

COUNCIL ASSESSMENT REPORT

Panel Reference	2016NTH018
DA Number	DA 2016 - 465.1
Local Government Area (LGA)	Port Macquarie-Hastings
Proposed Development	702 Lot Subdivision and Associated Infrastructure
Street Address	1350 Ocean Drive, Lake Cathie/Bonny Hills
Applicant/Owner	Applicant: King and Campbell Pty Ltd Owner: St Vincent's Foundation Pty Ltd
Date of DA Lodgement	20 June 2016
Number of Submissions	No submissions received
Regional Development Criteria (Schedule 4A of the EP&A Act)	Coastal subdivision
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 26 - Littoral Rainforest • State Environmental Planning Policy No. 44 - Koala Habitat • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy No. 64 - Advertising and Signage • State Environmental Planning Policy No. 71 - Coastal Protection • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Rural Lands) 2008 • Port Macquarie-Hastings Local Environmental Plan 2011 • Port Macquarie-Hastings Development Control Plan 2013 • Rainbow Beach Central Corridor Planning Agreement • Ocean Drive Lake Cathie Planning Agreement
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> 1. Section 79C Assessment report 2. Recommended conditions of consent 3. NSW RFS recommended conditions of consent 4. Development contributions estimate 5. Voluntary Planning Agreements 6. Development Plans

Report prepared by	Ben Roberts - Development Assessment Planner
Report date	January 2017
Recommendation	That DA2016 - 465.1 for a 702 Lot Subdivision and Associated Infrastructure at Lot 1 DP 1193553, Lot 1 DP 1150758, Lot 5 DP 25886, Lot 4 DP 1150758, Ocean Drive, Lake Cathie/Bonny Hills be determined by granting consent subject to the recommended consent conditions.

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Executive summary

This report considers a Development Application (DA) for a 702 lot subdivision and associated infrastructure at the subject site.

There is an existing Part 3A Concept Plan (MP 06_0085) and Stage 1 Project Approval (MP 07_0001) applicable to the site. The project is a 'transitional Part 3A project'. Under the terms of the concept plan approval future approval to carry out the project, are subject to Part 4 of the Act. The proposed development is consistent with the Concept Approval.

The proposal has been advertised in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*. Following exhibition of the application no written submissions were received.

The assessment of the application has also considered written submissions from the following public authorities:

- NSW Roads and Maritime Services
- NSW Rural Fire Service.

This report provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979. The consent authority must be satisfied in relation to a number of provisions in relevant environmental planning instruments applicable to the proposal before granting consent to the development. A detailed assessment of the relevant clauses is noted within the report. A summary is also provided below:

- **Clause 9 of SEPP No 44 – Koala Habitat Protection.** The proposed development is consistent with the adopted Lake Cathie - Bonny Hills (Area 14) Koala Plan of Management. The consent authority is therefore not prevented from granting consent because of this Policy;
- **Clause 7 of SEPP No 55 – Remediation of Land.** Preliminary investigations indicate the site is suitable in its current state for urban development. The investigation identified some localised areas of impacted soils and fibrous building materials that may warrant remediation. Consistent with the Part 3A Concept Plan approval a condition has been recommended requiring a site validation report to be prepared by a suitably qualified and practising contaminated land consultant be provided prior to the issuing of any civil works construction certificate for any residential land;
- **Clauses 8 and 13 of SEPP 64 - Advertising and Signage.** The proposed estate entry signage to the fencing of the significant corner treatments along Ocean Drive is consistent with the objectives of this policy. The proposed signage has been assessed against the assessment criteria in Schedule 1 and the proposal is acceptable in terms of its impacts.
- **Clauses 7, 18 and 19 of SEPP 71 - Coastal Protection**

The matters set out in clause 8 have been taken into account. Approval of the Part 3A Concept Plan by the Minister has essentially adopted a Master Plan for the subject land. The proposal is consistent with the Part 3A concept plan.

- **Clause 104 of SEPP (Infrastructure) 2007**

Written notice was provided to the Roads and Maritime Services (RMS) and the comments provided by RMS have been taken into consideration.

- **Clauses 7.5 and 7.13 of Port Macquarie-Hastings Local Environmental Plan 2011**

Clause 7.5 requires the consent authority to be satisfied that the development is consistent with the relevant provisions of any adopted plan of management prepared under SEPP 44 and that each lot will contain sufficient building envelope to enable future development of the lot to comply with such plan. The proposed development is consistent with the adopted Lake Cathie - Bonny Hills (Area 14) Koala Plan of Management and future development of each proposed lot will enable compliance with the adopted plan.

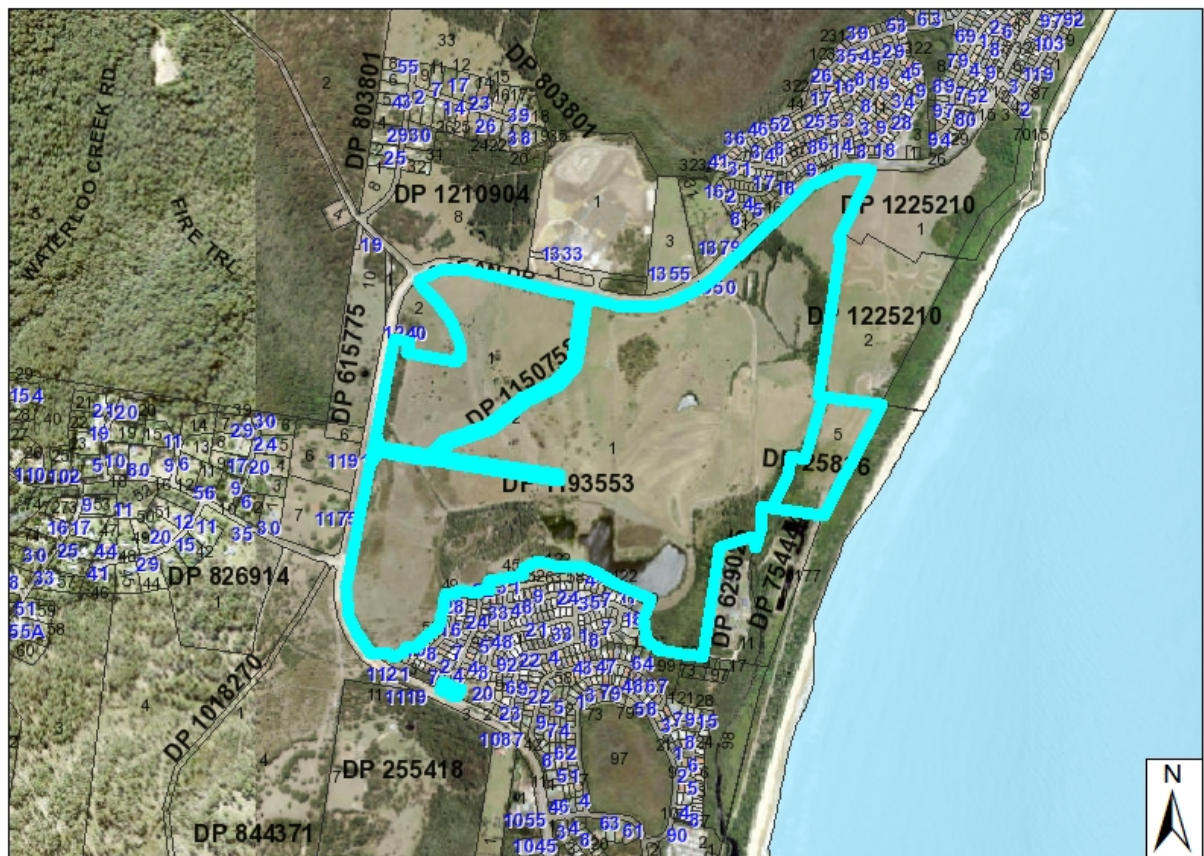
Clause 7.13 requires the consent authority to be satisfied that any services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required. Subject to recommended conditions of consent, the proposed development meets the provisions of clause 7.13 of the LEP;

In summary, the assessment of the proposed development has adequately addressed all consent considerations required by the above environmental planning instrument clauses. It is therefore considered that the Panel can proceed with determining the application, subject to the recommended conditions of consent.

1. BACKGROUND

Existing sites features and surrounding development

The site is located is located at Rainbow Beach between the coastal villages of Lake Cathie and Bonny Hills, approximately 16 kilometres south of Port Macquarie. The aerial photograph below provides an overview of the site, existing subdivision pattern and location of existing development:



The site is approximately 177 hectares in size and within the recently rezoned 'Area 14' planning area. The site adjoins Ocean Drive to the north and west and residential area to the south. Land to the east includes the Lake Cathie/Bonny Hills Sewerage Treatment plant, residential subdivision (under construction), Crown Land Reserve and Rainbow Beach.

The site comprises an area of low lying land currently used for cattle grazing. Existing buildings include a telephone exchange, two dwellings and associated farm buildings.

Upper tributaries of the Duchess Gully extend through the site via a series of vegetated drainage channels which eventually flow south-east, behind the coastal dune system. Existing site vegetation is of a disturbed nature, however, pockets of endemic vegetation communities still remain.

The site is currently zoned R1 General Residential and RU1 Primary Production, in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



The concept plan and project approval was issued by the Department of Planning on 1 March 2012 under Part 3A of the EP & A Act. The concept plan was granted for the delineation of land uses within the site as follows:

- Residential subdivision;
- Three adopted intersections with Ocean Drive and the location of an additional intersection with Ocean Drive (under investigation by Council at the time);
- Future school sites;
- The general location of the Greater Lake Cathie Bonny Hills Village Centre;
- Delineation of the development land of Lot 5; and
- A central corridor area comprising both recreational and environmental areas.

- Construction of the 75.2 hectare central corridor that encompasses eight recreational and environmental precincts.
- Excavation of 415,800m³ of soil from the eastern portion of the site;
- Site filling of low-lying areas to reclaim for future development;
- Establishment of 12.4 hectare constructed wetland system; and
- Formal public access to Rainbow Beach.

- Amend the boundaries of the Eastern Creek area;

- Amend the boundary between the residential and environmental land on Lot 5 DP25886;
- Amend the boundaries of the southern school site and adjacent Eastern Chestnut Mouse habitat; and
- Reduce the management area to which the Vegetation Management Plan for the Crown Land reserve applies.

The Part 3A concept approval and Stage 1 project approval are provided as attachments to this report.

Part 3A of the Environmental Planning and Assessment Act, 1979 (the Act) was repealed on 1 October 2011. The Part 3A application was undetermined at the time of these changes. Schedule 6A of the Act established the transitional arrangements and subject to clause 2 of this schedule the project is a 'transitional Part 3A project'. Accordingly Part 3A of the Act as existed, prior to its repeal, continues to apply to the project.

Under the terms of the concept plan approval future approval to carry out the project, are subject to Part 4 of the Act. Accordingly the subject application has been made under Part 4 of the Act.

2. DESCRIPTION OF DEVELOPMENT

In summary the proposed development comprises the following:

- 680 general residential lots
- 11 medium density residential lots
- 5 lots within the village centre
- 3 environmental management lots
- 1 lot for future sporting fields
- 1 lot for future school site
- 1 residual lot comprising the central corridor environmental lands
- Provision of associated infrastructure to service the development
- Landform modification, including tree removal to construct the development.

Plans of the proposed development are included in the attachments to this report.

Application Chronology

- 20 June 2016 - Application lodged.
- 22 June 2016 - Registered with Joint Regional Planning Panel.
- 22 June 2016 - Referral to Road and Maritime Services.
- 22 June 2016 - Referral to Rural Fire Service.
- 23 June 2016 - Preliminary review meeting with applicant.
- 28 June to 11 July 2016 - Public exhibition.
- 29 June 2016 - Revised plans received by applicant re additional footpaths.
- 18 July 2016 - Additional information request received from RMS (SIDRA files).
- 20 July 2017 - Request for additional info to applicant (SIDRA files).
- 20 July 2017 - Additional information provided by applicant (SIDRA files).
- 20 July 2017 - Additional information (SIDRA files) referred to RMS.
- 21 July 2016 - Comments received from Essential Energy.
- 3 August 2016 - Comments received from RMS.

- 4 August 2016 - RFS request for fees and additional information.
- 8 August 2016 - JRPP secretariat request for update on assessment progress.
- 9 August 2016 - Update provided to JRPP secretariat including advice that current Part 3A modification application before NSW Planning needs to be determined before assessment can be completed.
- 7 September 2016 - Applicant response to RFS request.
- 8 September 2016 - Referral of additional information and response to RFS.
- 21 September 2016 - JRPP secretariat request for update on assessment progress.
- 21 September 2016 - Advice from NSW Planning that Part 3A modification likely to be determined late September 2016.
- 21 September 2016 - Update provided to JRPP secretariat on likely determination of Part 3A modification by NSW Planning.
- 23 September 2016 - Response received from RFS with recommended conditions.
- 24 October 2016 - JRPP secretariat request for update on assessment progress.
- 26 October 2016 - Update provided to JRPP secretariat. Determination of Part 3A modification by NSW Planning yet to occur.
- 15 November 2016 - JRPP secretariat request for update on assessment progress.
- 23 November 2016 - Update provided to JRPP secretariat. Determination of Part 3A modification by NSW Planning yet to occur.
- 24 November 2016 - Part 3A modification application determined by NSW Planning.
- 13 January 2016 - Draft conditions provided to applicant.
- 23 January 2016 - Meeting with applicant to review draft conditions.

3. STATUTORY ASSESSMENT

The provisions (where applicable) of:

(a)(i) Any environmental planning instrument

State Environmental Planning Policy 26 - Littoral Rainforest

This policy aims to preserve and protect littoral rainforests in their natural state. This policy applies to land within 100m of the marked boundaries identified in a series of maps marked "*State Environmental Planning Policy No. 26 - Littoral Rainforest (Amendment No.2)*". The eastern boundary of Lot 5 DP 25886 adjoins mapped Littoral Rainforest.

Consideration of the potential impacts upon the adjoining Littoral Rainforest were considered by the Department in their assessment of the Part 3A Concept Plan. The relevant matters for consideration as required by this policy were addressed in the Director-General's Environmental Assessment Report. It is noted that a modification to the concept plan was required to increase the proposed vegetation buffer between the residential land and the adjoining Littoral Rainforest. Accordingly, the recent Part 3A modification approval now provides for a 50m buffer to the north of the lot, tapering to 35m at the southern extent.

In accordance with clause 7 the proposal does not propose to subdivide or undertake work to which mapped SEPP 26 Littoral Rainforest applies and concurrence of the Director is not required.

The application is consistent with the Part 3A Concept Plan approval as modified and no further consideration of this policy is deemed necessary.

State Environmental Planning Policy 44 - Koala Habitat Protection

This policy aims to encourage proper conservation and management of natural vegetation areas that provide habitat for koalas. The policy applies to land parcels of more than one hectare in the Port Macquarie-Hastings LGA.

This policy applies to the site and during its assessment of the Part 3A Concept Plan application the Department gave consideration to a draft Koala Plan of Management under preparation at the time. Since approval of the Part 3A Concept Plan the Lake Cathie - Bonny Hills (Area 14) Koala Plan of Management has subsequently been adopted.

The application has been considered against the provisions of this plan. In particular:

- The subdivision design and layout is generally in accordance with the recommendations outlined in the plan of management;
- Provides the important habitat linkages A and D identified within the central corridor environmental land;
- A minimum 200m buffer has been provided around the sewage treatment plant land within the central corridor environmental lands to protect the resident Koala population identified in that area.
- Retains and enhances Koala habitat within the environmental lands or parks via compensatory plantings.

A recommended condition has been applied requiring title restrictions advising future land owners of specific swimming pool design requirements.

The application is consistent with the Part 3A Concept Plan Approval and the adopted Lake Cathie - Bonny Hills (Area 14) Koala Plan of Management. No further consideration of this policy is deemed necessary.

State Environmental Planning Policy 55 - Remediation of Land

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

The site is mapped as potentially contaminated land on Council's contaminated land register. As part of the Part 3A Concept Plan the proponent undertook a preliminary site investigation. The investigation identified some localised areas of impacted soils and fibrous building materials that may warrant remediation, however evidence of gross impact across the broader site was not recorded in relation to known historical and current land uses. These preliminary investigations indicate the site is suitable in its current state for urban development.

Consistent with the Part 3A Concept Plan approval a condition has been recommended requiring a site validation report to be prepared by a suitably qualified and practising contaminated land consultant be provided prior to the issuing of any civil works construction certificate for any residential land.

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 No. 62 – Sustainable Aquaculture

Given the nature of the proposed development, proposed stormwater controls and proximity to the nearest existing aquaculture industries the proposal will be unlikely to have any adverse impact. No further consideration of this policy is deemed necessary.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposal incorporates entry feature signage being approximately 3m wide by 0.5m high to the fencing of the three significant corner treatments at the intersections with Ocean Drive. The proposed signage satisfies the applicable requirements of this SEPP. The assessment table provided below provides consideration of the signage in accordance with schedule 1 of the SEPP.

Applicable clauses for consideration	Comments	Satisfactory
Clause 8(a) Consistent with objectives of the policy as set out in Clause 3(1)(a).	The proposed entry signage is consistent with the objectives of this policy.	Yes
Schedule 1(1) Character of the area.	The state entry signage is consistent with the desired future character of the area and locality.	Yes
Schedule 1(2) Special areas.	The signage will not detract from the amenity or visual quality of any special areas.	Yes
Schedule 1(3) Views and vistas.	The signage will not obscure or adversely impact on any views of vistas.	Yes
Schedule 1(4) Streetscape, setting or landscape.	The estate signage is proportionate to the fencing to which it will be installed and will not detract from the streetscape.	Yes
Schedule 1(5) Site and building.	The estate signage is of a suitable scale and proportion to the fence upon which it's to be located.	Yes
Schedule 1(6) Associated devices and logos with advertisements and advertising structures.	No safety devices or logos nominated.	Yes
Schedule 1(7) Illumination.	No illumination proposed.	Yes
Schedule 1(7) Safety.	No adverse safety impacts identified from the proposed state entry signage.	Yes

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.

The site is located within a coastal zone noting clause 4 of the SEPP. The site is further identified as being partly 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.

Approval of the Part 3A Concept Plan by the Minister has essentially adopted a Master Plan for the subject land.

Clause 8 sets out the matters for consideration by a consent authority when determining a development application in the coastal zone.

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.

In particular the land is primarily cleared and located within an area zoned for residential purposes. Public access to the foreshore from the development is proposed to be formalised and upgraded. The development protects and enhances key environmental and coastal areas via the design and replacement plantings.

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.

Clauses 101 and 104, the development has frontage to a classified road (Ocean Drive) and proposed multiple accesses to this road. 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.

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 traffic noise are considered later in this report under clause 7.9 of the Port Macquarie-Hastings Local Environmental Plan 2011.

In accordance with clause 45 no objection was raised from the relevant electricity supplier regarding the proposed development.

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

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.

Clause 20 regional development is triggered by the development. Schedule 4A to the Act identifies the development for which a regional panel is authorised to exercise the consent authority function.

Clause 9 of schedule 4A reads 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 identifies the Northern Joint Regional Planning Panel as the consent authority. The purpose of this report is to provide an assessment of the development application in accordance with section 79 (C) of the Act.

State Environmental Planning Policy (Rural Lands) 2008

A small area of land in the south-eastern corner of site, surrounding the sewage treatment plant, is currently zoned rural land. The following assessment table provides an assessment against specific requirements of this SEPP:

Applicable clauses for consideration	Comments	Satisfactor y
The existing uses and approved uses of land in the vicinity of the development - 10(3)(a)	The existing and approved uses in the vicinity of the development include residential land to the north, south and east and rural land adjacent Ocean Drive to the west.	Yes
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 development – 10(3)(b)	The proposed subdivision layout is consistent with the concept plan approval and hence the preferred and planned land uses within the vicinity of the development.	Yes
Whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b) – 10(3)(c)	The proposal is not incompatible with any existing and approved uses within the vicinity of the development.	Yes
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 – 10(3)(d)	The site does not contain or adjoin any rural residential zoned land. Ocean Drive acts as a suitable buffer between the rural and residential zoned land.	Yes
Any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d) – 10(3)(e).	No incompatibility identified.	Yes

Port Macquarie-Hastings Local Environmental Plan 2011

Clause 2.2 the subject site is zoned R1 General Residential and RU1 Primary Production.

Clause 2.3(2) the consent authority must have regard to the objectives of a zone when determining a development application.

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

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The objectives of the RU1 Primary Production zone are as follows:

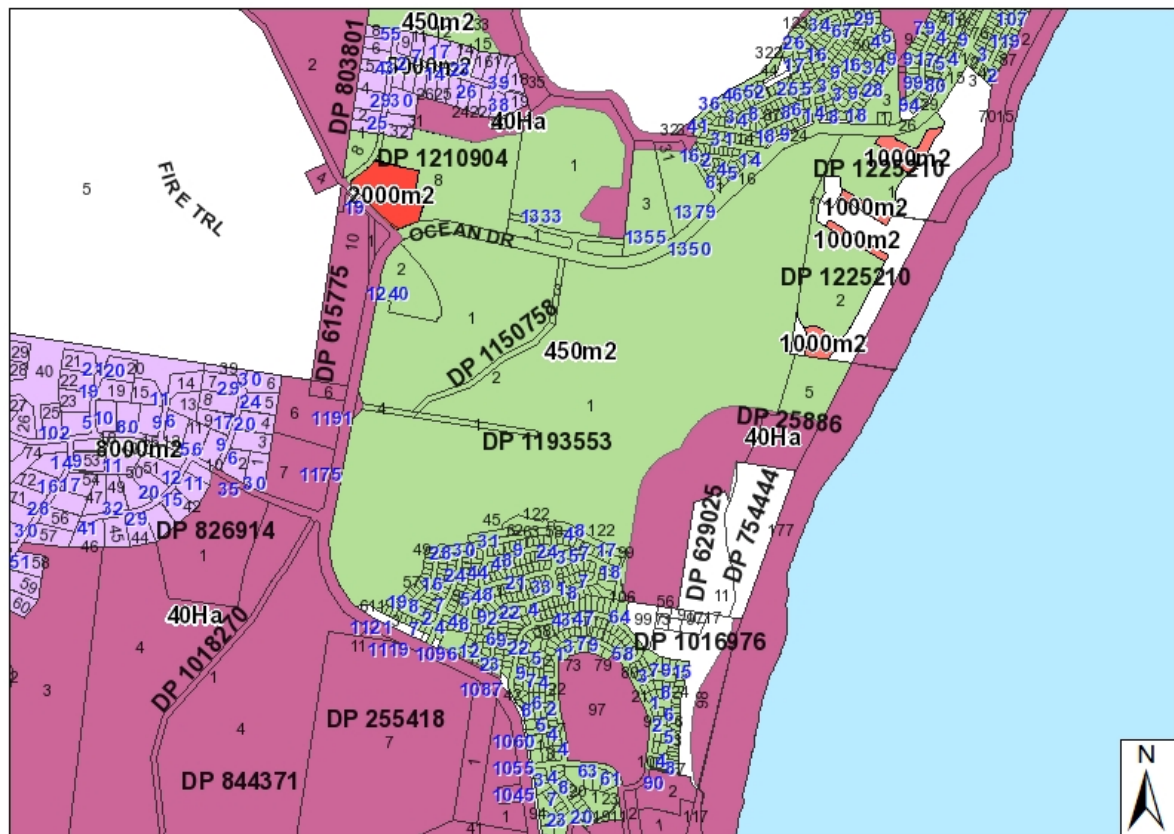
- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

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

Clause 2.6 subdivision of the land is permissible subject to development consent.

Clause 2.7 the proposed demolition of the two existing dwellings on the site is permissible. A suitable demolition condition has been recommended to manage any potential asbestos within these buildings.

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



The lot size map requires a minimum lot size of 450m² for land illustrated as green colour and 40 hectares for the land illustrated as mauve colour. All of the proposed residential lots exceed the minimum lot size provision of 450m² relevant to the residential zone. It is noted that the proposed environmental lots (which are subject to the minimum 40 hectare lot size provision) are to be dedicated for a public purpose. Subdivision of land for a public purpose is a form of exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Clause 1.9 of the Codes SEPP provides that the LEP provision does not apply in this instance. It is noted that no minimum lot size provision applies to the land illustrated as white in colour.

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

Refer to detailed comments provided under SEPP 71 - Coastal Protection earlier within this report. The proposal is consistent with the objectives of this clause.

Clause 5.9 the removal of trees is proposed and primarily confined to isolated trees within existing grazing land. 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 impacts likely to result from the removal of the trees to accommodate the proposal. The associated environmental works will preserve and enhance the amenity and biodiversity of the area.

Clause 5.10 of the plan aims to conserve the heritage significance of items, objects and areas identified under this plan. On this site no items of heritage significance are mapped under this plan. However a recommended condition of consent has been applied advising of procedures should any Aboriginal objects or relics be uncovered during construction works.

Clause 6.1, the site is not located within an urban release area.

Clause 7.1, the property is mapped as potentially containing class 4 and 5 acid sulphate soils. The actual area to be developed is predominately not mapped and no major excavations are proposed under this application that are likely to create an acid sulphate soil issue onsite. It is noted that the Part 3A project approval (which included the majority of excavation work) was accompanied by an Acid Sulfate Soil Management Plan which sets out procedures and actions relevant to earthworks to be undertaken onsite. Consistent with the requirements of this clause a copy of the acid sulphate soils management plan has been provided to Council.

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

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

Consistent with a requirement of the Part 3A concept plan approval it is noted that a further geotechnical assessment was prepared and supported this application. The assessment sets out a number of guidelines for the proposed subdivision and concludes that the site is suitable for the proposed development.

Clause 7.3, the site does not contain land within a mapped “flood planning area”. However identified localised flooding impacts from the Duchess gully catchment and proposed open water wetland are considered under the flooding heading later within this report.

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 7.5, The development is consistent with the relevant provisions of the adopted Lake Cathie - Bonny Hills (Area 14) Koala Plan of Management prepared under SEPP 44 and each lot will contain sufficient building envelope to enable future development of the lot to comply with this plan.

Clause 7.9, the site is not mapped as being subject to acoustic controls. Refer to comments addressing road traffic noise under noise heading later within this report.

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.

The requirements of this LEP are considered to be satisfied.

(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:

The area based provisions for precinct 'C' (to which this site applies) of the Rainbow Beach area are yet to be adopted by Council.

An assessment against the relevant general provisions of Rainbow Beach and chapter 3.6 for subdivisions is provided in the below table.

It is noted that subject to Schedule 6A of the Act, the provisions of any DCP do not have effect to the extent to which they are inconsistent with the terms of the Concept Plan approval.

DCP 2013: Chapter 3.6 - Subdivision			
DCP Objective	Development Provisions	Proposed	Complies
3.6.3.1	A site analysis is required for all development and shall illustrate: <ul style="list-style-type: none">• microclimate;• lot dimensions;• north point;• existing contours and levels to AHD;• flood affected	A suitable site analysis plan addressing key requirements was submitted.	Yes

	<ul style="list-style-type: none"> • 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; • 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	Yes

		minimum 25m depth requirement.	
	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. All lots equal to or less than 16% slope.	Yes
	Subdivision of dual occupancy development or multi dwelling housing where permissible in the LEP may create allotments smaller than 450m ² if: <ul style="list-style-type: none"> • Each lot to be created is part of a community or strata title scheme, or • Is part of an integrated Torrens title housing development. 	None proposed.	N/A
3.6.3.3	Battleaxe lots discouraged in greenfield development.	No battleaxe lots have been proposed	Yes
	Council may consider permitting Torrens Title battleaxe allotments for —infill development where it is demonstrated that; <ul style="list-style-type: none"> • 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, 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, 	Refer to above.	Refer to above.

	<p>larger lot size and setbacks; and</p> <ul style="list-style-type: none"> • extends utilities to the end of the axe handle; and • there is sufficient space for garbage collection on the frontage. 		
3.6.3.4	<p>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.</p>	Proposed lots are capable of allowing dwellings with minimal cut and fill.	Yes
	<p>Lot sizes increased for sloping sites in accordance with Table 3.6.1.</p>	Lot sizes are acceptable and comply with LEP 2011.	Yes
	<p>Additional information provided for slope categories in accordance with Table 3.6.2.</p>	Not required. Slope is acceptable.	Yes
3.6.3.5	<p>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 in Figure 3.6-2.</p>	Proposed lot design is acceptable for maximising solar orientation.	Yes
	<p>Lot size and shape are to reflect orientation to ensure future dwelling construction has optimal opportunity for passive solar design.</p>	Lot size and shape ensures suitable passive solar design opportunities.	Yes
3.6.3.6	<p>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</p>	Pedestrian pathways and share ways are illustrate don plan and have been conditioned where necessary.	Yes

	this clause)		
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 the Premises Underground Deployment'.	Where applicable, to be conditioned.	Yes
	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.	Details to be provided with CC applications to the satisfaction of 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 tree species to be 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: <ul style="list-style-type: none"> 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	Landform modification and cross section plans provided. Further detail will be provided with the relevant CC plans for each stage.	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	Details of any required retaining walls to be provided in CC applications.	Yes
2.3.3.8 onwards	Removal of hollow bearing trees	Assessment of impacts to flora and fauna undertaken throughout part 3A concept plan process.	Yes
2.6.3.1	Tree removal (3m or higher with 100mm diameter trunk and 3m outside dwelling footprint)	Assessment of impacts to flora and fauna undertaken throughout part 3A concept plan process.	Yes
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	Refer to comments under transport and traffic heading within the report. Nominated intersections are consistent with strategic plans for the area.	Yes
2.5.3.11	Section 94 contributions	Contributions apply.	Yes
DCP 2011 - Rainbow Beach			
DCP Objective	Development Provisions	Proposed	Complies
1.1	Development consistent with layout on Figures 88 to 90.	Development is consistent with the layout requirements	Yes
1.2 and	First DA in precinct needs	The site is located in Precinct	Yes

1.3	staging plan.	C and is the first DA in the precinct. An indicative precinct staging plan has been provided.	
2.1	Development yields.	Identified yield of 1000 dwellings consistent.	Yes
2.2	Higher densities to be provided close to retail or community activities & public transport nodes.	Medium density lots proposed adjacent future commercial zones and areas of open space.	Yes
3.1	Staged developments need an Infrastructure Servicing Plan.	Satisfactory infrastructure servicing plans have been provided.	Yes
4.1	Signalised and roundabout intersections are provided in accordance with layout figures.	The application provides for identified intersections roundabouts and traffic signals with Ocean Drive.	Yes
4.2	Design requirements for Ocean Drive.	Development complies with design requirements for the Ocean Drive corridor.	Yes
5.1	Cycleways, shareways etc requirements	Provided in accordance with DCP and figure 89.	Yes
5.2	Pedestrian link requirements.	Provided in accordance with DCP and figure 89.	Yes
6.1 to 6.7	Development subject to acoustic controls	The applicant has submitted a noise report, fencing detail, landscaping buffer and gateway treatments in accordance with the DCP.	Yes
7.1 to 7.4	Fencing to littoral rainforest and boardwalk to Rainbow Beach	Details of fencing to rainforest edge provided consistent with DCP. Stage 1 project approval provides for the boardwalk to Rainbow Beach.	Yes
8.1	Tree planting along a central traffic median and landscaping in the road verge along Ocean Drive.	The proposal provides for a central median by allowing for the 10m wide reservation in Ocean Drive which provide landscaping treatment.	Yes
8.2	Building development within special treatment area to have regard to minimum setbacks, access, fencing, windows.	No building development proposed.	N/A
8.3	Local road provided in location shown on figure 90. Alternative solution that facilitate the objectives may be proposed.	An alternative solution to the local road location shown in figure 90 is proposed. The proposed location facilitates the objectives and is supported by Council staff.	Yes
9.1	Subdivision design so that zone changes at rear of lots.	All residential zoned land to lots. Future zone changes to incorporate commercial zone	Yes

		capable.	
9.2	DA for first stage of development in business zone be accompanied by a streetscape strategy that establishes a theme.	No building development proposed. Subject to future application.	N/A
9.3	Where approved streetscape strategy exists development in accordance with strategy.	Refer to above.	N/A
10.1	Development on significant corners identified in figure 88 with materials and fencing etc	Indicative fencing treatment provided for identified significant corner lots.	Yes
10.2	Landscaping to be provided in road reserve adjacent significant corner lots.	Landscaping in road reserve proposed consistent with provisions.	Yes

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

The land owner has entered into The Rainbow Beach Central Corridor Planning Agreement with Port Macquarie-Hastings Council. In summary the agreement requires:

- Monetary contributions to Council for open space and roads;
- Establish and dedicate the district sporting fields;
- Establish and dedicate a community park
- Establish, manage and dedicate the environmental lands; and
- Provide security for significant environmental events.

The land owner has entered into The Ocean Drive Lake Cathie Planning Agreement with Port Macquarie-Hastings Council and adjacent land owners. In summary this agreement provides for the Ocean Drive / Abel Tasman Drive Intersection, roads and services that relate directly to precincts E and F in this application.

The land owner has also offered to enter into a planning agreement with Port Macquarie-Hastings Council for the following as required by Commitment 4 of the Statement of Commitments provided in the concept plan approval:

- The establishment of the pocket woodland, eastern creek and Lot 5 DP 25886 environmental management land;
- The management of the pocket woodland, eastern creek and Lot 5 DP 25886 environmental management land for a period of 20 years, or as agreed between parties, from the completion of the establishment period for each of the subject areas; and
- The dedication of the pocket woodland, eastern creek and Lot 5 DP 25886 environmental management land to Council at the completion of the management period for each of the subject areas.

The recommended conditions of consent refer to the executed planning agreements and require that the offered planning agreement (currently under negotiation) be entered into before the release of any subdivision certificate..

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

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

Context and Setting

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

Roads

The site has road frontage to Ocean Drive. Adjacent to the site, Ocean Drive is a sealed public road under the care and control of Council. Ocean Drive is an RMS classified road with an 11m road formation within a 40m road reserve.

Consistent with the DCP 2013 and draft DCP area provisions for Rainbow Beach (Area 14), Ocean Drive is proposed to be widened to a four-lane divided road with and shared pedestrian cycleway path and intersection upgrades at the Ocean Drive & Baltic Street, Ocean Drive & Solomon Drive, and Ocean Drive & Abel Tasman Drive intersections.

Although the site has direct frontage to Ocean Drive, all vehicular access is proposed through the Ocean Drive & Houston Mitchell intersection, the Ocean Drive & Baltic Street intersection, the Ocean Drive & Solomon Drive intersection, and the Ocean Drive & Abel Tasman Drive intersections, consistent with the Part 3A project approval and draft DCP Rainbow Beach (Area 14) provisions.

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

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

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

1. The Traffic Impact and Access Management Assessment (TIA) relies upon traffic count surveys undertaken to inform traffic modelling in 2009. No

surveys of current traffic flows on Ocean Drive have been undertaken to validate the assessment.

2. The inclusion of suitable consent conditions to ensure the timely delivery of intersection upgrades required to accommodate staged development is supported. This will provide consistency for developers and maintain the safety and efficiency of Ocean Drive.
3. Following completion of the forthcoming Port Macquarie-Hastings LGA wide Traffic Study Council may wish to update the intersection treatments identified for the corridor and any associated Section 94 Contributions Plans.
4. Future works on Ocean Drive should be designed and constructed in accordance with the current Austroads Guidelines, Australian Standards and RMS Supplements.
5. The supporting TIA highlights that a significant number of intra-regional trips are likely to be attracted to the Pacific Highway via Houston Mitchell Drive. It is suggested that the forthcoming Port Macquarie Hastings LGA wide Traffic Study investigate future demand on the Houston Mitchell Drive and Pacific Highway intersection to ensure that the ongoing development in the Area 14 release area will not impact adversely on the safety and efficiency of the Pacific Highway.
6. Prior to the installation of Traffic Control Signals (TCS) on Ocean Drive the developer will be required to enter into a 'Works Authorisation Deed' (WAD) with Roads and Maritime. All works under the WAD are to be completed to the satisfaction of Roads and Maritime and the developer will be responsible for all costs associated with installation and administration of the WAD process.

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

The development proposes the creation of thirty-five (35) development roads over the course of development stages. The road layout is consistent with the Part 3A Concept Approval Plan and Council's draft DCP 2013 Rainbow Beach (Area 14). In general, Roads 1, 2, 3, and 11 are to create the significant ("collector") road network, and the remainder of the roads are to create the other ("local") street network.

Internal roads have been proposed with recommended conditions requiring nominated road widths and surface standards.

Traffic

Traffic impacts associated with the development have been addressed in the Traffic Impact Assessment prepared by King & Campbell and submitted as part of this application. Current intersection geometry proposed for the Ocean Drive & Houston Mitchell Drive intersection proposes Ocean Drive to be a four-lane (dual carriageway) divided road utilising the existing roundabout. Ocean Drive & Baltic Street

intersection is proposed to be a signalised intersection including left and right turn lanes. Ocean Drive & Solomon Drive intersection is proposed to be a new roundabout including four lanes on Ocean Drive and two lanes within Solomon Drive.

In addition, the applicant has provided a traffic management analysis with the application to project the ultimate traffic generation for the proposed development in an effort to ensure that the intersection capacity is not exceeded. Results of this analysis appear to show adequate intersection capacity can be achieved with the proposed development.

Buses

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

The primary vehicle access to the site is proposed via four (4) intersection along Ocean Drive with the Ocean Drive & Houston Mitchell Drive intersection providing a primary link to the Pacific Highway. Future connection to the west shall provide vehicles and pedestrian connectivity with the Seawide and Catarina Estates.

Additional pedestrian connectivity is proposed through the development through a pedestrian shareway network located along drainage reserves, collector roads, and open space corridors immediately adjacent to the development.

Parking

Parallel on-street parking and central parking facilities are proposed along the Main Street (Road 2). All parking shall be designed in accordance with Council standards (AUSPEC and Australian Standards), as appropriate.

Manoeuvring

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

Pedestrians

Pedestrian facilities are to be provided for all subdivision stages to integrate with the approved stage 1 works within the central corridor and draft DCP requirements. Collector roads are to have pedestrian facilities both sides of the roads.

Water and Sewer

Council records indicate that the proposed development site does not currently have a sewer or water service. The sewer and water supply strategy submitted requires modification. In particular, approximately 300 metres of 200mm potable water main is to extend south from Precinct I to the existing 200mm PVC water main in Rainbow Beach Drive and address possible additional flow from SPS 12 with attendant grade reduction within the development and perhaps elimination of one new sewer pump station.

Prior to issue of a civil works construction certificate, the proponent is to provide a development staging plan as well as a finished surface contour plan together with water supply (potable and reclaimed) and sewer servicing strategies detailing works necessary to support each stage. Potable and reclaimed water supply modelling will be provided by Port Macquarie-Hastings Council in regard to proposed water main sizing, main locations and augmentations.

A separate sewer connection to Councils main is required for each Torrens Title lot.

Refer to relevant recommended conditions of consent.

Stormwater

The site naturally grades towards the east and is currently unserviced. The legal point of discharge for the proposed development is defined as a direct connection to Council's stormwater system via a water quality system and internal interallotment stormwater lines. Stormwater from the proposed development is planned to be disposed via a proposed public stormwater system and water quality control basins which is consistent with the above requirements.

A detailed site stormwater management plan will be required to be submitted for assessment with any Local Government Act (s68) application and prior to the issue of any civil works construction certificate for each relevant precinct.

In accordance with Councils AUSPEC requirements, the following must be incorporated into the stormwater drainage plan:

- Water quality controls.
- Provision of interallotment drainage throughout the development to allow all lots to drain to a proposed public stormwater system.

Refer to relevant recommended conditions of consent.

Public Domain

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

Other utilities

Telecommunication and electricity services are available to the site. Evidence of satisfactory arrangements with the relevant utility authorities for provision to each proposed lot will be required prior to release of the relevant subdivision certificate.

Heritage

No known items of Aboriginal or European heritage significance exist on the property. No adverse impacts anticipated however an advisory condition has been recommended in the event that aboriginal or archaeological relics or objects are discovered during excavation works. It is also noted that the concept plan approval incorporates a specific condition.

Other land resources

The site is within a strategically planned urban context and will not sterilise any significant mineral or agricultural resource.

Soils

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

Air and microclimate

Standard dust management conditions have been applied to prevent dust from affecting the amenity of the neighbourhood during construction. A condition has also been recommended to ensure cleared vegetation is not burnt onsite.

Subject to the implementation of such measures 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 and fauna

An extensive flora and fauna assessment was prepared and submitted with the part 3A concept plan application. The report which accompanied the concept plan application included a statutory assessment of the proposal which concluded that the proposed development would not have a significant effect on Threatened Species or Endangered Ecological Communities.

It should also be noted that a management plan was approved as part of the stage 1 project approval. The management plan identifies the rehabilitation and revegetation works within the central corridor, pocket woodland, eastern creek and Lot 5 environmental land. The proponent has entered into a VPA that provides for the establishment, management and dedication of the central corridor. Two supporting environmental management principles plans have been prepared with respect to the eastern creek and Lot 5 environmental land.

The proponent has also offered to enter into a separate voluntary planning agreement with Council for the establishment, management and dedication of the pocket woodland, eastern creek and Lot 5 environmental land.

This application is consistent with the Part 3A concept plan approval and stage 1 project approval and was accompanied by a review and update of the previous flora and fauna assessment, undertaken by Naturecall Environmental dated 23 February 2016. This report concluded there will be unlikely to have any significant adverse impacts on biodiversity or threatened species of flora and fauna. Section 5A of the Act is considered to be satisfied.

Waste

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

Energy

No adverse impacts anticipated.

Construction Noise

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

Road Traffic Noise

Given the proximity of the site to Ocean Drive the impacts of road traffic noise upon residential receivers shall be considered. A Road Traffic Noise Assessment, prepared by SLR Consulting Pty Ltd, dated 27 May 2016 accompanied the application. The report assumes a 1.8m high lapped timber fence on a 400mm earth mound as a noise barrier along Ocean Drive. The report modelled single and two storey dwellings construction for both day and night time scenarios.

The report concludes that all lots require either category 1 or 2 building construction requirements in order to meet the relevant internal noise level criteria. The subdivision precinct plans identify and nominate the required building construction requirements applicable to each lot.

A consent condition has been recommended requiring a restriction as to user be placed on the titles of the affected lots to advise future land owners of the particular building construction requirement.

Provided the noise barrier and nominated building construction requirements are implemented, it is expected that future dwellings in the proposed lots will satisfy the relevant internal noise level criteria.

It is noted that a 10m wide landscaped buffer treatment is proposed along the Ocean Drive corridor which will soften the appearance of the fence from Ocean Drive.

Bushfire

The site is mapped as bushfire prone land. The applicant has submitted that in accordance with Clause 75P(2)(b) of the Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005 (being Part 3A of the Act as in force immediately before its repeal) the application is not integrated development for the purposes of Part 4 of the Act.

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

The applicant has submitted a subdivision specific bushfire assessment report, prepared by Australian Bushfire Protection Planners, dated 1 June 2016.

The application was referred to NSW RFS in any event to ensure the proposed subdivision layout meets the Planning for Bushfire Protection 2006. The RFS have provided a series of recommended conditions which form part of the recommended consent conditions.

Flooding

Localised flooding impacts from the Duchess gully catchment and proposed open water wetland were considered within a flood assessment report, prepared by Cardno, dated 7 June 2016. The application was referred to Council's Flood Officer who raised no objection, subject to imposition of recommended conditions. The recommended conditions nominate finished surface levels for residential lots, roads and bridges consistent with that of Council's adopted flood policy.

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):

- The proposal is compatible with the flood hazard of the land taking into account projected changes as a result of climate change;
- 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;
- The proposal incorporates measures to minimise & manage the flood risk to life and property associated with the use of land;
- 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;
- The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

Safety, security and crime prevention

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

Social impacts in the locality

Given the nature of the proposed development and its location the proposal is unlikely to result in any adverse social impacts. The proposal is consistent with the strategic planning work undertaken in the locality and will support future population growth through the provision of land for residential, commercial and educational uses.

Economic impact in the locality

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

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 is consistent with the Part 3A concept plan and will fit into the locality as strategically planned. Site constraints have been adequately addressed and appropriate conditions of consent recommended.

The suitability of the site in terms of the likely impacts of the development on the environment and the amenity of nearby residents has been discussed in detail in the above section of this report.

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

Following the exhibition of the application in accordance with DCP 2013, and advertising in accordance with the Environmental Planning and Assessment Regulation 2000, no written submissions were received.

(e) The public interest

The proposed development is consistent with relevant planning controls and strategies for the region and is expected to provide a public benefit by providing additional housing opportunities.

Ecologically Sustainable Development and Precautionary Principle

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes.

The four principles of ecologically sustainable development are:

- the precautionary principle,
- intergenerational equity,
- conservation of biological diversity and ecological integrity,
- improved valuation, pricing and incentive mechanisms.

Consideration of the proposal in relation to the ESD principles have been applied in the assessment of the environmental impacts of the development. In particular, while providing additional housing opportunities, much of the site will be protected and rehabilitated in nominated environmental lands.

4. DEVELOPMENT CONTRIBUTIONS

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

Refer to recommended contribution conditions and contribution estimate attached to the report.

5. CONCLUSION

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

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

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