 3.6-2.		
	Lot size and shape are to reflect orientation to ensure future dwelling construction has optimal opportunity for passive solar design.	Lot size and shape ensures suitable passive solar design opportunities.	Yes
3.6.3.6	Kerb and guttering, associated street drainage, pavement construction and foot paving across the street frontages should be constructed as part of the subdivision works where these do not exist (may be varied subject to criteria in this clause)	To be conditioned where necessary.	Yes
3.6.3.7	Subdivisions close to urban centres or along arterial roads serviced by public transport achieve yield of >35 dwellings per hectare.	Development allows suitable density, especially considering lots can be further developed.	Yes
3.6.3.20	Water supply to meet Council's design specifications.	Capable of complying.	Yes
3.6.3.21	All lots connected to reclaimed water if available.	Capable of complying.	Yes
3.6.3.24	Separate sewer junction provided for each lot.	Capable of complying.	Yes
3.6.3.27	Erosion and sediment control plan to be provided.	To be conditioned.	Yes
3.6.3.34	All service infrastructure should be underground unless otherwise approved by Council.	To be conditioned.	Yes
	All service infrastructure should be installed in a common trench.	Where applicable, to be conditioned.	Yes
	Conduits for the main technology network system should be provided in all streets.	Where applicable, to be conditioned.	Yes
	Conduits are to be installed in accordance with the National Broadband Network Company Limited's 'Guidelines for Fibre to	Where applicable, to be conditioned.	Yes

	<i>the Premises Underground Deployment'.</i>		
	Access pits are to be installed at appropriate intervals along all streets.	Where applicable, to be conditioned.	Yes
3.6.3.51	Street trees should be provided along all road frontages generally at a rate of 1 per 20m interval.	Street trees are covered by the VMP at rates accepted by Council's Parks Section.	Yes
	Street trees should not affect solar access.	Street trees will not create any adverse impact on solar access.	Yes
3.6.3.52	Street trees from Council's list.	Street trees are covered by the VMP at types/rates accepted by Council's Parks Section.	Yes
DCP 2013: General Provisions			
DCP Objective	Development Provisions	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline: - Casual surveillance and sightlines - Land use mix and activity generators - Definition of use and ownership - Lighting - Way finding - Predictable routes and entrapment locations	The layout does not create any crime safety issues. The design allows separation from habitat/concealment areas and allows surveillance of the street.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	No adverse cut or fill proposed.	Yes
2.3.3.2	1m max. height retaining walls along road frontages	None proposed.	N/A
	Any retaining wall >1.0 in height to be certified by structural engineer	None proposed.	N/A
2.3.3.8 onwards	Removal of hollow bearing trees	Tree removal (including hollow bearing) covered by Ecological Assessment and Vegetation Management Plan.	Yes
2.6.3.1	Tree removal (3m or	Tree removal covered by	Yes

	higher with 100m diameter trunk and 3m outside dwelling footprint	Vegetation Management Plan.	
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Noted
2.5.3.2	New accesses not permitted from arterial or distributor roads. Existing accesses rationalised or removed where practical	No new access proposed off an arterial or distributor road.	Yes
2.5.3.11	Section 94 contributions	Contributions apply.	Yes
DCP 2013 - Rainbow Beach			
DCP Objective	Development Provisions	Proposed	Complies
1.1	Development consistent with layout on Figures 62 to 64.	Development is consistent with the layout requirements	Yes
1.2	First DA in precinct needs staging plan.	Not the first DA in the precinct. Nonetheless, a suitable staging plan has been provided for the site.	Yes
2.1	Development yields.	Development yields on track. Various lots within the subdivision have re-development potential.	Yes
3.1	Staged developments need an Infrastructure Servicing Plan.	Capable of compliance, especially through conditions and s68/138 process.	Yes
4.1	Signalised and roundabout intersections are provided in accordance with layout figures.	Not relevant to the site.	N/A
4.2	Design requirements for Ocean Drive.	Development complies with design requirements for Ocean Drive.	Yes
5.1	Cycleways, shareways etc requirements	Provided in accordance with DCP.	Yes
5.2	Pedestrian link requirements.	Provided in accordance with DCP.	Yes
6-8	Noise, visual amenity, SEPP 26 buffer and urban design.	The applicant has submitted a noise report, fencing detail, landscaping and gateway treatments in accordance with the DCP. To be reinforced through conditions.	Yes
11	Environmental Living Area	The proposal addresses	Yes

	(E4 zone)	KPOM requirements for the E4 zone and includes building envelopes of sufficient size to accommodate future dwellings. The design has been focused on retaining vegetation, while at the same time allowing suitable areas for dwellings.	
12.1	North south streets to be in accordance with Figure 71.	Streets comply.	Yes
12.2	20m wide habitat link as per Figure 71.	20m habitat link provided as per Figure 71 via Road 8 vegetated median strip.	Yes
12.3	30m wide road reserve habitat link as per Figure 71.	Not relevant to the site.	N/A
13.1	Development considers existing rural residential areas, KPOM requirements and linkages.	Development complies with the Area 14 KPOM and will be installing/protecting key habitat links. The development considers the existing rural residential area by providing lots that will have rear boundaries to the existing rural residential area. In most cases, future development will need to provide a 4m rear setback, which will help maintain a suitable level of separation.	Yes
13.2	Subdivision adjoining R2 and E4 zones is designed to avoid adverse amenity impacts by using landscaping and differing density.	Refer to comments above. In addition, a VMP is in place to ensure significant landscaping/vegetation throughout the subdivision.	Yes
14.1	Development in flood planning area requirements.	Compliance with flooding addressed above in LEP 2011.	Yes
15	Houston Mitchell Drive Treatment	Development provides foot paving, fencing and vegetation along Houston Mitchell Drive in accordance with DCP.	Yes

(a)(iii)(a) Any planning agreement or draft planning agreement

The Area 14 Stage 1A Sydmart Planning Agreement and Area 13, 14 & 15 Local Roads Contributions Plan apply to the site.

The proposed development complies with relevant planning agreements subject to conditions.

(a)(iv) Any matters prescribed by the regulations

NSW Coastal Policy 1997

The proposed development is consistent with the objectives and strategic actions of this policy.

(a)(v) Any Coastal Zone Management Plan

- No Coastal Zone Management Plan applies to the subject site.

(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

The site has street access from Forest Parkway, which connects to Houston Mitchell Drive and Ocean Drive. The site also has access via the public road system servicing the manufactured housing estate to the east.

Adjoining the site to the north is an existing large lot residential subdivision with associated housing. Further north is the Lake Innes Nature Reserve and land recently approved under DA2016 - 87 for 68 residential lots.

Adjoining the site to the east is an approved manufactured housing estate that is partially complete with further sites to be created.

Adjoining the site to the west is timbered rural land.

Adjoining the site to the south is the Lake Cathie Primary School and the remaining Area 14 residential area. It should be noted that there is currently a separate DA2016 - 465 in with Council for approximately 700 lots to be located in the Area 14 land to the south of DA2016 - 88. The application is still being processed but is likely to be presented to the Joint Regional Planning Panel at a later date.

The proposal will be unlikely to have any adverse impacts to existing adjoining properties and is considered to satisfactorily address the public domain.

The proposal is considered to be consistent with other residential development in the larger locality and adequately addresses planning controls for the area.

Roads, Traffic, Transport, Site Frontage & Access

The road layout and hierarchy has been designed in accordance with the Area 14 Development Control Plan provisions, which connects in with the adjoining properties/roads. Footpaths and street plantings will also be provided throughout the subdivision to improve pedestrian connections and amenity.

Overall, the road layout, traffic impacts, frontages and access associated with the development were all reviewed by Council's Engineering Section and deemed to create no adverse impact, subject to conditions.

Water Supply Connection

Council records indicate that the development site is able to be connected to water with details to be shown on the engineering plans at the Construction Certificate stage.

Sewer Connection

Council records indicate that the development site is able to be connected to sewer with a junction that has been provided in a manhole near the collection manhole for the sewer pump station on Lot 35 DP 803801. Details are to be shown on the engineering plans at the Construction Certificate stage.

Stormwater

Council's Stormwater Engineer has assessed the application/proposed stormwater design and deemed it acceptable, subject to conditions and detailed design being submitted at the Construction Certificate stage. The system will utilise a combination of street drainage, detention and swales to direct the water to the public reserve in a controlled state.

Other Utilities

Telecommunication and electricity services are available to the site and/or can be extended at the applicants expense.

Heritage

Refer to comments on heritage above in the LEP 2011 section of this report.

Other land resources

The site is within an established urban context and will not sterilise any significant mineral or agricultural resource.

Water cycle

The proposed development will be unlikely to have any adverse impacts on water resources and the water cycle.

Soils

The proposed development will be unlikely to have any adverse impacts on soils in terms of quality, erosion, stability and/or productivity subject to a standard condition requiring erosion and sediment controls to be in place prior to and during construction.

Air and microclimate

The construction and/or operations of the proposed development will be unlikely to result in any adverse impacts on the existing air quality or result in any pollution. Standard precautionary site management condition recommended.

Flora and fauna

The applicant has submitted a ecological assessment prepared by a suitably qualified person. The assessment was also reviewed and accepted by Council's Natural Resources Section.

While the subdivision will require the removal/clearing of vegetation, the impacts were deemed to create no adverse impact on biodiversity or threatened species of flora and fauna.

Key to this outcome is the extensive replacement plantings that will be incorporated into the design by an approved VMP. The replacement plantings will be better located to improve habitat corridors and linkages throughout the area, while also protecting the more relevant key habitat areas.

As an example, both DA2016 - 87 & 88 require the removal of 70 koala food trees. The Area 14 KPOM and DCP require replacement plantings at 20:1. This would result in the need for 1,400 koala food trees. Over the two development applications, the applicant proposes just over 470 replacement trees throughout the subdivisions and within proposed public reserves. This still leads to a shortfall of over 900 trees.

In relation to the shortfall in compensatory plantings and based on Council requirements of 8m spacing's, 900+ KFTs would require a cleared land area of approximately 5.9ha. The only cleared land suitable for planting is located immediately adjoining the western edge of the Lake Cathie Nature Reserve, within Lot 33 to the north of the subject development site. This area is generally flood prone and would be expected to form part of the buffer to the Nature Reserve as part of the future rezoning of residential investigation areas within Lot 33. This land has been inspected by Council staff and it was noted that although regularly slashed, natural regeneration of native vegetation is currently occurring.

It is proposed in the accompanying VMP that rather than planting over 900 individual KFTs, Management Unit 4 is to be fenced from grazing and managed as a natural regeneration area. Management Unit 4 adjoins the western edge of the Lake Cathie Nature Reserve and has a total land area of 9ha, 4.5ha of which is currently cleared (slashed).

The VMP provides for annual reporting to Council with respect to the implementation of its compensatory measures. The use of natural regeneration within Management Unit 4 to secure an overall offset area of 9ha adjoining the Nature Reserve is on balance, considered to be a suitable response to the compensatory planting requirements. Overall the outcome is supported by Council's staff.

Section 5A of the Act is considered to be satisfied.

Waste

No adverse impacts anticipated. Standard precautionary site management condition recommended.

Energy

No adverse impacts anticipated.

Noise and vibration

The application was referred to Council's Environmental Health Officer to consider impacts of road noise from Ocean Drive (classified road). In particular, potential exists for noise from road traffic to adversely affect future dwelling occupants.

To negate noise impacts a 1.8m high fence on top of a 400mm mound is proposed along the Ocean Drive frontage, consistent with other estates being developed to the east. Vegetation screening will also be included to soften the appearance of the fence from Ocean Drive.

Even with the above, some lots were still identified as being affected by road noise. The recommendations made in the noise report did not include a reference to Category 2 construction or the additional BCA compliant internal ventilation that is needed for dwellings built on the noise affected lots. Appendix B4 Night LAeq (9 hour) dBA 4.5m Above Ground Level" on page 21 of the Report shows the noise affected lots in yellow. Homes in the yellow section require Category 2 construction and additional ventilation.

Based on the above, the affected lots in Appendix B4 will need to include an 88B Instrument requiring Category 2 construction and additional internal BCA compliant ventilation.

Bushfire

The site is identified as being bushfire prone.

In accordance with Section 100B - *Rural Fires Act 1997* - the application proposes subdivision of bush fire prone land that could lawfully be used for residential purposes.

The applicant has submitted a bushfire report prepared by a Certified Consultant. The report assumes that the proposed subdivision can occur under Section 100B requirements.

The Commissioner has assessed the development and has issued a Bushfire Safety Authority, which will form part of the conditions of consent. Furthermore, the applicant has demonstrated that the development can comply with the requirements of the Bushfire Safety Authority as well as implementing the requirements of the VMP, without creating any long term maintenance of vegetation burden on Council.

Safety, security and crime prevention

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. The increase in housing density will improve natural surveillance within the locality and openings from each dwelling overlook common and private areas.

Social impacts in the locality

Given the strategic planning and development controls that have been put in place governing the development of the Area 14 precinct and the compliance of the subdivision with such controls; the proposal is unlikely to result in any adverse social impacts.

Economic impact in the locality

No adverse impacts. A likely positive impact is that the development will maintain employment in the construction industry, which will lead to flow impacts such as maintained employment and expenditure in the area.

Site design and internal design

The proposed development design satisfactorily responds to the site attributes and will fit into the locality. The design links in with existing and proposed developments for the Area 14 precinct. No adverse impacts likely.

Construction

Short term construction impacts associated with developing the subdivision will be managed by conditions applying to hours of operation, erosion control, dust control etc. No other long term impacts identified to neighboring properties with the construction of the proposal.

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 attributes are conducive to the proposed development.

Site constraints have been adequately addressed and appropriate conditions of consent recommended.

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

One (1) written submission was received following public exhibition of the application.

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

Submission Issue/Summary	Planning Comment/Response
The proposal to have 6 lots backing onto one of the existing lots in Forest Parkway is too invasive and will	The above concern is noted. However, except for proposed lot 123 (corner lot), all the other lots

impact on privacy. Suggested that the 6 lots be replaced with one larger lot. The 6 lots will also create a maintenance issue having to deal with so many properties owners over fence issues, pruning etc. The above scenario will also impact on property values.	share a rear boundary with the adjoining existing larger lot. Furthermore, planning controls require larger rear setbacks. The larger rear setback requirement coupled with standard side/rear fencing will ensure privacy is retained between the new and existing lots. A condition is also recommended to require the boundary fence be put in place prior to the creation of the lots. This will ensure only two neighbours need to negotiate the fence design outcome. Property values is not a matter for consideration under S79C.
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(e) The public interest

The proposed development will be in the wider public interest with provision of appropriate additional housing.

The proposed development satisfies relevant planning controls and is not expected to impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply and sewerage system head works 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 towards roads, open space, community cultural services, emergency services and administration buildings.

Refer to draft contribution schedule attached to this report and recommended conditions.

5. CONCLUSION

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

The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.